

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

Motion to Declassify Surveillance)	
Monitoring Report of Ameren Missouri)	
for the Twelve Month Period Ending)	<u>Case No. EO-2013-</u>
December 31, 2012)	

MOTION TO MAKE CERTAIN DOCUMENTS PUBLIC,
REQUEST FOR WAIVER,
AND MOTION FOR EXPEDITED TREATMENT

COME NOW the Missouri Industrial Energy Consumers (“MIEC”), the Office of Public Counsel, AARP, and the Consumers Council of Missouri, and for their Motion to Make Certain Documents Public, Request for Waiver, and Motion for Expedited Treatment, state as follows:

1. On or about March 1, 2013, Ameren Missouri (“Ameren”) filed with the Staff of the Commission and other parties, including the Movants, a Surveillance Monitoring Report for the twelve month period ending December 31, 2012 (“Report”). Commission Regulations 4 CSR 240-3.161(6) and 4 CSR 240-20.090(10) require electric corporations like Ameren that have fuel adjustment clauses to file surveillance reports such as the Report. Those regulations provide that the Report is to be treated as highly confidential, subject to a waiver of that requirement for good cause shown. *See* 4 CSR 240-3.161(16) and 4 CSR 240-20.090(15).

2. Ameren designated the Report “Highly Confidential” (“HC”).

3. The Commission’s regulation 4 CSR 240-2.135(1)(B) prescribes what information is typically eligible for designation as HC:

Highly confidential information is information concerning:

1. Material or documents that contain information relating directly to specific customers;

2. Employee-sensitive personnel information;
3. Marketing analysis or other market-specific information relating to services offered in competition with others;
4. Marketing analysis or other market-specific information relating to goods or services purchased or acquired for use by a company in providing services to customers;
5. Reports, work papers, or other documentation related to work produced by internal or external auditors or consultants;
6. Strategies employed, to be employed, or under consideration in contract negotiations; and
7. Information relating to the security of a company's facilities.

4. The information in the Report does not meet the above standard for HC. The information contains only historical information and no projections that might be considered proprietary. Indeed, this Commission and the parties in ER-2012-0166 recently considered and discussed extensively, in public with Ameren's consent, the identical report, only for the twelve month period ending June 30, 2012. The Commission considered the reported Return on Equity ("ROE") for that twelve month period in light of Ameren's claim in that rate case that it needed extraordinary regulatory treatment referred to as Plant In Service Accounting ("PISA"). *See* Report and Order in ER-2012-0166, pp. 30-36 ("In the Matter of Union Electric Company, d/b/a Ameren Missouri's Tariff to Increase Its Annual Revenues for Electric Service"). There, this Commission properly considered the fact that in the twelve month period ending June 30, 2012 (at that time the most current such report available), Ameren's actual ROE was 10.53 percent when its then-approved ROE was 10.2. That fact, coupled with Ameren's inability to articulate "that there is any great un-met need for additional capital investment to ensure delivery of safe and adequate service[.]" and other facts, compelled this Commission to reject Ameren's claim for a substantial enhancement of the regulatory paradigm that would have cost ratepayers \$240 million over 40 years. *Id.* at 34-5.

5. The Missouri General Assembly is now considering bills, SB 207 and HB 398,

that would fundamentally transform the regulatory paradigm in Missouri, and do so much more significantly than the proposed PISA mechanism that this Commission rejected in ER-2012-0166. It is undoubtedly in the public interest for the Missouri General Assembly to have the most recent economic facts at its disposal for Missouri's largest investor-owned utility before it makes a legislative decision that could transfer tens, if not hundreds, of millions of dollars from Missouri consumers to Missouri electric utilities as proposed in the above legislation. Of particular interest to the General Assembly could be Ameren's actual reported ROE in the Report. Ameren has no need for protection of any of the information contained in the Report, as evidenced by its consent for the release of the same information in the identical surveillance report filed for the period ending June 30, 2012.

6. The Movants seek declassification of the Report and a variance from the provisions of this Commission's rule designating the report HC.

7. Movants request that the Commission order Ameren Missouri to file its response to this motion no later than March 14, 2013.

8. Movants request that the Commission rule on this motion expeditiously because the Missouri General Assembly is currently considering the above legislation and time is thus of the essence. Pursuant to 4 CSR 240-2.080(14), Movants state that: (A) they desire the Commission to act on this Motion no later than March 15, 2013¹; (B) the harm that will be avoided by this Motion is the harm caused to the public by keeping non-sensitive information secret from the public and their elected representatives when they need the information immediately in order to make an informed decision on legislation of extreme importance to the public; and (C) Movants did not become aware of the Report until March 1, 2013, and this

¹ Movants expect that Ameren will consent to have this historical data made public, just as it did in ER-2012-0166, and so the Commission could issue an order by delegation once Ameren Missouri consents. *See* Ameren Response to Staff Motion to Declassify, attached hereto.

pleading was filed as soon as reasonably possible thereafter.

WHEREFORE, Movants respectfully request that the Commission grant this motion expeditiously.

Respectfully submitted,

BRYAN CAVE LLP

By: s/ Edward F. Downey
Edward F. Downey, #28866
221 Bolivar Street, Suite 101
Jefferson City, MO 65101
Telephone (573) 556-6622
Facsimile: (573) 556-7442
efdowney@bryancave.com

Diana Vuylsteke, #42419
211 N. Broadway, Suite 3600
St. Louis, MO 63102
Telephone: (314) 259-2000
Facsimile (314) 259-2020
dmvuylsteke@bryancave.com

Attorneys for The Missouri Industrial
Energy Consumers

OFFICE OF THE PUBLIC COUNSEL

By: /s/ Lewis R. Mills, Jr.
Lewis R. Mills, Jr. (#35275)
Public Counsel
P O Box 2230
Jefferson City, MO 65102
(573) 751-1304
(573) 751-5562 FAX
lewis.mills@ded.mo.gov



John B. Coffman (Missouri Bar No. 36591)

JOHN B. COFFMAN LLC

871 Tuxedo Blvd.
St. Louis, MO 63119
Phone: 573-424-6779
Email: john@johncoffman.net

Counsel for AARP



John B. Coffman (Missouri Bar No. 36591)

JOHN B. COFFMAN LLC

871 Tuxedo Blvd.
St. Louis, MO 63119
Phone: 573-424-6779
Email: john@johncoffman.net

Counsel for the Consumers Council of
Missouri

CERTIFICATE OF SERVICE

I hereby certify that the foregoing was mailed, by US Mail and electronically, to counsel for Ameren and counsel for the Commission this 7th day of March, 2013 as follows:

Thomas M. Byrne,
Managing Associate General Counsel
Ameren Services Company
P.O. Box 66149, MC 1310
St. Louis, MO 63166-6149
tbyrne@ameren.com

Kevin Thompson
Missouri Public Service Commission
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102-0360
kevin.thompson@psc.mo.gov

/s/ Edward F. Downey