

**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)
Permission and Approval and Certificates of) **Case No. EA-2023-0286**
Public Convenience and Necessity) Tracking No. JE-2026-0068
Authorizing it to Construct renewable)
Generation Facilities)

**STAFF'S PRELIMINARY REPORT/
MOTION TO SUSPEND TARIFF/ FOR EXPEDITED RULING**

COMES NOW the Staff of the Missouri Public Service Commission ("Staff") and respectfully moves the Commission for an expedited ruling suspending the tariff bearing Tracking No. JE-2026-0068, stating as follows:

1. On November 12, 2025, Ameren Missouri filed a tariff sheet establishing rates for Phase 3 of its Renewable Solutions Program, using the Vandalia and Bowling Green solar facilities as resources. The tariff bore an effective date of December 12, 2025, and was assigned Tracking No. JE-2026-0068.
2. On November 12, the Commission ordered Staff to file a recommendation by November 19. Following a subsequent Commission order, Staff filed its Report and Recommendation on November 24. Staff recommended approval of the rate schedule but suspension of the tariff until further Commission order, because the available record did not establish that either facility was fully operational and useful for service as required by § 393.135, RSMo.
3. On December 2, Ameren Missouri filed an extension of the effective date to December 19. On December 3, the Company filed its Response to Staff's Recommendation.

4. On December 5, Staff filed its Reply, reiterating that it did not support the tariff as filed and recommending that Ameren Missouri instead submit a substitute tariff expressly conditioning the ability to charge rates on satisfaction of specified “in service” criteria.

5. On December 17, the parties conferred but did not reach agreement. Ameren Missouri then filed a status report stating it had again voluntarily extended the effective date to December 24, 2025, and had provided documentation regarding the Vandalia facility. Ameren argued that § 393.135 does not apply because the charges represent only voluntary renewable energy credits (“REC”) purchases, and asserted that any anti-CWIP analysis should occur in a future rate case.

6. Staff continues to evaluate whether the Vandalia facility has met all “in service” requirements, but cannot represent that it can make this determination before December 24. That point is academic with the current tariff, however, because regardless of Vandalia’s status, the tariff also applies to the Bowling Green facility, and there appears to be no dispute that Bowling Green is not yet fully operational as required by § 393.135.

7. Staff therefore maintains its objection to the tariff as facially violating § 393.135. While a tariff limited solely to REC sales might avoid the statute’s prohibition, the tariff at issue contains no such limiting language. It establishes a “Renewable Resource Rate” and a “Renewable Benefits Rate” associated with a renewable resource without restricting charges to RECs actually produced or disclaiming charges connected to non-operational utility property.

8. Under Missouri law, Commission-approved tariffs have the force and effect of statutes and must therefore be interpreted according to the rules of statutory construction.

Tariffs are not private contracts and may not be construed by reference to intent, extrinsic explanation, or after-the-fact characterization. The Commission must look first to the plain language of the tariff; the tariff must be enforced as written, not as later described in testimony or briefing; and the Commission may not supply limiting conditions or qualifications that do not appear in the tariff's text.¹ These principles apply with particular force where a tariff authorizes the collection of rates from customers, and the Commission's duty is to interpret what the *tariff* does on its face—not what the *utility* asserts that the utility intends to do or not to do.

9. What the tariff does: The tariff is styled as a rider and does not describe itself as a tariff for REC sales. It does not define the product being sold as RECs alone, does not tie billing to REC production, and uses the term “resource,” which in ordinary regulatory usage denotes a generating facility. On its face, the tariff therefore authorizes charges associated with a renewable facility that is not yet fully operational and used for service.

10. Ameren asserts that the charges are intended solely to compensate for RECs, but that interpretation relies on extrinsic characterizations that cannot override the tariff's unqualified text. The tariff contains no REC-only limitation, no disclaimer of facility-related costs, and no refund mechanism tied to non-production. The Commission cannot supply limitations that the tariff does not contain. With due respect, Ameren Missouri's REC explanations and disclaimers are simply legally irrelevant.

11. As written, the tariff facially authorizes charges “for service, or in connection therewith,” associated with a renewable resource before that resource is fully operational

¹ See, generally, *Doe v. Tidball*, 625 S.W.3d 459 (Mo. Banc 2021); *Doe v. St. Louis Community College*, 526 S.W.3d 329 (Mo. App. E.D., 2017); *Abduhamed v. Carol House Furniture, Inc.*, 711 S.W.3d 427 (Mo. App. E.D. 2025).

and used for service. Even if the tariff does not expressly identify the charges as cost-based, § 393.135 does not require an express cost label in the tariff in order to trigger its prohibition. It is sufficient to trigger the prohibition that the tariff establishes rates which, without express qualification, facially authorize a cost-based charge for energy where a facility has not yet entered service. Ameren's position manufactures an ambiguity in an otherwise unambiguous tariff which Ameren then proposes to construe in its favor with extrinsic evidence of what the utility will actually not do. That convolution manifestly violates the rules of statutory construction applicable to tariffs. Further, as a matter of administrative efficiency for the Commission and the general public, Staff cannot step back from its position that persons searching the tariff records of the Commission should not have to doubt the records and do fishing expedition "title searches" into the Commission's other case file records to ascertain the full scope and limitations of a tariff which on its face authorizes immediately effective rates.

12. The tariff will become effective by operation of law at midnight on December 23 unless suspended or rejected.

13. Because the issues raised in the pleadings cannot be resolved before that time, and because the tariff as written will then become immediately effective without conditions, Staff urges the Commission to suspend the tariff's effective date.

WHEREFORE, Staff respectfully requests expedited consideration of this motion and issuance of an Order suspending the December 24, 2025 effective date of the tariff with Tracking No. JE-2026-0068, and for such further relief as the Commission deems appropriate.

Respectfully submitted,

/s/ *Paul T. Graham*

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CERTIFICATE OF SERVICE

The undersigned certifies by his signature below that on December 19, 2025 he filed the above captioned pleading in the EFIS file of the Missouri Public Service Commission.

/s/ *Paul T. Graham*