

**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's) File No. ER-2022-0337
Tariffs to Adjust Its Revenues for Electric)
Service)

**AMEREN MISSOURI'S REPLY TO PUBLIC COUNSEL'S
MOTION TO MAKE INFORMATION PUBLIC**

COMES NOW Union Electric Company d/b/a Ameren Missouri (“Ameren Missouri” or “Company”), and for its reply to the Office of Public Counsel's (“OPC”) *Motion to Make Information Public* (“Motion”) filed February 15, 2023, states as follows:

1. On February 15, 2023, OPC filed its Motion requesting the Missouri Public Service Commission ("Commission") make public ***at least*** the confidential information identified on pages 19-20 of Dr. Marke's direct testimony filed on January 10, 2023.
2. First, OPC's Motion is unclear on about what specific information or documentation OPC is proposing to make public and suggests that ***at least*** the information on pages 19-20 of Dr. Marke's direct testimony should be made public. If OPC seeks to have any information or documentation beyond the information on pages 19-20 of Dr. Marke's direct testimony made public, it should have specifically identified such information and documentation to ensure that confidential protection is evaluated and preserved where necessary.
3. Second, OPC asserts the costs related to the Power Play Goals for Kids program is included in the Company's revenue requirement, and accordingly, the information on pages 19-20 of Dr. Marke's direct testimony should be made public. OPC did not claim that it was deprived its ability to contest the costs of the contract under the confidential designation. Indeed, OPC was able to quote and use the information in direct testimony. Furthermore, the Company notes counsel did not contact the Company prior to filing its Motion to discuss any burden the confidential designation placed on OPC or how OPC's ability to challenge the costs was impacted or hindered.

The Commission's rules require a good faith attempt to confer by telephone prior to filing a motion. *See* 20 CSR 4240-2.135(5)(B) and 20 CSR 4240-2.090(8).

4. Next, pursuant to 20 CSR 4240-2.135(2)(A)(4), the information on pages 19-20 of Dr. Marke's testimony was obtained from an outside company and Ameren Missouri is under contractual obligation to maintain confidentiality of this information. Release of this information could provide a competitive advantage to contracting parties in future negotiations. OPC does not acknowledge Ameren Missouri's contractual obligations and OPC counsel did not call Ameren counsel to discuss the specific confidentiality provision or if there was a way to present the information so that the terms and conditions of the contract were not breached. OPC did not follow the informal discovery dispute procedures set forth in 420 CSR 4240-2.090(8) prior to filing this Motion to challenge the designation as required under the Commission's rules.

5. Finally, Ameren Missouri filed the rebuttal testimony of Mitchel Lansford on February 15, 2023. On page 16, of Mr. Lansford's testimony, Mr. Lansford agreed with Commission Staff's adjustment to remove the costs related to the Power Play Goals for Kids program. Mr. Lansford noted that agreeing with OPC's adjustment would double count the adjustment, and therefore, he explained that there is no need to adopt OPC's adjustment in addition to Commission Staff's adjustment. The filing of rebuttal testimony rendered this issue moot.

6. The basis for OPC's Motion is that Ameren Missouri is requesting recovery for costs related to the Power Play Goals for Kids program. The nature of the request does not mean that commercial terms of an agreement between business partners should be made public or that the terms and conditions are not confidential information under 20 CSR 4240-2.135(2)(A)(4). Moreover, the Company filed rebuttal testimony agreeing with Commission Staff's adjustment to remove the costs and the Company is no longer seeking recovery for those costs. Accordingly, the Commission should deny OPC's Motion as moot.

WHEREFORE, for the reasons outlined herein, the Company prays that the Commission enter its order denying OPC's *Motion to Make Information Public* as moot.

Respectfully submitted,

/s/ Jennifer S. Moore

Jennifer S. Moore, MO Bar #75056

Senior Corporate Counsel

Wendy K. Tatro, MO Bar #60261

Director and Assistant General Counsel

Jermaine Grubbs, MO Bar # 68970

Corporate Counsel

1901 Chouteau Avenue, MC-1310

St. Louis, Missouri 63103

Telephone: (314) 554-3484

Facsimile: (314) 554-4014

AmerenMOService@ameren.com

James B. Lowery, MO Bar #40503

JBL Law, LLC

3406 Whitney Ct.

Columbia, MO 65203

Telephone: (573) 476-0050

**ATTORNEYS FOR UNION ELECTRIC
COMPANY d/b/a AMEREN MISSOURI**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 21st day of February 2023, served the foregoing either by electronic means, or by U. S. Mail, postage prepaid addressed to all parties of record.

/s/ Jennifer S. Moore
Jennifer S. Moore