

Ameren Rate Increase; Utility Relocation Costs; Redistricting of City Wards

Ameren Rate Increase May Require Action on Gross Receipts Taxes – Cities that impose a business license tax on gross receipts of Ameren Missouri power may be required to either lower their business license tax rate or pass an ordinance maintaining the current rate.

On July 27, 2011, the Public Service Commission (“PSC”) approved a tariff increase for Ameren Missouri (Union Electric Company), effective July 31, 2011. Ameren has stated to the PSC that their revenue will increase by 7.11%, triggering the provisions of [§ 393.275 RSMo.](#) Under this section all municipalities that impose a business license tax on the gross receipts of gas, electric, water, or sewer corporations must either:

- (1) lower the rate of the business license tax so that the city will receive the same amount of revenue (with a growth factor permitted) from its gross receipts tax as it did before Ameren increased its tariff; or
- (2) pass an ordinance to maintain the current business license tax rate on utility companies.

Cities must take one of these two actions within sixty (60) days of the effective date of the tariff increase. Based on the notices being distributed by the PSC this date would be Sunday, September 25, 2011, although 60 days from the effective date of the tariff increase is actually **September 29, 2011**. Nevertheless, one of these actions should be taken, arguably, even if municipalities have not yet received notification of the revenue increase from the PSC unless they previously enacted an ordinance exempting them. **Any city choosing to roll back rates should consult their legal counsel or contact CVR as such action may have unanticipated future consequences.** The MML has provided model ordinances for cities that wish to pass an ordinance to maintain their current business license tax rate on utility companies: ([Permanent Ordinance](#)), ([One-Time Ordinance](#)).

County Required to Pay Utility Relocation Costs in Case with Wide-Spread Implications – In [St. Charles County v. Laclede Gas Company, No. SC91539 \(Mo. Aug 30, 2011\)](#), the Missouri Supreme Court held that St. Charles County was required to pay the relocation costs of Laclede Gas in conjunction with a County street widening project. The Court held that a subdivision plat that included language granting a utility easement created a private property interest in Laclede Gas that was subject to a “taking” even though located directly in the public right-of-way. The Court’s opinion failed to address arguments in the Missouri Municipal League’s *amicus* brief pointing out that [§ 445.070 RSMo.](#) (authorizing platted dedications) simply does not authorize the creation of private property interests that could allow for a takings claim. This case disrupts long-standing law in the area of rights-of-way management and is likely to have wide-spread implications. Municipalities should consult legal counsel to understand the impacts that this case may have on current and future public works projects and to look for solutions to protect municipalities when approving subdivision plats in the future. Although a Motion for Reconsideration is likely to be filed, serious review of this case is required given the potential ramifications.

Census Block Data Now Available; Redistricting of Wards May be Required – Pursuant to § 1.100.1 RSMo., population figures from the 2010 Census went into effect on July 1, 2011. Cities that are organized into wards for election of local officials need to review their Census data and determine whether redistricting of wards is required to comply with constitutional “One Person, One Vote” requirements. Maps showing population totals down to the Census Block level are available at 2010.census.gov/2010census/popmap/. Additional census data is available at factfinder2.census.gov/main.html. Additional information about redistricting is available in [CVR Report 2011-2](#) and in [REDISTRICTING IN 2011: A Brief Summary for Local Government Officials](#), by Kansas City Deputy City Attorney Bill Geary (*The Missouri Municipal Review*, May 2011).

New Associates Join CVR – Cunningham, Vogel & Rost, P.C. is pleased to announce that it will add two new attorneys to the firm. **Kristen K. Erickson** has joined CVR, and will be an associate attorney in September, pending results from the July 2011 Missouri Bar Exam. Kristen graduated *summa cum laude* from the Washington University-St. Louis School of Law and also holds Master’s degrees in Social Work and Education from Washington University-St. Louis and Wake Forest University, respectively. **Eric H. Bronner** will also join CVR as an associate attorney in October after finishing a two-year as a federal law clerk in the Southern District of Illinois. Eric graduated *cum laude* from the Washington University-St. Louis School of Law and served eight years in the Navy, earning the rank of Lieutenant (O-3), after graduating from the United States Naval Academy.

If you need further assistance on any of these matters, please consult your City Attorney or Legal Department for particularized guidance or contact us at:

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To access previous reports on our website: [CLICK HERE](#).

CVR HAS MOVED!

On **August 1, 2011**, Cunningham, Vogel & Rost, P.C. relocated to new, larger offices in historic downtown **Kirkwood, Mo.** Our new address is:

**333 S. Kirkwood Road
Suite 300
St. Louis, MO 63122**
([map](#))

Telephone, fax, and email contacts for CVR remain unchanged.

Upcoming Dates & Deadlines for Missouri Municipalities*

Sept. 15 - Biennial re-adoption of personal financial disclosures policy. (Municipalities with annual operating budgets over \$1M). Send copy of policy to Ethics Comm’n within 10 days of adoption.

Mid-late Sept. - Conduct public hearing on property tax rate with 7-day newspaper notice (Cities in charter Counties)

Oct. 1 - Set property tax levy (Cities in charter Counties)

Nov. 15 - TIF annual reports due to DED. Penalty for failing to file report is loss of ability to implement new TIFs for 5 years.

*This list is not exhaustive. For the complete **Calendar of Procedural Deadlines for Missouri Municipalities**, [click](#) below:

[Jan. 1 - Dec. 31 Fiscal Year](#)

[July 1 - June 30 Fiscal Year](#)