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BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

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

COMPLAINANTS' APPLICATION FOR REHEARING

Pursuant to *Revised Statutes of Missouri* ("RSMo") §386.500, §386.610 and 20 *Code of State Regulations* ("CSR") 4240-2.160(1), Complainants apply for rehearing of the Missouri Public Service Commission's ("Commission") *Order Granting Summary [sic] Determination on the Pleadings* ("Order") entered on August 5, 2026 (Effective Date September 4, 2026). In support of this Application, Complainants set forth herein the governing law and the errors identified in the Order which render the Order unlawful and unreasonable and thus appropriate for rehearing or reversal on appeal.

The Law which Governs this Application for Rehearing:

Every provision of RSMo Chapter 386, which governs the Commission, "shall be liberally construed with a view to the public welfare, efficient facilities and substantial justice between patrons and public utilities." RSMo §386.610.

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"Pursuant to §386.510, appellate review of an order by the [Commission] is two-pronged: first, the reviewing court must determine whether the [Commission's] order is lawful; and second, the court must determine whether the order is reasonable." *Missouri-American Water Co. v. Office of Public Counsel*, 673 S.W.3d 477, 480 (Mo. 2023), citing *Amend. Of Comm'n's R. Regarding Applications for Certificates of Convenience & Necessity v. Mo. Pub. Serv. Comm'n*, 618 S.W.3d 520, 523 (Mo. banc 2021).

"The lawfulness of [the Commission's] order is determined by whether statutory authority for its issuance exists, and all legal issues are reviewed *de novo*…[while] an order's reasonableness depends on whether it is supported by substantial and competent evidence…." *Missouri-American Water Co. v. Office of the Pub. Counsel (In re Missouri-American Water Co.)*, 637 S.W.3d 121, 127 (Mo. App. W.D. 2021), citing *State ex rel. AG Processing, Inc. v. Pub. Serv. Comm'n of State*, 120 S.W.3d 732, 734-735 (Mo. banc 2003).

"When determining whether the order is lawful, [the appellate court will] exercise independent judgment and must correct erroneous interpretations of the law. Because the PSC is purely a creature of statute, its powers are limited to those conferred by statute either expressly, or by clear implication as necessary to carry out the powers specifically granted…In determining whether the Commission's order is reasonable, [the appellate court will] consider (1) whether it was support[ed] by substantial and competent evidence on the whole record, (2) whether the decision was arbitrary, capricious or unreasonable, and (3) whether the PSC abused its discretion." *In re Application of Union Elec. Co. v. Mo. Pub. Serv. Comm'n*, 591 S.W.3d 478, 484-485 (Mo. App. W.D. 2019) (internal citations omitted).

Appellate review of a Commission order granting "determination on the pleadings" is "strictly one of law," particularly where the question is one of "contractual interpretation."

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Eaton v. Mallinckrodt, Inc., 224 S.W.3d 596, 599-600 (Mo. 2007). A motion for determination on the pleadings "is properly granted if, from the face of the pleadings, the moving party is entitled to judgment as a matter of law." *State ex rel. Mo. PSC v. Mo. Gas Co., LLC*, 311 S.W.3d 368, 369 (Mo. App. W.D. 2010), citing *Craig v. Mo. Dep't of Health*, 80 S.W.3d 457, 459 (Mo. banc 2002). The appellate court reviews an order granting summary judgment/summary determination *de novo*. *Hanshaw v. Crown Equip. Corp*., 729 S.W.3d 228, 235 (Mo. 2026), citing *Hill v. Ford Motor Co*., 277 S.W.3d 659, 664 (Mo. banc 2009).

The Commission "is not bound by *stare decisis*, nor are PSC decisions binding precedent" on the reviewing appellate court. *State ex rel. AG Processing, Inc*., 120 S.W.3d at 736.

The Commission unlawfully and unreasonably grounded the subject Order dismissing Complainants' complaint case on a motion that Respondent neither filed nor argued, and thus the Commission unlawfully and unreasonably advocated on behalf of Respondent.

The declared "PURPOSE" of the Commission's Rule 20 CSR 4240-2.117 "Summary Disposition" is that it "provides for disposition of a contested case by disposition in the nature of summary judgment *or* judgment on the pleadings." (Emphasis added). The word *or* is italicized to emphasize the fact that the Commission's rule authorizes "summary disposition" of a case by one of two processes: (1) Summary Determination, or (2) Determination on the Pleadings. However, the subject Order is rife with erroneous misnomers of the Respondent's actual motion, consequently rendering the subject Order unlawful and unreasonable.[1]

[1] Even the title of the Order improperly juxtaposes the two processes provided by Rule 20 CSR 4240-2.117,"Order Granting *Summary* Determination on the Pleadings." (Emphasis added).

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Significantly, Respondent filed on April 13, 2026 a motion titled, in pertinent part, to be a "Cross-Motion for Summary Disposition." Respondent repeated at pages 2 and 11 of its cross-motion that it was seeking a generic "summary disposition" in its favor. Further, at page 6 of its "Response" filed on May 1, 2026, Respondent repeated its request for an order of "summary disposition" in its favor. In other words, Respondent did not choose to follow either the process provided by Rule 20 CSR 4240-2.117 for Summary Determination or the process for Determination on the Pleadings. At no point in its Cross-Motion or in its Response did Respondent ever move for a Determination on the Pleadings. Moreover, during the June 11, 2026 motion hearing, Respondent's counsel described its cross-motion for "summary disposition" as a motion for "summary determination," yet never as a motion for "determination on the pleadings." (Transcript Page 5, Lines 18, 25; Page 11, Lines 17, 22; Page 12, Line 1; Page 48, Line 20). Therefore, even under the most generous interpretation of Respondent's generic cross-motion for "summary disposition," that motion was a motion for "summary determination," not a motion for "determination on the pleadings."

Acknowledging Respondent's cross motion for "summary disposition" as perhaps at best a motion for "summary determination" is significant because said Respondent's motion was "legally deficient for failing to include a separate memorandum" and was therefore lawfully denied by the Commission at Order pages 5, 12 and 13 (No. 1). That ruling entirely disposed of all motions, by whatever name, filed or argued by Respondent.

Inexplicably, at pages 4, 5 and 14 (No. 3) of the subject Order, the Commission erroneously declared that Respondent had a second motion pending – a motion for determination on the pleadings, and the Commission proceeded to ground its order upon this fictitious motion

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for determination on the pleadings which the Commission attributed to Respondent.[2] Thus, the Commission unlawfully, unreasonably and "impermissibly act[ed] as an advocate for a party." *Hanshaw v Crown Equip. Corp*. 729 S.W.3d at 232 n. 2. Indeed, the Commission declared at page 13 of its Order that it "must rule in favor of Respondent and dismiss the Complaint."

Because Respondent had never filed a motion or argued for "determination on the pleadings," the Commission's Order granting "Ameren Missouri's Cross-Motion for Disposition [sic] on the Pleadings"[3] to dismiss Complainants' complaint case is both unlawful and unreasonable.

The Commission unlawfully and unreasonably rendered statutory tariff language without effect and superfluous to rule that Respondent's Tariff Sheet No. 102 does not impose an ongoing obligation on Respondent to obtain all necessary permits from jurisdictional governmental and regulatory authorities in supplying service to customers.

At page 5, No. 3, The Order acknowledges as a Finding of Fact that Respondent's Tariff Sheet No. 102 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.

(Emphasis added).

At page 10 of the subject Order, the Commission found that the prefatory phrase to this provision of Tariff Sheet No. 102, "in supplying service," is "not time bound." The only logical conclusion from this Commission finding is that the specific obligations enumerated within this

[2] Although 20 CSR 4240-2.117(2) authorizes the Commission to make its own motion for determination on the pleadings "whenever such disposition is not otherwise contrary to law or contrary to the public interest," the Commission did not do so.
[3] Order, page 14 No. 3.

non-time-bound tariff provision are ongoing. However, the Commission then summarily declares that the prefatory phrase "in supplying service" is one that "does not need interpretation" and never again mentions this prefatory phrase or its effect, thus rendering it superfluous. This nullification of the prefatory phrase "in supplying service," is critical because it grounds the Commission's ruling at pages 10-11 that the eleven words that follow the non-time-bound prefatory phrase "in supplying service" render all of the following obligations to be severely limited in time. Thus, the Commission ruled at page 11 of its Order that Respondent's statutory obligation to obtain all necessary permits from jurisdictional governmental and regulatory authorities applied only "prior to providing service to a customer." In other words, the Commission ruled that Respondent may supply service to its customers indefinitely but need only be in compliance with the safety permitting requirements of other jurisdictional governmental and regulatory authorities at the one moment in time when a new customer is signed up.

A Tariff, "filed and published in accordance with the Public Service Commission law acquired the force and effect of law…." *Missouri-American Water Co*., 673 S.W.3d at 481; citing *State ex rel. St. Louis County Gas Co. v. Public Service Commission of Missouri*, 286 S.W. 84, 85 (Mo. 1926). "The primary rule of statutory interpretation is to effectuate legislative intent through reference to the plain and ordinary meaning of statutory language…[and an appellate] court must presume every word, sentence or clause in a statute has effect, and the legislature did not insert superfluous language." *Verified Application & Petition of Liberty Energy (Midstates) Corp. v. Office of Pub. Counsel*, 464 S.W.3d 520, 524-525 (Mo. 2015) (internal citations omitted). Where the "PSC's interpretation conflicts with the clear legislative intent as

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demonstrated by the plain language of the statute…[the] PSC's order is not lawful because it is contrary to the plain language of the statute." *Id*. at 525.

The Commission's order is thus unlawful. It is also unreasonable because it would require Respondent to submit to the safety oversight of jurisdictional governmental and regulatory authorities at only one point in time. Then, after the expiration of those permits which had confirmed Respondent's compliance with the laws requiring safe and adequate service at that one point in time, Respondent could continue to supply service to its customers under no such oversight.

The Commission unlawfully and unreasonably modified, changed and/or revised Respondent's Tariff obligations within this Complaint case and only as to some but not all persons, corporations and members of the public.

By the subject Order entered in this Complaint case, the Commission modified, changed and/or revised Respondent's Tariff obligation to supply safe and adequate service under the oversight of jurisdictional governmental and regulatory authorities only to new customers at the one point in time that Respondent commences service to that customer. This ruling is surely unreasonable, but it is first unlawful because this ruling was not made in the context of an application for revision of Respondent's Tariff, as provided in 20 CSR 4240 Chapter 13. The rules, rates and charges of a Tariff "may be modified or changed only by a new or supplementary schedule, filed voluntarily, or by order of the commission." *State ex rel. St. Louis Gas Co*., 286 S.W. at 86. Moreover, this ruling violates the prohibition of RSMo §393.140(11) against "any general privilege or facility, except such as are regulatory and uniformly extended to all persons and corporations under like circumstances." *Missouri-American Water Co.*, 673 S.W.3d at 481. The Commission's authority is thus limited because "[i]n addition to binding the utility and the

public, the tariff also binds the Commission. Consequently, the Commission could 'order the tariff modified' if it determined the rules and regulations to be unjust, but it could not 'set them aside as to certain individuals and maintain them in force as to the public generally.'" *Id.*

Here, the subject Order is unlawful and unreasonable because it modified, changed and/or revised Respondent's Tariff obligation outside of the lawful process and to the extent that Respondent owes safe and adequate service under the oversight of all jurisdictional authorities only to some of its customers and only for a brief moment in time.

The Commission unlawfully and unreasonably "interpreted" a multi-decade Certificate of Convenience and Necessity ("CCN") order to nullify an ordered paragraph of that CCN and privilege Respondent over all other like persons or corporations by disrupting the regulatory scheme such that none will know which ordered paragraphs of all other orders are mandatory conditions or merely non-mandatory statements.

At page 6 No. 4 of the subject Order, the Commission found as fact that:

> 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 of the Government of the United States."

Further, at page 12 of the subject Order, the Commission found that the federal court had determined that Respondent violated federal environmental laws at its Rush Island plant, and that the Commission had previously "acknowledged that Rush Island violated the Clean Air Act" in Commission case no. EF-2024-0021. The Commission then declared that "[t]he question before the Commission is whether ordered paragraph two of the Commission's 1971 Order is a condition."

Despite the fact that Respondent's violation of federal air quality laws had already been determined by the federal court, incorporated as a finding in a subsequent Commission case, and

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admitted as true by Respondent, at page 12 of the subject Order the Commission summarily declared that "ordered paragraph two of the Commission's 1971 Order" is not a condition, but rather that ordered paragraph "simply states that the CCN does not give Ameren Missouri permission to ignore environmental laws that would apply to Rush Island." The Commission did not cite anything in the record before it, nor did the Commission provide any explanation as to why this "ordered paragraph" in its 1971 CCN order was not a mandatory condition but rather only a statement.

It is true that the Commission "is entitled to interpret its own orders," but in doing so it must "ascribe to them a proper meaning" and "adjudicate based on the facts of the case being considered." *State ex rel. Beaufort Transfer Co. v. Public Service Com*., 610 S.W.2d 96, 100 (Mo. App. W.D. 1980)(internal citations omitted). The Commission must employ lawful procedure to "ascribe a meaning to certificate authority previously issued and outstanding." *Id.* at 99.

The Commission may not lawfully interpret certificate authority previously issued and outstanding in a manner that "amounts to rank discrimination and is untenable" regarding other similarly-situated persons or corporation. *Id.* at 100. Here, the subject Order releases Respondent from compliance with an ordered paragraph referencing state and federal environmental laws, yet the Record herein contains evidence of CCNs held by other utilities that contain ordered paragraphs referencing state and federal environmental laws – which now may or may not be understood to be mandatory. The chaos that the subject Order has now introduced into the regulatory scheme renders this Order unreasonable as well as unlawful.

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The Commission's Order is unlawful and unreasonable because it is internally inconsistent in that it declares that the Commission has some authority to enforce Respondent's compliance with state and federal environmental laws referenced in the Tariff, but no authority to enforce Respondent's compliance with the same state and federal environmental laws referenced in the CCN.

As acknowledged on page 3 of the Order, the Commission previously ruled in this case that it had "authority to decide or grant" the two "issues for determination in the Complaint," and it set forth those two issues on page 4. The first issue addressed Respondent's violation of its Tariff, and the second addressed Respondent's violation of its CCN. The Tariff and the CCN both reference Respondent's compliance with the laws of jurisdictional federal and/or state authorities.

At pages 10-11 of its Order, the Commission ruled that the Tariff requires Respondent to "furnish such service within a reasonable length of time" and that Respondent "must obtain" the necessary "permits and approvals from governmental and regulatory authorities." The Commission states that this "provision explains Ameren Missouri's obligations prior to providing service to a customer." The Commission does not question its authority to require Respondent's compliance with this Tariff obligation to possess all environmental law permits at the very limited point in time when Respondent signs up a new customer. However, the Commission fails to explain why its authority to require such compliance ceases once Respondent has commenced service to said new customer.

The Commission self-limits its authority even more severely when ruling upon Respondent's CCN. At page 12, the Commission states that "it does not enforce environmental laws," that it "has no authority to determine that a violation of an environmental law of another agency or the federal government has occurred," and that it "will not address whether it has the authority to impose a condition that a utility abide by another agency's laws." The Commission

provides no citation to law or anything in the record, and it provides no other explanation for declaring its authority to be so limited. As discussed above, the Commission then proceeds to rule that the ordered paragraph two of its CCN order is merely a non-mandatory "statement."

This Commission ruling or interpretation that is this "inconsistent" is unlawful as well as unreasonable. See, *Missouri-American Water Co*., 637 S.W.3d at 127-129; *In re Application of Union Elec. Co*., 591 S.W.3d at 485.

The Commission's Order abdicates its power and duty to have general supervision of Respondent – a regulated utility engaged in supplying electricity to customers.

The Commission found as fact, at page 5 No. 1, that "Ameren Missouri is a Commission regulated utility engaged in supplying electricity to customers." The Commission declared at Page 4 that it had the authority necessary to determine whether Respondent's judicially-determined, Commission-acknowledged and Respondent-admitted decades-long violations of the Clean Air Act at its Rush Island facility violated Respondent's Tariff and/or its CCN.

Yet, as discussed fully above, the Commission abdicated by ruling that it had *no authority* (1) to require Respondent's compliance with any laws enforceable by any entity other than the Commission itself (excepting only the brief period of time when Respondent signs-up a new customer), despite the fact that said laws were incorporated into the language of Respondent's Tariff and CCN; or to (2) find that Respondent's judicially-determined, Commission-acknowledged, and Respondent-admitted violations of the Clean Air Act constituted violations of Respondent's Tariff and CCN, both of which incorporate by reference that very law.

RSMo §393.140 confers the "General powers of commission in respect to gas, water, electricity and sewer service." This statute declares firstly that "The Commission shall (1) Have general supervision of all …electrical corporations…having authority under any special or

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general law…for the purpose of furnishing or distributing…or transmitting electricity…." Every provision of RSMo Chapter 386, which governs the Commission, "shall be liberally construed with a view to the public welfare, efficient facilities and substantial justice between patrons and public utilities." RSMo §386.610.

Through the subject Order, the Commission has unlawfully and unreasonably abdicated its statutory authority over Respondent and failed to conduct itself with a view to the public welfare, efficient facilities and substantial justice between patrons and public utilities.

Conclusion and Prayer for Relief:

The errors in the Order render the Order unlawful and unreasonable and devoid of any view to the public welfare, efficient facilities and substantial justice between patrons and the Respondent. Therefore, given the governing law and the undisputed material facts, the Complainants respectfully request that the Commission grant rehearing to correct its errors and issue a lawful and reasonable order of Determination on the Pleadings or Summary Determination in Complainants' favor.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing "Complainants' Application for Rehearing" has been served within the EFIS system on this 1st day of September 2026.

/s/ Peggy A. Whipple
Peggy A. Whipple

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