

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 5th day of
August, 2026.

City of Fulton, Hannibal Board of Public	)	
Works, Kirkwood Electric, City of Marceline,	)	
and City of New Madrid,	)	
	)	
Complainants,	)	
v.	)	<u>Case No. EC-2026-0156</u>
	)	
Union Electric Company d/b/a Ameren	)	
Missouri,	)	
Respondent	)	

ORDER GRANTING SUMMARY DETERMINATION ON THE PLEADINGS

Issue Date: August 5, 2026

Effective Date: September 4, 2026

The City of Fulton, Hannibal Board of Public Works, Kirkwood Electric, City of Marceline, and City of New Madrid (“Complainants” or “Municipalities”) filed *Complainant’s Motion for Determination on the Pleadings or, in the Alternative, Summary Determination, Statements of Undisputed Material Facts and Memorandum in Support* on March 12, 2026 (Complainants’ Motion). On April 13, 2026, Union Electric Company d/b/a Ameren Missouri (“Respondent” or “Ameren Missouri”) filed *Respondent Ameren Missouri’s Opposition to Complainants’ Motion for Determination on the Pleadings or, in the alternative, Summary Determination and Cross-Motion for Summary Disposition* (Respondent’s Motion). This Order grants summary determination and denies the

underlying complaint under Commission Rule 20 CSR 4240-2.117 (Summary Disposition). In this Order, the Commission is specifically finding that based upon the applicable law as applied to the undisputed material facts in this case, the Complainants have not met their burden to show Ameren Missouri has violated any provision of its tariff, order of the Missouri Public Service Commission (Commission), or law subject to Commission authority.

Procedural History and Background

The Municipalities' Complaint

On December 23, 2025, the Municipalities filed a complaint with the Commission against Ameren Missouri (Complaint). The Complaint alleges violations of a Commission order and an Ameren Missouri tariff provision. Specifically, the Complaint asks the Commission to issue an order finding Ameren Missouri violated its Tariff Sheet 102 by supplying service to customers without having obtained all necessary permits from the governmental and regulatory authorities having jurisdiction, and find Ameren Missouri violated the Commission's May 21, 1971 Order granting Ameren Missouri a certificate of convenience and necessity (CCN) for Rush Island by failing to comply with applicable air quality control standards of the State of Missouri and/or the Government of the United States. The Complaint also asks that the Commission find Ameren Missouri's premature retirement of Rush Island caused capacity shortages in the Midcontinent Independent System Operator (MISO) Zone 5 (in which Ameren Missouri and the Municipalities are located) affecting clearing prices for the Fall and Spring Seasons in MISO's Planning Reserve Auction (PRA) for the 2024/2025 Planning Year. The PRA is a FERC-regulated (Federal Energy Regulatory Commission) process that can be found in MISO's Tariff and allows MISO

participants (members such as Ameren Missouri) to buy and sell capacity to cover potential shortfalls so that participants can meet the MISO planning reserve margins. The Municipalities also ask that the Commission find Ameren Missouri's retirement of Rush Island on October 15, 2024, to have aggrieved the Municipalities by causing increased costs for electricity.

Intervention

The Commission set a deadline for applications to intervene but received none. Accordingly, the only parties to this case are the Municipalities, Ameren Missouri, and the Commission's Staff (Staff). The Office of the Public Counsel is also a party but has not actively participated in this case.

The Municipalities' Motion for Summary Determination

On March 12, 2026, the Municipalities filed Complainants' Motion seeking summary determination as to all points in the Complaint alleging that there were no disputed issues of material fact and they were entitled to summary determination as a matter of law.

Commission's Previous Order Limiting the Complaint to Issues Within the Commission's Authority to Determine

On April 7, 2026, finding that many points raised and types of relief sought in the Complaint were outside the Commission's authority to decide or grant, the Commission issued its *Order Limiting Complaint to Issues within the Commission's Authority to Determine and Limiting Discovery*. That order limited the issues for determination in the Complaint to:

1. Did Ameren Missouri violate its Tariff Sheet 102 by supplying service to customers without having obtained all necessary permits from the governmental and regulatory authorities having jurisdiction?
2. Did Ameren Missouri violate the Commission's May 21, 1971 Order granting a CCN for Rush Island by failing to comply with applicable air quality control standards of the State of Missouri and/or the Government of the United States?

Ameren Missouri's Cross-Motion for Summary Determination and Motion for Determination on the Pleadings

On April 13, 2026, after the Commission limited the issues to the two issues above, Ameren Missouri filed Respondent's Motion responding to Complainants' Motion and seeking summary determination or a determination on the pleadings in its favor as to all points in the Complaint. Respondent's Motion objected to some of Complainants' alleged uncontroverted facts as being allegations and causal propositions, not undisputed background facts. Respondent argues the actual undisputed facts, when the applicable law is applied, do not demonstrate Ameren Missouri violated any provision of its tariff, order of the Commission, or law subject to Commission authority.

A summary determination motion hearing was held on June 11, 2026. At that hearing, the Municipalities objected to Ameren Missouri's motion for summary determination as being noncompliant with the Commission's rules governing summary determination. The Commission took the objection under advisement and will address it here.

Respondent's Motion is in part a cross-motion for summary determination which is merely the converse of Complaints' Motion. A cross-motion for summary determination is no different than a motion for summary determination. At the summary determination

motion hearing, the Municipalities objected arguing that Ameren Missouri did not file an adequate motion for summary determination or file the necessary statements of undisputed material facts.

Respondent's Motion admits each undisputed fact and provides two additional undisputed facts. Ameren Missouri's motion addresses each of the Municipalities' arguments. Respondent's Motion does not include a memorandum as required for a summary determination motion.

The Commission finds Ameren Missouri's cross-motion for summary determination contained in Respondent's Motion to be legally deficient for failing to include a separate memorandum. However, the Commission finds the portion of Respondent's Motion seeking determination on the pleadings is properly before the Commission.

Findings of Fact

The remaining issues before the Commission are limited to the application of relevant law and the interpretation of the tariff sheet at issue and the Commission's 1971 Order. There are only a few relevant facts necessary for the Commission to decide the two issues in this case by summary determination, and those facts are undisputed.

The relevant undisputed facts are as follows:

1. Ameren Missouri is a Commission regulated utility engaged in supplying electricity to customers.
2. The Municipalities are "persons" within the meaning of the Complaint statute.
3. Ameren Missouri's Tariff Sheet No. 102 – F. Company Obligations – states: "In supplying service to customers, Company shall furnish such service within a reasonable length of time dependent upon the availability of materials, labor and system capacity, and after all necessary easements, permits and approvals are

obtained from the customer and other governmental and regulatory authorities having jurisdiction.”

4. Ordered paragraph two of the Commission’s 1971 Order granting Ameren a CCN for Rush Island – states: “That the authority granted herein shall in no way be construed as authority for waiver of compliance by the Applicant with any air or water quality control standards now existing or proposed by any agency of the State of Illinois or Missouri or of the Government of the United States.”
5. The United States District Court for the Eastern District of Missouri found Ameren Missouri liable for violations of the Clean Air Act by failing to have obtained a permit for major modifications at Rush Island.

There are other facts that are also not disputed by the parties, but the above facts are the facts necessary to determine the issues in this case.

Conclusions of Law

A. Ameren Missouri is an “electrical corporation”, and a “public utility” as defined in Sections 386.020(15) and 386.020(43), RSMo, respectively, and as such is subject to the supervision, control and regulation of the Commission under Chapters 386 and 393 of the Missouri Revised Statutes.

B. Section 386.390, RSMo, provides in relevant part that any corporation or person, chamber of commerce, board of trade, or any civic, commercial, mercantile, traffic, agricultural or manufacturing association or organization, or any body politic or municipal corporation may file a complaint against a regulated utility setting forth any act or thing done or omitted to be done by any public utility in violation of any provision of law subject to the Commission's authority, any rule promulgated by the commission, any utility tariff, or any order or decision of the commission. Therefore, the Commission has authority over this complaint.

C. Section 393.170.1, RSMo, provides that no electrical corporation can begin

construction of an electric plant without first having obtained the permission and approval (a Certificate of Convenience and Necessity or CCN) from the Commission.

D. Section 393.170.3, RSMo, provides that in granting a CCN: “The commission may by its order impose such condition or conditions as it may deem reasonable and necessary.”

E. Commission Rule 20 CSR 4240-2.117(1)(E) provides that the Commission may grant a motion for summary determination if the pleadings, testimony, discovery, affidavits, and memoranda on file show that there is no genuine issue as to any material fact, that any party is entitled to relief as a matter of law as to all or any part of the case, and the Commission determines that the granting of summary determination is in the public interest.

F. Commission Rule 20 CSR 4240-2.117(1)(B) states: “Motions for summary determination shall state with particularity in separately numbered paragraphs each material fact to which movant claims there is no genuine issue, with specific references to the pleadings, testimony, discovery, or affidavits that demonstrate the lack of issue as to such facts. Each motion for summary determination shall have attached thereto a separate legal memorandum explaining why summary determination should be granted.”

G. Commission Rule 20 CSR 4240-2.117(1)(B) provides that within 30 days a party may file a response opposing the motion for summary determination. That response shall admit or deny each factual statement in numbered paragraphs corresponding to the numbered paragraphs in the motion for summary determination and shall state the reason for each denial.

H. It has been held that a summary judgment motion that fails to set forth each material fact in separately numbered paragraphs and fails to specifically reference the record is legally defective and cannot serve as the basis to grant summary judgment. *Hanna v. Darr*, 154 S.W.3d 2, 5 (Mo.App.2004).

I. Commission Rule 20 CSR 4240-2.117(2) provides that the Commission may, except in a case seeing a rate increase or which is subject to an operation of law date, on its own motion or the motion of any party, dispose of all or any part of a case on the pleadings whenever such disposition is not otherwise contrary to law or the public interest.

J. The Commission is entitled to interpret its own orders and to ascribe to them proper meaning and, in so doing, Commission does not act judicially, but as a fact finding agency. *State ex rel. Beaufort Transfer Co. v. Public Service Comm'n*, 610 S.W.2d 96, 100 (Mo. App. 1980).

K. The party requesting summary determination has the burden of establishing a right to judgment as a matter of law. *Wilmes v. Consumers Oil Co. of Maryville*, 473 S.W. 3d 705, 714 (Mo. App. W.D. 2015).

L. The Commission has broad authority to interpret its orders and stare decisis does not bind the Commission to past decisions. *State ex rel. AG Processing, Inc. v. Public Serv. Comm'n*, 120 S.W.3d 732, 736 (Mo. banc 2003).

Decision

Commission Rule 20 CSR 4240-2.117 permits the Commission to resolve a case through determination on the pleadings or summary determination. Where there are no material facts in dispute, as is the case here, the dispositive question is whether the movant

is entitled to summary determination as a matter of law based on the governing legal instruments at issue.¹ There are no factual disputes or disagreements regarding the wording of the Commission's 1971 Order and Tariff Sheet 102. The dispute between the Municipalities and Ameren Missouri is about what the wording of the subject provisions mean. The meaning of those provisions is what the Commission must decide.

The Commission has broad authority to interpret its orders, and the Commission is not bound by prior orders (the principle of *stare decisis* does not apply at the Commission). Therefore, the Commission may interpret Tariff Sheet 102 and the 1971 Order's provisions if that interpretation is not contrary to law.

The Commission may, except in a case with a rate increase or which is subject to an operation of law date, on its own motion or the motion of any party, dispose of all or any part of a case on the pleadings whenever such disposition is not otherwise contrary to law or the public interest.

Issue 1 – Did Ameren Missouri violate its Tariff Sheet 102 by supplying service to customers without having obtained all necessary permits from the governmental and regulatory authorities having jurisdiction?

The Municipalities argue that they should prevail on their motion because the language of Tariff Sheet 102 says that Ameren Missouri must have the necessary permits and approvals from governmental and regulatory authorities when supplying service to customers. Complainants argue that the Federal Court determined that Ameren Missouri did not get the necessary Prevention of Significant Deterioration (PSD) permit prior to

¹ See, 20 CSR 4240 2.117(1)(E) (in granting summary determination, Commission must find that the movant is "entitled to relief as a matter of law") and 20 CSR 4240-2.117(2) (Commission may grant determination on the pleadings if disposition is "not otherwise contrary to law").

making major modifications to Rush Island in 2007 and 2010, which violated the Clean Air Act, and therefore, Ameren Missouri violated Tariff Sheet 102 by failing to get and maintain all necessary permits when providing service to customers. The Municipalities' position on this issue is that the language of Tariff Sheet 102 imposes an ongoing obligation on Ameren Missouri.

Ameren Missouri argues that it should prevail because the language of Tariff Sheet 102 says that Ameren Missouri must have the necessary permits and approvals from governmental and regulatory authorities prior to supplying service to customers. Ameren Missouri argues that the language, "Company shall furnish such service within a reasonable length of time dependent upon ..." means that Ameren Missouri may start service to a customer only after acquiring necessary permits from governmental and regulatory authorities. Therefore, Ameren Missouri argues it has not violated its tariff because it obtained all necessary permits prior to operating Rush Island and that the language of Tariff Sheet 102 imposes the obligation only prior to providing service.

Tariff Sheet 102 provision F starts with "In supplying service to customers." This phrase is not time bound and does not need interpretation. "Company shall furnish such service within a reasonable length of time" is time bound-- Ameren Missouri must provide electrical service within a reasonable amount of time. The remainder of this tariff provision provides a list of things that may affect whether the time it took Ameren Missouri to provide service was reasonable. The reasonableness of that time is "dependent upon the availability of materials, labor and system capacity, and after all necessary easements, permits and approvals are obtained from the customer and other governmental and regulatory

authorities having jurisdiction.” Assuming that Ameren Missouri has the material, labor, and system capacity, can Ameren Missouri provide service? No, it must obtain the easements, permits, and approvals necessary for Ameren Missouri to provide service. Ameren Missouri obtains those easement approvals from its customers or permits and approvals from governmental and regulatory authorities.

The Commission agrees with Ameren Missouri that Tariff Sheet 102 provision F is a timing provision. The provision explains Ameren Missouri’s obligations prior to providing service to a customer. The tariff provision does not, at least in the sense of a CCN application, impose an ongoing obligation.

Issue 2 – Did Ameren Missouri violate the Commission’s May 21, 1971 Order granting a CCN for Rush Island by failing to comply with applicable air quality control standards of the State of Missouri and/or the Government of the United States?

The Municipalities argue that ordered paragraph two of the Commission’s 1971 Order imposes a condition that Rush Island comply with all present and future air and water quality environmental standards. The Municipalities argue that because the Federal Court determined that Ameren Missouri did not get the necessary PSD, which violated the Clean Air Act, Ameren Missouri violated the Commission’s Order.

Ameren Missouri argues that ordered paragraph two of the Commission’s 1971 Order does not impose a condition because the Commission’s jurisdiction is limited to only powers conferred by statute and the Commission does not determine or enforce violations of environmental air and water quality laws of other agencies or the federal government. Ameren Missouri asserts that if the Order’s provision is a condition, then the Commission is engaging in the enforcement of environmental law and the condition is void because the

Commission lacks the statutory authority to enforce environmental laws of other agencies. Ameren Missouri's position is that the 1971 Order provision clarifies that the Commission's grant of authority does not exempt the Ameren Missouri from applicable environmental laws.

The Commission agrees that it does not enforce environmental laws. The Commission has no authority to determine that a violation of an environmental law of another agency or the federal government has occurred. Rush Island's violation of the Clean Air Act was not determined by the Commission. The Environmental Protection Agency (EPA) made that determination and litigated it in federal court with Ameren Missouri over many years. However, the Commission may acknowledge another agency's determination that a violation has occurred, as it did in Case No. EF-2024-0021, when it acknowledged that Rush Island violated the Clean Air Act.

The Commission will not address whether it has the authority to impose a condition that a utility abide by another agency's laws, because that question is not before the Commission. The question before the Commission is whether ordered paragraph two of the Commission's 1971 Order is a condition. It is not. The 1971 Order provision simply states that the CCN does not give Ameren Missouri permission to ignore environmental laws that would apply to Rush Island.

The Commission finds that when the applicable law is applied to the undisputed material facts the Municipalities are not entitled to summary determination as a matter of law and will deny the Municipalities' motions for summary determination. The Commission will similarly deny Ameren Missouri's cross request for summary determination as deficient.

Because there is no genuine dispute of material fact, the dispute turns on the interpretation of the tariff and the 1971 Order. In that circumstance, this case presents a pure question of law appropriate for summary disposition on the pleadings.

Based upon the pleadings and application of the undisputed material facts to the applicable law, the Commission does not find that Ameren Missouri violated any provision of law subject to the Commission's authority, any rule promulgated by the Commission, any utility tariff, or any order or decision of the Commission. Therefore, Complainants have failed to meet their burden of proof, and the Commission must rule in favor of Respondent and dismiss the Complaint.

Under Commission Rule 20 CSR 4240-2.070(14), the regulatory law judge shall cause the parties to be notified that the Commission's decision will be final unless an application for rehearing is filed. The application for rehearing must be filed with the Commission before the effective date of this order. If the Commission denies an application for rehearing, the party filing the request for rehearing may appeal the Commission's decision as provided by Missouri statute.²

THE COMMISSION ORDERS THAT:

1. The Municipalities' *Complainant's Motion for Determination on the Pleadings or, in the Alternative, Summary Determination, Statements of Undisputed Material Facts and Memorandum in Support* is denied.
2. Ameren Missouri's *Cross-Motion for Summary Disposition* is denied.

² Section 386.510, RSMo (Supp. 2025).

3. Ameren Missouri's Cross-Motion for Disposition on the Pleadings is granted.
4. The Municipalities' Complaint is dismissed.
5. This order shall be effective September 4, 2026.



BY THE COMMISSION

Nancy Dippell

Nancy Dippell
Secretary

Hahn, Ch., Coleman, Kolkmeyer,
and Mitchell CC., concur.

Dippell, Chief Regulatory Law Judge

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

Pursuant to 386.290, RSMo., 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 5th day of August, 2026.



Nancy Dippell

Nancy Dippell
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

August 5, 2026

Case No: EC-2026-0156

MO PSC Staff

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 (OPC)

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

City of Fulton, Missouri

Chandler Hiatt
4520 Main St #1100
Kansas City, MO 64111
chandler.hiatt@dentons.com

City of Fulton, Missouri

Jacqueline Whipple
4520 Main Street, Ste. 1100
Kansas City, MO 64111
jacqueline.whipple@dentons.com

City of Fulton, Missouri

Peggy Whipple
3010 East Battlefield, Suite A
Springfield, MO 65804
peggy@healylawoffices.com

City of Marceline, Missouri

Chandler Hiatt
4520 Main St #1100
Kansas City, MO 64111
chandler.hiatt@dentons.com

City of Marceline, Missouri

Jacqueline Whipple
4520 Main Street, Ste. 1100
Kansas City, MO 64111
jacqueline.whipple@dentons.com

City of Marceline, Missouri

Peggy Whipple
3010 East Battlefield, Suite A
Springfield, MO 65804
peggy@healylawoffices.com

City of New Madrid, Missouri

Chandler Hiatt
4520 Main St #1100
Kansas City, MO 64111
chandler.hiatt@dentons.com

City of New Madrid, Missouri

Jacqueline Whipple
4520 Main Street, Ste. 1100
Kansas City, MO 64111
jacqueline.whipple@dentons.com

City of New Madrid, Missouri

Peggy Whipple
3010 East Battlefield, Suite A
Springfield, MO 65804
peggy@healylawoffices.com

Hannibal Board of Public Works

Chandler Hiatt
4520 Main St #1100
Kansas City, MO 64111
chandler.hiatt@dentons.com

Hannibal Board of Public Works

Jacqueline Whipple
4520 Main Street, Ste. 1100
Kansas City, MO 64111
jacqueline.whipple@dentons.com

Hannibal Board of Public Works

Peggy Whipple
3010 East Battlefield, Suite A
Springfield, MO 65804
peggy@healylawoffices.com

Kirkwood Electric Department

Chandler Hiatt
4520 Main St #1100
Kansas City, MO 64111
chandler.hiatt@dentons.com

Kirkwood Electric Department

Jacqueline Whipple
4520 Main Street, Ste. 1100
Kansas City, MO 64111
jacqueline.whipple@dentons.com

Kirkwood Electric Department

Peggy Whipple
3010 East Battlefield, Suite A
Springfield, MO 65804
peggy@healylawoffices.com

MO PSC Staff

Travis Pringle
200 Madison Street
Jefferson City, MO 65101
travis.pringle@psc.mo.gov

Union Electric Company

Jennifer Hernandez
1901 Chouteau Avenue
Saint Louis, MO 63103
amerenmoservice@ameren.com

Union Electric Company

James Lowery
9020 S. Barry Road
Columbia, MO 65203
lowery@jblawllc.com

Union Electric Company

Wendy Tatro
1901 Chouteau Ave
St. Louis, MO 63103-6149
amerenmoservice@ameren.com

Union Electric Company

Michael Tripp
111 S. 9th Street
P.O. Box 918
Columbia, MO 65205-0918
tripp@jblawllc.com

Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).¹

Sincerely,

A handwritten signature in black ink that reads "Nancy Dippell". The signature is written in a cursive, flowing style.

**Nancy Dippell
Secretary**

¹

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