

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Union Electric Company d/b/a)
Ameren Missouri's Tariff to Increase its) Case No. ER-2014-0258
Revenues for Electric Service)

**SIERRA CLUB RESPONSE IN OPPOSITION TO AMEREN MISSOURI'S
MOTION FOR ADMISSION OF EXHIBIT 65HC**

Sierra Club respectfully opposes Ameren Missouri's Motion for Admission of Exhibit 65HC. This exhibit, and the series of related redirect questions to which Sierra Club also objected, go beyond the scope of cross-examination at the hearing, which was limited to the Company's assumptions concerning future regulation of greenhouse gas emissions that were incorporated into its Integrated Resource Plan ("IRP") filing. (*See* Transcript p. 1937-40 (Sierra Club cross-examination).) Ameren Missouri does not claim that Exhibit 65HC was part of the Company's IRP filing or a workpaper for that filing. Nor did Ameren Missouri's witness, Mr. Matt Michels, reference the chart marked as Exhibit 65HC, or any of the information purportedly reflected therein, in responding to any of Sierra Club's questions on cross-examination. *See id.*

Not only is Exhibit 65HC outside the scope of Sierra Club's cross-examination, admitting it into evidence would prejudice Sierra Club and other parties. None of the parties would have had any reason to ask Mr. Michels about the information in Exhibit 65HC during cross-examination, when the witness himself had not referenced it in either his rebuttal or surrebuttal testimony, or in response to cross-examination. The Commission should not allow Ameren Missouri to pad the record in this case with

exhibits introduced for the first time on redirect when the Company had ample opportunity to provide this information to the Commission earlier in the case and failed to do so. Moreover, because Exhibit 65HC was not offered until redirect, admitting it into evidence now would deprive the parties of a full and fair opportunity to test through cross-examination the claims that Ameren Missouri makes about what the exhibit shows and the data on which it is purportedly based.

Finally, Sierra Club notes for the Commission that its objections to testimony in Ameren Missouri's redirect of Mr. Michels were not limited to those questions concerning Exhibit 65HC. As the transcript makes clear, there were two separate lines of questioning to which Sierra Club objected, the first of which Ameren Missouri did not address in its motion for admission of Exhibit 65HC. (*See* Transcript p. 1945.) That first line of questioning concerned a reference by Ameren Missouri's counsel to a purported cross-examination question that Sierra Club never asked:

Q. Mr. Cmar also asked you about whether or not Ameren Missouri had included in its IRP filing any analysis regarding the specific effects of future environmental regulations on Labadie Units 1 and 2. Do you recall those questions?

A. Yes, I do.

Q. Is there a reason that Ameren Missouri did not include a specific analysis for those units in its IRP filing?

MR. CMAR: Your Honor, I object. I didn't ask that question that is being referenced here. This is outside the scope of the cross.

JUDGE WOODRUFF: Your response?

MR. MITTEN: I believe he did ask the question about a unit-specific analysis for Labadie Units 1 and 2.

MR. CMAR: I did not ask that question, your Honor.

(Transcript p. 1945, lines 2-19.) As with Sierra Club's objection to the admission of Exhibit 65HC and related testimony, the Regulatory Law Judge reserved ruling on this objection pending review of the transcript. Now that the transcript is available, it is clear that Sierra Club did not ask any cross-examination questions concerning why Ameren Missouri did not include in its IRP a specific unit-by-unit analysis of the impact of future environmental regulatory requirements on Labadie Units 1 and 2. (*See* Transcript p. 1937-40 (Sierra Club cross-examination).) The statement made by Ameren Missouri's counsel to the contrary is not accurate, and therefore Sierra Club's objection to that line of questioning should also be sustained.

Accordingly, Sierra Club respectfully requests that the Commission deny Ameren Missouri's motion for admission of Exhibit 65HC and sustain Sierra Club's hearing objections to questions asked by Ameren Missouri on redirect that went beyond the scope of Sierra Club's cross-examination.

Respectfully submitted,

/s/ Sunil Bector

Sunil Bector
Admitted Pro Hac Vice
Sierra Club

85 Second Street, 2nd Floor

San Francisco, CA 94105

415.977.5759 (phone)

415.977.5793 (fax)

sunil.bector@sierraclub.org

/s/ Thomas Cmar

Thom Cmar
Admitted Pro Hac Vice
Earthjustice

1101 Lake Street, Suite
405B

Oak Park, IL 60301

312.257.9338 (phone)

212.918.1556 (fax)

tcmar@earthjustice.org

/s/ Henry B. Robertson

Henry B. Robertson
Mo. Bar No. 29502
Great Rivers Environmental
Law Center

705 Olive Street, Suite 614

St. Louis, MO 63101

314.231.4181 (phone)

314.231.4184 (fax)

hrobertson@greatriverslaw.org

Attorneys for Sierra Club

CERTIFICATE OF SERVICE

I hereby certify that a true and correct PDF version of the foregoing was filed on EFIS and electronically mailed to all counsel of record on this 24th day of March, 2015.

/s/ Sunil Bector
Sunil Bector