

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

In the Matter of Union Electric Company     )  
d/b/a Ameren Missouri's Tariffs to         )     File No. ER-2019-0335  
Decrease Its Revenues for Electric Service   )  
   )

**SIERRA CLUB STATEMENT OF DISCOVERY DISAGREEMENT OR CONCERN**

Sierra Club submits this Statement of Discovery Disagreement or Concern, and states as follows:

1. Sierra Club is filing this Statement to identify three discovery disagreements or concerns regarding Union Electric Company d/b/a Ameren Missouri's ("Ameren Missouri" or the "Company") responses to Sierra Club's First, Third, and Sixth Set of Data Requests that have become more apparent subsequent to the filing of the Company's rebuttal testimonies. Sierra Club respectfully asserts that the resolution of these discovery disagreements or concerns is important ahead of the depositions of Ameren witnesses Meyer and Michels that are tentatively scheduled for February 13, 2020.

2. First, through Sierra Club 3.12, Sierra Club asked for the coal contracts that Ameren relies on to supply its coal-burning power plants for which it seeks cost recovery in this proceeding. In response to Sierra Club 3.12, the Company identified the Company's response to MPSC Data Request 0053. In response to MPSC Data Request 0053, the Company stated that it would make such coal contracts available for in-office review only. Such in-office review is burdensome and unreasonable because in practice it deprives intervenors of the ability to use this information in testimony or cross examination. Furthermore, because of the vast amount of captive electric customer resources potentially tied up in these coal contracts, reasonable intervenor review of these contracts is appropriate. In the rebuttal testimonies of Meyer and

Schatzki, the company is now relying on these coal contracts as part of its justification for its MISO energy market commitment/dispatch decisions. Because of that reliance, the harm of requiring in-office review is now significantly greater, as the Company is now free to rely on this information while Sierra Club has no reasonable ability to contest Meyer's and Schatzki's statements. *See, e.g., Meyer Rebuttal Testimony, pages 23-24.* Sierra Club seeks to investigate witness Meyer's and witness Schatzki's statements related to these coal contract and asks that the Company be ordered to produce them electronically subject to the protective order. Because the non-disclosure agreement requires that Sierra Club maintain the confidentiality of these documents, there is no risk of harm to the Company.

3. Second, through Sierra Club 6.3, Sierra Club asked for unredacted copies of all documents produced to date as part of Ameren's 2020 Integrated Resource Plan. The Company objected and has produced no such documents to Sierra Club. In the rebuttal testimony of Company witness Michels, the Company is now relying on the 2020 IRP as a basis to rebut the recommendations of Sierra Club witness Alison. *See, e.g., Michels Rebuttal Testimony, pages 10-11.* The ongoing objection to Sierra Club 6.3 is therefore not reasonable in light of the Company's reliance on its 2020 IRP. These documents should be produced immediately to allow for a reasonable opportunity to depose and then cross examine witness Michels.

4. Third, through Sierra Club 1.24, Sierra Club asked for the contemporaneous documentation that would support the Company's commitment/dispatch decision-making for the MISO energy market. The Company produced no responsive documents and indicated that the company over-wrote its documentation, such that these documents do not exist. But the documentation does exist, at least for today. Sierra Club asks that Ameren be ordered to produce an example document, i.e., the Company's commitment/dispatch decision document(s) for today

that has not yet been over-written. Ameren should be ordered to produce such example responsive document(s) before the deposition of witness Meyer who generally defends the manner in which the Company bids into the MISO energy market.

/s/ Henry B. Robertson  
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*Counsel for Sierra Club*

Dated: February 4, 2020

**CERTIFICATE OF SERVICE**

I hereby certify that the above and foregoing document was filed in EFIS on this 4th day of February, 2020, with notice of the same being sent to all counsel of record.

*/s/ Tony Mendoza* \_\_\_\_\_  
Tony Mendoza

# Attachments

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LEGAL NURSE CONSULTANT  
JENNY BECKETT, RN

October 4, 2019

Mr. Henry Robertson  
Great Rivers Environmental Law Center  
319 N. Fourth Street, Suite 800  
St. Louis, MO 63102

Re: Sierra Club's First Set of Data Requests

Dear Henry:

This letter contains the Company's objections to some of the DRs in the above set and with respect to the entire set, the Company objects to the "General Instructions" and "Other Instructions" that preface the DRs because the same are not authorized by the Missouri Rules of Civil Procedure which governs the terms upon which discovery may be had in Commission cases.

With respect to DRs to which responses will be provided and for which information for each of the Company's "coal units" is requested, the Company objects to providing by unit data to the extent doing so seeks to require the Company to prepare analyses or otherwise develop data or information that does not exist or is not kept by the Company in the form requested on the grounds that any such request is overly broad, unduly burdensome and exceeds the scope of authorized discovery by not seeking existing facts, documents, or information. Subject to the foregoing objection, if a request for data for "coal units" is intended to seek per unit information the same will be provided if it is kept by the Company on a per unit basis.

The Company objects to subparts b and c of DR No. 1.6 because they seek information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

The Company objects to DR Nos. 1.7, 1.8, 1.10, 1.13, 1.16, 1.17, and 1.18 because they seek information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence and further they are overly broad and unduly burdensome.

Given the details and breadth of the information sought for those DRs for which responses will be provided, including but not limited to DR No. 1.21, the Company will require up to an additional two weeks (to October 29, 2019) to respond. With respect to DR No. 1.21, the Company also objects to the extent doing so seeks to require the Company to prepare

Mr. Henry Robertson

October 4, 2019

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analyses or otherwise develop data or information that does not exist or is not kept by the Company in the form requested on the grounds that any such request is overly broad, unduly burdensome and exceeds the scope of authorized discovery by not seeking existing facts, documents, or information. Subject to the foregoing objection, a response will be provided to DR No. 1.21.

Sincerely,

*/s/ James B. Lowery*

James B. Lowery

Cc: Geri Best, Carolyn Mora, Yvette Scott, Wendy Tatro

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LEGAL NURSE CONSULTANT  
JENNY BECKETT, RN

November 11, 2019

Mr. Henry Robertson  
Great Rivers Environmental Law Center  
319 N. Fourth Street, Suite 800  
St. Louis, MO 63102

Re: Sierra Club's Third Set of Data Requests

Dear Henry:

This letter contains the Company's objections to some of the DRs in the above set and with respect to the entire set, the Company objects to the "General Instructions" and "Other Instructions" that preface the DRs because the same are not authorized by the Missouri Rules of Civil Procedure which governs the terms upon which discovery may be had in Commission cases.

With respect to DRs to which responses will be provided and for which information for each of the Company's "coal units" is requested, the Company objects to providing by unit data to the extent doing so seeks to require the Company to prepare analyses or otherwise develop data or information that does not exist or is not kept by the Company in the form requested on the grounds that any such request is overly broad, unduly burdensome and exceeds the scope of authorized discovery by not seeking existing facts, documents, or information. Subject to the foregoing objection, if a request for data for "coal units" is intended to seek per unit information the same will be provided if it is kept by the Company on a per unit basis.

The Company objects to subparts e and f of DR No. 3.9 on the grounds that it is overly broad and unduly burdensome and also to the extent those subparts seek to require Ameren Missouri to engage in research, to compile data, and to perform analyses rather than seeking the discovery of existing facts or data, which would render them beyond the proper scope of discovery.

The Company objects to subparts c and d of DR No. 3.11 to the extent those subparts seek to require Ameren Missouri to engage in research, to compile data, and to perform analyses rather than seeking the discovery of existing facts or data, which would render them beyond the proper scope of discovery.



Mr. Henry Robertson  
November 11, 2019  
Page 2

Sincerely,

*/s/ James B. Lowery*

James B. Lowery

Cc: Geri Best, Carolyn Mora, Yvette Scott, Wendy Tatro

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LEGAL NURSE CONSULTANT  
JENNY BECKETT, RN

December 17, 2019

Mr. Henry Robertson  
Great Rivers Environmental Law Center  
319 N. Fourth Street, Suite 800  
St. Louis, MO 63102

Mr. Tony Mendoza  
Sierra Club  
2021 Webster Street, Ste. 1300  
Oakland, CA 84612

Re: Sierra Club's Sixth Set of Data Requests

Dear Henry and Tony:

The Company objects to the "General Instructions" and "Other Instructions" that preface these DRs because the same are not authorized by the Missouri Rules of Civil Procedure which governs the terms upon which discovery may be had in Commission cases.

The Company also objects to DR No. 6.3 on the grounds that it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence, is vague, and is overly broad and unduly burdensome. While an objection is not required, the DR also likely seeks information protected by the attorney-client and work product privileges insofar as work respecting an upcoming triennial resource plan filing involves confidential communications with counsel respecting the content of the ultimate filing, and all such work is done in anticipation of litigating the triennial filing itself.

I also want to address the December 9, 2019 e-mail sent by Tony cc: to Henry and Andy Knott. While I don't think any improper intent existed when that e-mail was sent, please be advised that counsel for Sierra Club should not be engaging in communications of any kind with my client or its personnel regarding the IRP. All such communications should be directed to counsel insofar as the Company is represented by counsel respecting the upcoming triennial IRP filing and, for that matter, regarding other resource planning-related dockets (existing or anticipated under the rules).

Mr. Henry Robertson  
Mr. Tony Mendoza  
December 17, 2019  
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I also find it noteworthy that item “Third” in Tony’s e-mail certainly appears to be seeking the same information being sought by DR No. 6.3 in this rate case, sent to the Company on the same day as the e-mail.

With respect to items “First” and “Second” in the e-mail, the date is not yet set but you will be advised when it is, and the Company will review what you send together with any additional comments you choose to provide as contemplated by 4 CSR 240-22.080(5).

Sincerely,

*/s/ James B. Lowery*

James B. Lowery

Cc: Geri Best, Carolyn Mora, Yvette Scott, Wendy Tatro

Ameren Missouri's  
Response to Sierra Club Data Request  
ER-2019-0335

In the Matter of Union Electric Company d/b/a Ameren Missouri's Tariffs to Increase Its  
Revenues for Electric Service.

Data Request No.: SC 001.24

Regarding Ameren Missouri's unit commitment decision process for its coal units:

- a. Describe Ameren Missouri's process for determining whether to commit its coal units outside of the MISO or SPP day-ahead energy markets and operate them up to at least their minimum operation levels.
- b. Describe Ameren Missouri's process for determining whether to self-schedule its coal units at generating levels above their minimum operation levels.
- c. Does Ameren Missouri perform economic analyses to inform its unit commitment decisions (i.e., decisions regarding whether to designate its coal units as must run or take them offline for economic reasons)?
  - i. If not, explain why not.
  - ii. If so, provide all such analyses conducted since 2015 in native, machine-readable format.

**RESPONSE**

<b>Prepared By: Mark Peters</b>
<b>Title: Manager Load Forecasting &amp; Market Analysis</b>
<b>Date: 10/28/2019</b>

1. Ameren Missouri's coal fired units are all registered in the MISO market. They are not committed outside of MISO.

To the extent that this data request is in regards to Ameren Missouri's use of a must run unit commitment status for its coal fired units, in general, Ameren Missouri utilizes a must run commit status for those units whose operating characteristics, such as high cost to restart, expected increase in forced outages if the units are not placed in must run commit status, and maintenance and capital costs due to unit cycling (again, if not placed in must run commit status), warrant such a designation. These units include all of Ameren Missouri's coal-fired units other than those at the Meramec Energy Center. Must run commit status may also

be used for units at the Meramec Energy Center when such a unit is scheduled for testing to ensure that the unit will be in operation for the test, or in instances where the margin on the first day alone would not warrant committing the unit (due to its start-up cost) but where the expected margin over a longer period of time justifies committing the unit.

In making its commit status decisions, the Company's guiding principle is to clear (i.e., sell energy from) its units in the market when doing so benefits customers. Given that the current MISO algorithm for unit commitment only analyzes the 24-hour period of the next calendar day, Ameren Missouri looks past the next 24 hours to make this assessment. This process takes into consideration the costs associated with decommitting a unit, including; total of the expected foregone margins, the cost to restart the unit and the risk of significant maintenance and capital expenses arising from cycling the unit if it is committed and then decommitted and then committed again. Consideration is also given to unit downtime minimums. That is, if a unit downtime minimum is for more than one day, de-committing the unit based only on the next day's MISO model results could mean that the unit will forego margins for the following days when it remains shut-down.

2. Ameren Missouri does not utilize a self-schedule dispatch status for its coal fired units as a matter of course.
3. Ameren Missouri utilizes a combination of quantitative and qualitative analysis to inform its unit commitment decisions.

Each day it performs two separate economic analyses.

First, Ameren Missouri makes an assessment of "generation in the money", by unit, by hour, for each of the next 10 days, utilizing the PCI tool to perform a simulated unit dispatch of each unit based on its incremental production cost, unit characteristics and a forecast of LMPs. The model provides an indication of the level of generation that is "in the money" for a given hour (that is to say that the LMP is in excess of the incremental production cost). Hours for which the unit is not "in the money" do not have values in them.

Additionally, a projection of each unit's energy margin for the next 10 days is separately calculated. This is accomplished by first estimating that amount of energy which could be expected to clear in the MISO energy market, for each hour, based upon each units then current as offered production cost and a forecasted estimated of LMPs. The difference between these LMPs and as offered production costs are then applied to the projected level of unit output to provide an estimate of each unit's energy margin, by hour. This process is repeated by adjusting LMPs up and down by 5%.

For units for whom such indicated margins may be negative, consideration is given to the factors listed in part a above.

Analysis results that informed the commitment decision cannot be provided because the PCI tool overwrites data each day that it is utilized.

Ameren Missouri's  
Response to Sierra Club Data Request  
ER-2019-0335

In the Matter of Union Electric Company d/b/a Ameren Missouri's Tariffs to Increase Its  
Revenues for Electric Service.

Data Request No.: SC 003.12

For each of the Company's existing coal units:

- a. Identify the expiration date for the current fuel supply contract(s).
- b. Identify any liquidated damages associated with exiting the current fuel supply contract(s).
- c. Provide a copy of the current fuel supply contract(s).

**RESPONSE**

<b>Prepared By: Trevor Pettus</b>
<b>Title: Manager, Trading</b>
<b>Date: November 7, 2019</b>

**CONFIDENTIAL**  
**20 CSR 4240-2.135(2)(A)8**

Please refer to data request MPSC 0053 as part of ER-2019-0335 for answers to questions a, b and c in this DR SC 003.12.

**Excerpt from Sierra Club's Sixth Set of Data Requests to Ameren Missouri**

- 6.3 Please refer to page 9, Table 3.2 of the Company's (redacted) Spring 2019 Integrated Resource Plan Update.
- a. Has the Company evaluated whether it can avoid any Coal Combustion Residual rule costs at Labadie by ceasing the operation of the coal-burning boilers under 40 C.F.R. § 257.103? If so, please explain the costs that could be avoided and provide all documents reflecting any such analysis. If not, explain why the Company has not evaluated.
  - b. Has the Company evaluated whether it can avoid any Coal Combustion Residual rule costs at Rush Island by ceasing the operation of the coal-burning boilers under 40 C.F.R. § 257.103? If so, please explain the costs that could be avoided and provide all documents reflecting any such analysis. If not, explain why the Company has not evaluated.
  - c. Has the Company evaluated whether it can avoid any Coal Combustion Residual rule costs at Sioux by ceasing the operation of the coal-burning boilers under 40 C.F.R. § 257.103? If so, please explain the costs that could be avoided and provide all documents reflecting any such analysis. If not, explain why the Company has not evaluated.
  - d. Has the Company evaluated whether it can avoid any Coal Combustion Residual rule costs at Meramec by ceasing the operation of the coal-burning boilers under 40 C.F.R. § 257.103? If so, please explain the costs that could be avoided and provide all documents reflecting any such analysis. If not, explain why the Company has not evaluated.
  - e. Confirm that the CCR impoundments at Labadie are each greater than 40 acres.
  - f. Confirm that the CCR impoundment at Rush Island is greater than 40 acres.
  - g. Confirm the CCR impoundments at Sioux are each greater than 40 acres.