

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service  
Commission held at its office in  
Jefferson City on the 21<sup>st</sup> day of  
May, 2013.

In the Matter of the Application of Union Electric Company, )  
d/b/a Ameren Missouri, for a Certificate of Convenience )  
and Necessity Authorizing it to Construct, Install, Own, )  
Operate, Control, Manage and Maintain a )  
Sub-Transmission Line to Provide Electric Service in )  
Clay County, Missouri )

**File No. EA-2013-0316**

**ORDER VACATING PREVIOUS ORDER AND GRANTING NEW  
CERTIFICATE OF CONVENIENCE AND NECESSITY**

Issue Date: May 21, 2013

Effective Date: June 20, 2013

**Procedural history**

On November 29, 2012, Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri") filed an application with the Missouri Public Service Commission ("Commission") for a Certificate of Convenience and Necessity ("CCN") to construct, install, own, operate, control, manage and maintain an electric sub-transmission line to provide electric service in Clay County, Missouri, for a new customer locating to Ameren Missouri's existing territory. The proposed electric line would have total length of approximately 12,020 feet, but about 885 feet of that line would pass through the certificated service territory of KCP&L Greater Missouri Operations Company ("GMO"). GMO was granted leave to intervene on December 17, 2012. On December 17, 2012, the Commission's Staff filed a recommendation that advised the Commission to approve the application. The ten-day period to respond to that filing has elapsed, and GMO has not objected to Staff's recommendation.

The International Brotherhood of Electrical Workers Locals 2 and 1439,1455, AFL-CIO, (“IBEW”) filed a motion to intervene on December 28, 2012. On January 3, 2013, the Commission issued an *Order Granting Certificate of Convenience and Necessity*, which granted Ameren Missouri’s application. That order became effective on January 4, 2013.

On March 15, 2013, a number of landowners impacted by the proposed sub-transmission line filed complaints with the Commission in File Nos. EC-2013-0420 and EC-2013-0421, requesting that the Commission hear their complaints or, in the alternative, re-open this case to take their testimony and evidence. The landowners allege that they did not receive notice of Ameren Missouri’s application for a CCN and that the previously approved CCN would directly impair and impact their property. Ameren Missouri and the landowners are involved in an eminent domain proceeding currently pending in Clay County Circuit Court. The Commission will provide an opportunity for the landowners to file an application for rehearing in this case under Section 386.500, RSMo 2000.

#### **Previous order granting CCN**

The Commission’s *Order Granting Certificate of Convenience and Necessity*, issued on January 3, 2013, was issued in error because it contained a 1-day effective date.<sup>1</sup> The Commission has the legal authority to modify or vacate its orders.<sup>2</sup> The Commission will vacate the previous order issued in error and re-issue the same order herein with a new effective date.

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<sup>1</sup> See, *State ex rel. Office of Public Counsel v. Public Service Commission*, 236 S.W.3d 632 (Mo. banc 2007).

<sup>2</sup> Section 386.490.2, RSMo Supp. 2012, “Every order or decision of the commission shall of its own force take effect and become operative thirty days after the service thereof, except as otherwise provided, and shall continue in force either for a period which may be designated therein or until changed or abrogated by the commission, unless such order be unauthorized by this law or any other law or be in violation of a provision of the constitution of the state or of the United States.” (emphasis added)

### **Ameren Missouri's CCN application**

Ameren Missouri is an “electrical corporation” and a “public utility” as defined in Subsections 386.020(15) and (43), RSMo (Supp. 2011). It is subject to the jurisdiction of this Commission under Chapters 386 and 393, RSMo 2000. An electrical corporation may not exercise any right under a franchise without first obtaining the permission and approval of this Commission.<sup>3</sup> The Commission may give permission and approval when it has determined after due hearing<sup>4</sup> that such construction or the exercise of such right under a franchise is “necessary or convenient for the public service.”<sup>5</sup> The Commission may also impose such conditions as it deems reasonable and necessary upon its grant of permission and approval.<sup>6</sup>

In *Harline v. Public Service Commission of Missouri*, 343 S.W.2d 177, 184 (Mo. App. 1960), the court held that a public utility was not required to obtain an additional certificate of convenience and necessity to construct a transmission line within a territory already allocated to it. Therefore, Ameren Missouri is only required to seek authority for the 885 feet of transmission line that it seeks to build outside its certificated service territory.

In its recommendation, Staff states that the new electric sub-transmission line is necessary because Ameren Missouri is currently unable to deliver the requisite amount of power to its new customer's business site. Granting the application is in the public interest because it will bring approximately 155 jobs to the area. In addition, ratepayers should not be harmed by the transaction, since Ameren Missouri's tariff requires that the new

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<sup>3</sup> Section 393.170, 1 and 2, RSMo 2000.

<sup>4</sup> The requirement for a hearing is met when the opportunity for hearing is provided and no proper party requests the opportunity to present evidence. No party requested a hearing in this matter; thus, no hearing is necessary. *State ex rel. Deffenderfer Enterprises, Inc. v. Public Service Comm'n of the State of Missouri*, 776 S.W.2d 494 (Mo. App. W.D. 1989).

<sup>5</sup> Section 393.170.3, RSMo 2000.

<sup>6</sup> *Id.*

customer provide a letter of credit that could be attached if the revenue flow from the customer is less than anticipated.

On December 28, 2012, IBEW sought late intervention. The reason provided for being late was the inability to contact legal counsel, which the Commission considers to be good cause for the late filing. Commission Rule 4 CSR 240-2.075(3) provides that the Commission may grant a motion to intervene if the proposed intervenor “has an interest which is different from that of the general public and which may be adversely affected by a final order arising from the case.” The interest that IBEW asserts it is representing is its concern over the terms and conditions of its members’ employment. However, the Commission’s decision cannot, by statute, affect the terms and conditions of IBEW’s members.<sup>7</sup> Since IBEW’s expressed interests would not be adversely affected by a final order, intervention is not appropriate and will be denied.

Based on the Commission’s independent and impartial review of the verified application and the verified recommendation of Staff, the Commission finds that granting Ameren Missouri’s application for a certificate of convenience and necessity would serve the public convenience and necessity. Therefore, the application will be granted.

**THE COMMISSION ORDERS THAT:**

1. The Commission’s *Order Granting Certificate of Convenience and Necessity*, issued on January 3, 2013 and effective on January 4, 2013, is vacated.
2. The International Brotherhood of Electrical Workers Locals 2 and 1439,1455, AFL-CIO’s late application to intervene is denied.
3. Union Electric Company d/b/a Ameren Missouri is granted permission, approval, and a certificate of convenience and necessity to construct, install, own, operate,

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<sup>7</sup> Section 386.315, RSMo 2000.

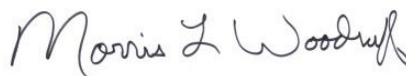
control, manage and maintain an electric sub-transmission line to provide electric service in Clay County, Missouri, as more particularly described in its application.

4. Nothing in this order shall be considered a finding of the Commission of the reasonableness of the expenditures herein involved, the value for ratemaking purposes of the facilities herein involved, or as acquiescence in the value placed upon those facilities by Union Electric Company d/b/a Ameren Missouri. Furthermore, the Commission reserves the right to consider the ratemaking treatment to be afforded these expenditures in any later proceeding.

5. The Commission's Data Center is directed to send a copy of this order to the parties of record in File Nos. EC-2013-0420 and EC-2013-0421.

6. This order shall become effective on June 20, 2013.

**BY THE COMMISSION**

A handwritten signature in dark ink, appearing to read "Morris L. Woodruff". The signature is fluid and cursive, with the first name "Morris" being the most prominent.

Morris Woodruff  
Secretary

R. Kenney, Chm., Jarrett, Stoll,  
and W. Kenney, CC., concur.

Bushmann, Regulatory Law Judge