



SCHOOL OF LAW

Civil Justice Clinic

Interdisciplinary Environmental Clinic

June 24, 2013

Hon. Morris Woodruff
Chief Regulatory Law Judge
Missouri Public Service Commission
200 Madison Street, P.O. Box 260
Jefferson City, MO 65102

Filed in EFIS and sent via e-mail

Re: File No. EA-2012-0281, Ameren's Application for Certificate of Public Convenience and Necessity Regarding Proposed Labadie Coal Ash Landfill

Dear Judge Woodruff:

In response to Mr. Lowery's letter dated June 24 in the above-referenced matter, LEO and the Sierra Club urge you to reject Ameren's untimely and misguided attempt to create rules for tomorrow's local public hearing that are both at odds with the ground rules agreed upon by all parties at your June 19 Conference and inconsistent with long-standing PSC precedent and practice regarding local public hearings.

1. Requiring Speakers to State Affiliations

Mr. Lowery's June 24 letter states that Ameren does not intend to attempt to exclude the testimony of LEO or Sierra Club members based on their affiliation with the organizations. Yet Ameren still wants members of the public to identify their affiliations, claiming that it relates to "interest or bias." However, at the June 19 Conference, it was agreed – at Mr. Lowery's suggestion – that all members of the public would be asked to state at the outset of their testimony their name, the locality (but not street address) where they live, and whether they support or oppose Ameren's CCN application related to the proposed Labadie landfill. The support-or-oppose statement will identify the witness's position – the only "interest or bias" of conceivable relevance for purposes of this local public hearing – without treading on the First Amendment right to freedom of association, and without risking further harassment of community members.

2. Declining to Accept Any Documents into Evidence at the Hearing

Mr. Lowery's suggestion that documents only be marked for identification but not admitted into evidence at the hearing is the opposite of the procedure agreed to by all parties at your June 19 Conference – i.e., that all documents offered by members of the public would be admitted into evidence, subject to Ameren's right to move to strike at a later time, and our right to establish

their admissibility at that later time. Mr. Lowery offers no legitimate basis for ignoring that agreement, or for adopting in this case a procedure at odds with consistent PSC practice and precedent. Indeed, Mr. Lowery noted at the June 19 Conference that the PSC takes a more generous approach to evidence admissibility than many courts. Yet for purposes of this local public hearing, Ameren suggests an approach that is more stringent than any court with which I am familiar.

We again urge you and the Commission to decline to adopt Ameren's suggestions. The Commission should proceed on the basis of the ground rules established by mutual agreement of all parties at the June 19 Conference.

Sincerely yours,



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