

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held by internet
and audio conference on the 21st
day of October, 2020.

In the Matter of the Application of Union)
Electric Company d/b/a Ameren Missouri)
for a Variance from the Provisions of)
Commission Rule 20 CSR 4240-14 to Meet)
Unregulated Competition in a Subdivision)
in St. Charles County, Missouri.)

File No. EE-2021-0086
Tariff No. JE-2021-0083

**ORDER GRANTING VARIANCE, APPROVING STIPULATION AND
AGREEMENT, AND NOTICE THAT TARIFF WILL BE ALLOWED
TO GO INTO EFFECT**

Issue Date: October 21, 2020

Effective Date: October 24, 2020

On September 24, 2020, Union Electric Company d/b/a Ameren Missouri filed an Application, Request for Waivers, and Motion for Expedited Treatment. Ameren Missouri requests a variance from Commission Rule 4 CSR 240-14.020 regarding prohibited promotional practices. Ameren Missouri seeks the variance to allow it to compete with Cuivre River Electric Cooperative, Inc. (Cuivre River), an unregulated entity, for business in a new subdivision.

Ameren Missouri and Cuivre River have been in discussions with W&M Properties, a developer, to provide electric service to a new 10-lot subdivision being developed in Josephville, Missouri, tentatively known as the Kersting Road Development. Both Ameren Missouri and Cuivre River have facilities in the vicinity, and the subdivision area is not subject to an existing territorial agreement. Cuivre River has offered the developer incentives to provide service to the subdivision. Ameren Missouri requests a variance to

offer the developer matching incentives, so that it may provide electric service to the new subdivision.

The Commission set an intervention deadline, but received no intervention requests. The Commission ordered its Staff to file a recommendation regarding the application and tariff sheet. On October 7, 2020, Staff filed a recommendation to approve Ameren Missouri's request pursuant to a Stipulation and Agreement signed by Staff and Ameren Missouri. The Office of the Public Counsel was not a signatory to the Stipulation and Agreement, but the Stipulation and Agreement represents that the Office of the Public Counsel has indicated it will not object. Under Commission Rule 20 CSR 4240-2.115(2) parties have seven days to object to a non-unanimous stipulation and agreement or the Commission may treat the stipulation and agreement as unanimous. The Commission shortened the time for objections to the Stipulation and Agreement by one day to October 13, 2020, to accord with Ameren Missouri's request for expedited treatment. No objections to the Stipulation and Agreement were received. Therefore, the Commission will treat the Stipulation and Agreement as unanimous.

Commission Rule 20 CSR 4240-14.020(1)(B) prohibits a utility from furnishing consideration to any developer for work done or to be done on property not owned or otherwise possessed by the utility. Commission Rule 20 CSR 4240-14.020(1)(E) prohibits a utility from providing free, or less than cost of value, wiring, piping, appliances or equipment. Ameren Missouri's tariff sheet No. 161 permits competition waiver requests for costs otherwise attributable to developers or customers in order to compete with unregulated competition such as electric cooperatives, which would include extension costs. Since Ameren Missouri's facilities are adjacent to the development, no extension

costs will be incurred in order for Ameren Missouri to provide service, so the incentives contemplated by tariff sheet No. 161 are not available and Ameren has no other incentive option available and authorized by its tariff.

The Stipulation and Agreement provides that Ameren Missouri may offer the requested incentives to the developer, but the incentives shall not receive treatment as a Missouri Energy Efficiency Investment Act program for any purpose. It also provides that Ameren Missouri shall separately account for the level of revenue, expense, and plant investment attributable to the Kersting Road Development. Furthermore, in a rate case initiated by Ameren Missouri, the Company shall have the burden of proof that the expenses and plant investment are prudent, and there will be no presumption of prudence for the Kersting Road Development's expenses and plant investments.

Commission Rule 20 CSR 4240-14.010(2) allows a utility to request a variance from the Commission's Utility Promotional Practices Rules. Good cause to grant the variance exists because Ameren Missouri will gain new customers, which would spread existing fixed costs among a larger customer base causing a downward pressure on rates. Ameren Missouri's new customers will also serve as an additional revenue stream. Additionally, since Ameren Missouri's facilities are adjacent to the proposed development, providing service will incur no extension costs, which promotes more efficient use of the existing distribution system.

Ameren Missouri necessarily seeks a waiver of the Commission's 60-day notice requirement of Commission Rule 20 CSR 4240-4.017(1)(D) so that it could file its variance request quickly. Ameren Missouri certifies that it has had no communication with

the office of the Commission regarding any substantive issue likely to be in this case during the preceding 150 days.

Ameren Missouri seeks expedited treatment of its application under Commission Rule 20 CSR 4240-2.080(14). Good cause to grant the request for expedited treatment exists because Ameren Missouri must accommodate the developer's construction timeline.

Ameren Missouri filed tariff revision JE-2021-0083, a revision of Ameren Missouri's Tariff Sheet No. 161.1, that adds the subdivision to Ameren Missouri's list of unregulated competition waivers. That tariff revision has an effective date of October 24, 2020.

After reviewing the Stipulation and Agreement, the Commission finds it is a reasonable resolution of the issues contained therein and should be approved. Based on the application, the unopposed recommendation of its Staff, and its own findings of good cause, the Commission will grant the requested 60-day waiver and variance from Commission Rule 20 CSR 4240-14. The Commission additionally finds there is good cause to make this order effective on October 24, 2020, so that the variance approved in this order is effective when the tariff sheet identifying that variance also becomes effective. The Commission makes no ratemaking determination at this time concerning this transaction.

THE COMMISSION PROVIDES NOTICE THAT:

1. The tariff sheet revision filed by Ameren Missouri on September 24, 2020, and assigned Tariff No. JE-2021-0083 will be allowed to become effective on October 24, 2020, by operation of law.

THE COMMISSION ORDERS THAT:

1. Ameren Missouri's request for waiver from the 60-day notice requirement of Commission Rule 20 CSR 4240-4.017(1)(D) is granted.
2. Ameren Missouri's request for expedited treatment is granted.
3. Ameren Missouri's request for variance from Commission Rule 20 CSR 4240-14 is granted as it relates to the Kersting Road Development, pursuant to the Stipulation and Agreement.
4. The Stipulation and Agreement filed on October 7, 2020, is approved. The signatories are ordered to comply with the terms of the Stipulation and Agreement. A copy of the Stipulation and Agreement is attached to this order and incorporated by reference.
5. This order shall become effective on October 24, 2020.



BY THE COMMISSION

A handwritten signature in dark ink that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

Silvey, Chm., Kenney, Rupp, Coleman, and
Holsman CC., concur.

Clark, Senior Regulatory Law Judge

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Application of Union)	
Electric Company d/b/a Ameren Missouri)	
for a Variance from the Provisions of)	
Commission Rule 20 CSR 4240-14 to Meet)	File No. EE-2021-0086
Unregulated Competition in a Subdivision)	
in St. Charles County, Missouri.)	

STIPULATION AND AGREEMENT

COMES NOW Union Electric Company d/b/a Ameren Missouri (“Ameren Missouri” or “the Company”) and the Staff of the Missouri Public Service Commission (“Staff”), (collectively “Signatories”), and present to the Missouri Public Service Commission (“Commission”) for approval this Stipulation and Agreement (“*Stipulation and Agreement*”) commemorating an agreement between the Signatories resolving the issues in this case.¹ In support of this *Stipulation and Agreement*, the Signatories respectfully state as follows:

BACKGROUND

1. On September 24, 2020, Ameren Missouri submitted its *Application, Request for Waivers, and Motion for Expedited Treatment* ("Application") requesting promotional practices and tariff waivers necessary to offer incentives to a developer in order to compete with certain incentives being offered by Cuivre River Electric Cooperative in a competition area near Kersting Road in St. Charles County ("Kersting Project"). Contemporaneously with that filing, the Company submitted a revised tariff. On September 28, 2020, the Commission issued its *Order Providing Notice, Establishing Intervention Deadline, Directing an Expedited Staff Recommendation, and Setting a Time for Responses* ("Order"). The Order required a Staff

¹ While the Office of the Public Counsel is not a signatory, counsel for the agency has indicated it will not object to this *Stipulation and Agreement*.

recommendation and any interventions be submitted to the Commission no later than October 7, 2020, and any responses to Staff's recommendation by October 9, 2020.

2. During the pendency of this matter, Staff and Ameren Missouri have discussed whether a settlement could resolve this matter. As a result of these discussions, Staff and Ameren Missouri have reached an agreement recommending approval of the Company's request with certain modifications, the terms of which are set out below

SPECIFIC TERMS AND CONDITIONS

3. Incentives. Ameren Missouri may offer the requested incentives to the developer. The incentives shall not receive treatment as a MEEIA program for any purpose; in other words, the incentives shall not be paid to the developer through a MEEIA program, recovered through Rider EEIC, or used to calculate MEEIA savings, throughput disincentive, or earnings opportunity.

4. Accounting. Ameren Missouri shall separately account for the level of revenue, expense, and plant investment attributable to the Kersting Project.

5. Burden of Proof. In a rate case initiated by Ameren Missouri, the Company shall have the burden of proof that the expenses and plant investment are prudent, and there will be no presumption of prudence for the Kersting Project's expenses and plant investments.

GENERAL PROVISIONS

6. This *Stipulation and Agreement* is being entered into solely for the purpose of settling the issues specifically set forth above, and represents a settlement on a mutually-agreeable outcome without resolution of specific issues of law or fact. This *Stipulation and Agreement* is intended to relate *only* to the specific matters referred to herein; no Signatory waives any claim or right which it may otherwise have with respect to any matter not expressly

provided for herein. No Signatory will be deemed to have approved, accepted, agreed, consented, or acquiesced to any substantive or procedural principle, treatment, calculation, or other determinative issue underlying the provisions of this *Stipulation and Agreement*. Except as specifically provided herein, no Signatory shall be prejudiced or bound in any manner by the terms of this *Stipulation and Agreement* in any other proceeding, regardless of whether this *Stipulation and Agreement* is approved.

7. This *Stipulation and Agreement* has resulted from extensive negotiations among the Signatories and the terms hereof are interdependent. In the event the Commission does not approve this *Stipulation and Agreement*, or approves it with modifications or conditions to which a Signatory objects, then this *Stipulation and Agreement* shall be null and void, and no Signatory shall be bound by any of its provisions.

8. If the Commission does not approve this *Stipulation and Agreement* unconditionally and without modification, and notwithstanding its provision that it shall become void, neither this *Stipulation and Agreement*, nor any matters associated with its consideration by the Commission, shall be considered or argued to be a waiver of the rights that any Signatory has for a decision in accordance with Section 536.090 RSMo 2000 or Article V, Section 18 of the Missouri Constitution, and the Signatories shall retain all procedural and due process rights as fully as though this *Stipulation and Agreement* had not been presented for approval, and any suggestions or memoranda, testimony, or exhibits that have been offered or received in support of this *Stipulation and Agreement* shall become privileged as reflecting the substantive content of settlement discussions and shall be stricken from and not be considered as part of the administrative or evidentiary record before the Commission for any further purpose whatsoever.

9. If the Commission unconditionally accepts the specific terms of this *Stipulation and Agreement* without modification, the Signatories waive, with respect only to the issues resolved herein: their respective rights (1) to call, examine and cross-examine witnesses pursuant to Section 536.070(2), RSMo 2000; (2) their respective rights to present oral argument and/or written briefs pursuant to Section 536.080.1, RSMo 2000; (3) their respective rights to the reading of the transcript by the Commission pursuant to Section 386.080.2 (RSMo 2000); (4) their respective rights to seek rehearing pursuant to Section 386.500, RSMo 2000; and (5) their respective rights to judicial review pursuant to Section 386.510, RSMo Supp. 2011. These waivers apply only to a Commission order respecting this *Stipulation and Agreement* issued in this above-captioned proceeding, and do not apply to any matters raised in any prior or subsequent Commission proceeding, or any matters not explicitly addressed by this *Stipulation and Agreement*.

10. The Staff and Ameren Missouri shall also have the right to provide, at any agenda meeting at which this *Stipulation and Agreement* is noticed to be considered by the Commission, whatever oral explanation the Commission requests, provided that Staff and Ameren shall, to the extent reasonably practicable, provide the other parties with advance notice of the agenda meeting for which the response is requested. Staff's and Ameren Missouri's oral explanations shall be subject to public disclosure, except to the extent they refer to matters that are privileged or protected from disclosure pursuant to the Commission's rules on confidential information.

11. This *Stipulation and Agreement* contains the entire agreement of the Signatories concerning the issues addressed herein.

12. This *Stipulation and Agreement* does not constitute a contract with the Commission and is not intended to impinge upon any Commission claim, right, or argument by

virtue of the *Stipulation and Agreement's* approval. Acceptance of this *Stipulation and Agreement* by the Commission shall not be deemed as constituting an agreement on the part of the Commission to forego the use of any discovery, investigative or other power which the Commission presently has or as an acquiescence of any underlying issue. Thus, nothing in this *Stipulation and Agreement* is intended to impinge or restrict in any manner the exercise by the Commission of any statutory right, including the right to access information, or any statutory obligation.

13. The Signatories agree that this *Stipulation and Agreement*, except as specifically noted herein, resolves all issues related to these topics, and that this *Stipulation and Agreement* should be received into the record without the necessity of any witness taking the stand for examination.

WHEREFORE, the Parties respectfully request that the Commission approve this *Stipulation and Agreement*, so that Ameren Missouri may move forward on these provisions, and grant any other and further relief as it deems just and equitable.

Respectfully submitted,

/s/ Paula N. Johnson
Paula N. Johnson, #68963
Senior Corporate Counsel
Attorney for Ameren Missouri
1901 Chouteau
P.O. Box 66149, MC 1310
St. Louis, MO 63166-6149
(314) 554-3533 (phone)
(314) 554-4014 (fax)
AmerenMOService@ameren.com

/s/ Curtis Stokes
Chief Deputy Counsel
Missouri Bar No. 59836
Attorney for Staff of the
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
(573) 751-4227 (phone)
(573) 741-9285 (fax)
Curtis.Stokes@psc.mo.gov

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been hand-delivered, transmitted by e-mail or mailed, First Class, postage prepaid, this 7th day of October, 2020, to counsel for all parties on the Commission's service list in this case.

/s/ Paula N. Johnson

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

**WITNESS my hand and seal of the Public Service Commission,
at Jefferson City, Missouri, this 21st day of October, 2020.**




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

October 21, 2020

File/Case No. EE-2021-0086

**Missouri Public Service
Commission**

Staff Counsel Department
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
staffcounsel@psc.mo.gov

Office of the Public Counsel

Marc Poston
200 Madison Street, Suite 650
P.O. Box 2230
Jefferson City, MO 65102
opc@opc.mo.gov

**Missouri Public Service
Commission**

Curtis Stokes
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
curtis.stokes@psc.mo.gov

Union Electric Company

Paula Johnson
1901 Chouteau Avenue
St Louis, MO 63103
AmerenMOS@ameren.com

Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,



**Morris L. Woodruff
Secretary**

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.