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June 24, 2013

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

**Filed in EFIS & Via E-mail**

Dear Judge Woodruff:

My June 21 letter did not suggest in any way that Intervenors were precluded from making whatever presentation they desire during the question and answer session that precedes the local public hearing. Your instructions in that regard were quite clear: both Intervenors and the Company could have approximately 20 minutes to make presentations. The Company did not object and is not objecting in any way to what Intervenors would like to do during the question and answer session.

My June 21 letter also contained no suggestion whatsoever that the hearing be “limited to only some members of the affected public.” Nor did I suggest that the Company intended (and it does not intend) to attempt to “exclude members’ testimony” based on any particular affiliation. The Company’s position is simply that Intervenors cannot circumvent the Commission’s established processes for making their case and that fundamental rules of evidence are not suspended during the on-the-record local public hearing, particularly given the circumstances in this case.

Ms. Lipeles’ extended discussion of freedom of association principles misses the point. When a person voluntarily chooses to become a witness in a legal proceeding, it is always appropriate for the trier of fact to be made aware of their interest or bias. Do Intervenors seriously contend that a witness’s membership in the Sierra Club, with its well-known opposition to the production of power with coal, is irrelevant? Intervenors can’t have it both ways: since local public hearing testimony is considered evidence, all witnesses must be required to play by the rules.

Finally, if documents are presented during the on-the-record portion of the hearing, as I explained my suggestion to simply mark the documents for identification while preserving Ms. Lipeles’ right to later seek their admission (and my right to object at that time if the documents are objectionable) was a practical one designed to facilitate a more efficient and orderly hearing. That approach would eliminate the need to examine the documents and probably the need to cross-examine the members of the public about them, which would allow more time for the

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general public to express their views. If the documents are to be admitted initially, I may have no choice but to examine the documents and cross-examine their sponsors. I wanted the Commission to be aware of this, and was offering a solution would be less disruptive of the hearing process while preserving both sides' right to be heard on the admission of the documents at the appropriate time.<sup>1</sup>

This is a unique case insofar as this local public hearing is concerned (as evidenced by your taking the unusual step of convening a conference last week). I think we all can agree that members of the general public who desire to speak should have the opportunity to provide appropriate testimony. It has been and remains the Company's desire to facilitate the Commission's effort to afford that opportunity, while also protecting the Company's legitimate interest in the development of a proper record upon which the Commission will render its decision in this case.

Thank you for considering these matters.

Sincerely,

**/s/ James B. Lowery**

James B. Lowery  
Attorney for Ameren Missouri

Cc: Counsel of Record

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<sup>1</sup> I am surprised that Ms. Lipeles thinks it would be "condescending and insulting" not to admit hearsay documents, but it would apparently be fine to admit them and leave the impression that the documents will be part of the evidentiary record when, in fact, they will remain subject to objection and to being struck from the record. It seems to me that the more straightforward and open process would be to advise those testifying that if they desire to offer a document the Commission will take the document and after later considering its admissibility will make a determination regarding whether it may become part of the evidentiary record.