



Martha S. Hogerty
Public Counsel

State of Missouri

Mel Carnahan
Governor

Office of the Public Counsel
Harry S Truman Building - Ste. 250
P.O. Box 7800
Jefferson City, Missouri 65102

Telephone: 314-751-4857
Facsimile: 314-751-5562
Relay Missouri
1-800-735-2966 TDD
1-800-735-2466 Voice

May 3, 1996

Mr. David Rauch
Executive Secretary
Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

FILED
MAY - 3 1996
MISSOURI
PUBLIC SERVICE COMMISSION

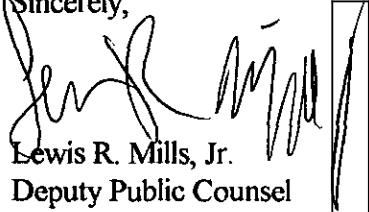
**RE: Union Electric Company
Case No. EM-96-149**

Dear Mr. Rauch:

Enclosed for filing in the above-referenced case please find the original and fourteen copies of **Motion to Declassify Responses to Data Requests**. Copies of this pleading, with all highly confidential and proprietary attachments, have been separately delivered to the Administrative Law Judge and the Commissioners.

I have on this date mailed or hand-delivered copies to all counsel of record. Please "file" stamp the extra-enclosed copy and return it to this office. Thank you for your attention to this matter.

Sincerely,


Lewis R. Mills, Jr.
Deputy Public Counsel

LRM:bjr

Enclosures

cc: Counsel of Record

X

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED

MAY - 3 1996

MISSOURI
PUBLIC SERVICE COMMISSION

In the matter of the application of Union)
Electric Company for an order authorizing:)
(1) certain merger transactions involving)
Union Electric Company; (2) the transfer)
of certain assets, real estate, leased)
property, easements and contractual)
agreements to Central Illinois Public)
Service Company; and (3) in connection,)
therewith certain other related transactions)

Case No. EM-96-149

MOTION TO DECLASSIFY RESPONSES TO DATA REQUESTS

COMES NOW the Office of the Public Counsel (Public Counsel), and for its Motion to
Declassify Certain Material, states as follows:

1. On December 13, 1995, the Public Service Commission (Commission) issued its
Order Granting Motion for Protective Order. This Order put in place the Commission's standard
protective order.
2. Union Electric Company (UE) has designated many of the responses to data
requests as either highly confidential or proprietary, or both.
3. By letter dated April 18, 1996, Public Counsel sought to have UE voluntarily
remove the highly confidential and/or proprietary designation from four separate documents, or
parts of those documents. UE, by its responsive letter received by Public Counsel on April 29,
1996, agreed to declassify one of those documents. (Copies of these letters are attached hereto as
Attachments 1 and 2, respectively). Since UE did not voluntarily declassify the other documents,
Public Counsel now files this motion.

The first document that is the subject of this motion was received by Public Counsel as part of UE's response to Public Counsel DR No. 512. This document is a single sheet headed with the title "Ten-Year Period of Analysis." (A copy of this document, together with UE's justification for its designation, is being provided to the Administrative Law Judge and the Commissioners as Attachment 3).

The second document that is the subject of this motion is a series of overheads that Goldman Sachs used in two presentations to UE's Board of Directors (on August 8 and 11, 1995). (A copy of this document, together with UE's justification for its designation, is being provided to the Administrative Law Judge and the Commissioners as Attachment 4). This document was received by Public Counsel as part of UE's response to Staff DR No. 5.

The third document that is the subject of this motion (and which was not referenced in Public Counsel's April 18, 1996 letter to UE) is a document that Public Counsel received on April 22, 1996 as part of UE's update to Staff DR No. 72(c). (A copy of this document, together with UE's justification for its designation, is being provided to the Administrative Law Judge and the Commissioners as Attachment 5).

The fourth document that is the subject of this motion (and which was not referenced in Public Counsel's April 18, 1996 letter to UE) is a document that Public Counsel received on May 1, 1996 in response to Staff DR No. 119. (A copy of this document, together with UE's justification for its designation, is being provided to the Administrative Law Judge and the Commissioners as Attachment 6).

4. In most instances, UE has "explained" why it classified certain material as highly confidential or proprietary by simply checking boxes on a form. (See, e.g., Attachments 3, 4, and 5). The list of options for checking on these checkoff sheets are lifted directly from paragraph A

of the Protective Order. UE has generally provided no information other than this checkoff. UE has never explained how the release of this information could damage it, and as a result, Public Counsel cannot in this pleading counter any arguments about potential harm since UE has not made those arguments yet.

5. Most of the discovery in this case, from Public Counsel as well as from Staff and the Missouri Industrial Electric Consumers (the three most active parties), has revolved around UE's novel merger savings sharing proposal. As its justification for this proposal, UE has claimed that its shareholders need to skim off a portion of the estimated merger savings before sharing the remainder with ratepayers. The information that Public Counsel seeks to declassify in this motion concerns two aspects of this proposal: 1) the shareholder's "need" to take a cut of the savings before sharing the remainder, and 2) the accuracy and reliability of UE's estimates of merger savings.

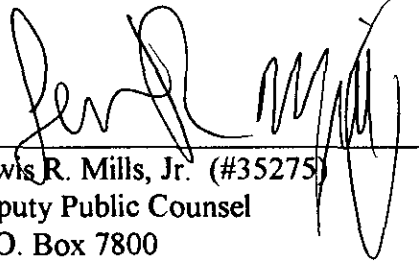
6. It is patently unfair for UE to publicly disclose information that supports its position, but then to designate as highly confidential or proprietary similar information that undercuts this position. The information that Public Counsel seeks to declassify in this motion is exactly the same type of information that UE used to develop its "sharing" proposal. By allowing UE to simply check a box on a cover sheet, and thereby designate an entire 40-page (or longer) document as highly confidential, the burden of proof effectively shifts to the challenging party to argue why a document is **not** highly confidential since UE has not provided any detailed information as to why it is highly confidential. This shift is not consistent with the Commission's Protective Order.

WHEREFORE, Public Counsel respectfully requests that the Commission issue its Order removing the designation of highly confidential and/or proprietary from the documents attached hereto as Attachments 3, 4, 5, and 6.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

By



Lewis R. Mills, Jr. (#35275)
Deputy Public Counsel
P. O. Box 7800
Jefferson City, MO 65102
(573) 751-4857

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed or hand-delivered to the following on this 3rd day of May, 1996:

Steve Dottheim
Deputy General Counsel
Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

Richard W. French
French & Stewart
1001 Cherry St., Suite 302
Columbia, MO 65201

Gary W. Duffy
Brydon, Swearingen & England
P. O. Box 456
Jefferson City, MO 65102

Robert C. Johnson
Diana M. Schmidt
Peper, Martin, Jensen, et al.
720 Olive St., 24th Floor
St. Louis, MO 63101-2396

Jeremiah W. Nixon
Daryl R. Hylton
Office of the Attorney General
P. O. Box 899
Jefferson City, MO 65102

Daniel R. Devereaux
Attorney at Law
1215 Pine Street
St. Louis, MO 63101

James Fischer
Attorney at Law
102 E. High, Suite 200
Jefferson City, MO 65101

James J. Cook
Joseph H. Raybuck
Union Electric Company
P. O. Box 149 (M/C 1310)
St. Louis, MO 63166

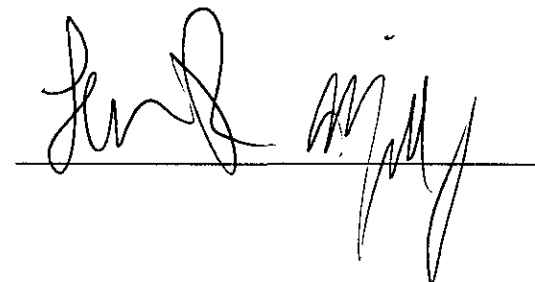
James C. Swearingen
Brydon, Swearingen & England
P. O. Box 456
Jefferson City, MO 65102

Michael C. Pendergast
Laclede Gas Company
720 Olive St., Room 1520
St. Louis, MO 63101

Susan B. Cunningham
Staff Attorney
Kansas City Power & Light Co.
P. O. Box 418679
Kansas City, MO 64141-9679

Paul S. DeFord
Lathrop & Norquist
2345 Grand Blvd., Suite 2500
Kansas City, MO 64108

Marilyn S. Teitelbaum
Schuchat, Cook & Werner
1221 Locust St., 2nd Floor
St. Louis, MO 63101





Martha S. Hogerty
Public Counsel

State of Missouri

Mel Carnahan
Governor

Office of the Public Counsel
Harry S Truman Building - Ste. 250
P.O. Box 7800
Jefferson City, Missouri 65102

Telephone: 314-751-4857
Facsimile: 314-751-5562
Relay Missouri
1-800-735-2966 TDD
1-800-735-2466 Voice

April 18, 1996

Mr. Jim Cook
Union Electric Company
P.O. Box 149 (M/C 1310)
St. Louis, MO 63166

RE: Case No. EM-96-149

Dear Mr. Cook:

This letter concerns certain documents that UE has alleged to be highly confidential or proprietary. Public Counsel is always sensitive to the legitimate needs for utilities to protect truly confidential information. However, we have a long-standing policy to see as much material open to public view as possible, consistent with these needs.

I expect this to be the first in a series of letters asking UE to consider declassifying certain information. As we get closer to our filing and have a more exact picture of the information that we wish to include in testimony, we will bring to your attention documents that we want to refer to that we believe do not deserve highly confidential or proprietary treatment.

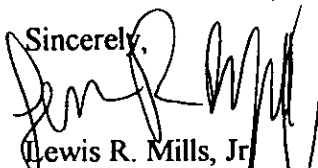
In this installment, I will be referring to responses to our DR number 512, and Staff DR numbers 5 and 142.

Part of your response to our DR 512 is a sheet headed "10-Year Period of Analysis" (attached hereto). This sheet has been marked as proprietary, and I can see no reason for it to be so marked. Please let me know if UE considers the entire page proprietary (and if not, which portions are not), the basis for this classification, or if UE is willing to declassify it voluntarily.

Part of the response to Staff DR 5 is a series of overheads that Goldman, Sachs used in two presentations to UE's Board of Directors. These overheads have been marked as both highly confidential and proprietary. We plan to refer to pages 5, 7, 8, 9, 10, 11, 20, 27, and 30 from the August 8 presentation and pages 4 and 5 from the August 11 presentation. Please let me know whether UE considers these specific pages highly confidential or proprietary, if UE considers the entire page classified (and if not, which portions are highly confidential, proprietary, and open), the basis for this classification, or if UE is willing to declassify it voluntarily.

We received from the Staff a copy of a document that the Staff requested during its visit to Springfield. It appears to be, in part, a UE document. (We have submitted DR 660 to confirm whose document it is.) The entire document has been marked as highly confidential. I have attached the first part of this document which appears to be UE's portion. To my mind, these sample questions and answers are almost by definition public information. Please let me know whether UE considers these specific pages highly confidential, if UE considers the entire page classified (and if not, which portions are highly confidential), the basis for this classification, or if UE is willing to declassify it voluntarily.

Sincerely,



Lewis R. Mills, Jr.
Deputy Public Counsel

1901 Chouteau Avenue
Post Office Box 149
St. Louis, Missouri 63166
314-554-2098

ATTACHMENT 2



William E. Jaudes
Vice President
and
General Counsel

April 26, 1996

Mr. Lewis R. Mills, Jr.
Deputy Public Counsel
Office of the Public Counsel
Harry S. Truman Building - Suite 250
P.O. Box 7800
Jefferson City, MO 65102

Dear Mr. Mills:

This is in reply to your letter of April 18 requesting that we declassify certain material we had furnished to you. The material was classified as Proprietary, Highly Confidential or Proprietary and Highly Confidential.

The first document (classified as Proprietary) is a sheet headed "10-Year Period of Analysis." We are not willing to declassify this material. It relates to confidential methods of analysis of some proposed projects. Release of this information could result in significant damage to the company and its customers if competitors or suppliers had it.

The second set of documents were the overheads used by Goldman, Sachs for presentations to the Board of Directors. We believe these documents in their entirety are both Highly Confidential and Proprietary. They involve financial forecasts and market and business predictions and information which are not appropriate to be in the public domain. I also believe that selective release of individual pages would be inappropriate and could be claimed to be a declassification of the entire documents. For these reasons we are unwilling to declassify these documents.

APR 29 1996

Mr. Lewis R. Mills, Jr.
Page 2
April 26, 1996

The third document involves 8 pages on both sides of the paper entitled 10th draft, August 13, 1995 1:55 a.m. numbered in the upper right hand of each page p.2-p.17. This document consists of a number of Qs and As. This document is no longer Confidential and we are willing to declassify it.

Yours truly,

William E Jaudes