

STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

At a Session of the Public Service  
Commission held at its office  
in Jefferson City on the 21st  
day of March, 1986.

CASE NO. EO-86-126

In the matter of Staff's  
ongoing investigation of  
the Callaway Nuclear Plant.

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O R D E R

On March 14, 1986, the Commission's Staff (Staff) filed a motion in the above-referenced case pursuant to Sections 393.140(1) and (7) and 386.240, RSMo 1978, as amended, requesting an immediate order of the Commission directing Union Electric Company (Company) to provide John Renken of the Staff, at the direction of Chris Rogers and one alternate, unescorted access to most of the Callaway Nuclear Plant and to provide to said on-site investigator reasonable notice of, and access to, all the department and other coordinating meetings involving technical plant operations and/or maintenance management. The said investigator's status at these meetings would be as a nonparticipant.

Staff asserts that informal attempts to gain the access and notice requested herein have proved unavailing. Staff believes that this order is necessary so that it might perform a thorough audit of Company's first refueling outage. Staff states that without the requested status Company possesses the ability to effectively restrict or control Staff's investigation.

Pursuant to Commission Rule 4 CSR 240-2.080(9), Staff requests that the Commission act on its request without providing ten days for Company's response. Staff states that delay will result in Staff's losing this opportunity to investigate, examine and observe this refueling process and the knowledge to be gained therefrom.

Company filed a response to Staff's motion on March 19, 1986, requesting that the Commission deny Staff's request for expedited treatment and grant Company two additional days to respond to the merits of Staff's motion. Company stated that expedited treatment would be improper because Staff's request is unprecedented, devoid of statutory or judicial authority, devoid of factual support to show why present arrangements are inadequate and because no harm will result to Staff's investigation if its request is not ruled upon immediately. Company asserts that the issue herein is not the Commission's right to enter and inspect but the utility's right to insist upon reasonable conditions of safety and security to protect Staff and Company employees and the integrity and reliability of the plant. Company alleges that Staff's assertion of irreparably lost information is untrue given the present level of Staff's access to the Callaway plant. Company states that Staff presently has unescorted access to such areas of the plant as the protected area, administration, office areas and the turbine generator building. With an escort, Staff has access to the radiation control areas and other vital areas. Meeting access is allowed to the "Plan of the Day" meetings which are especially designed for the refueling outage.

Since the time remaining to the refueling outage is limited, the Commission feels that Staff's request for expedited treatment is warranted.

No law has been cited herein which would disallow the kind of access which Staff requests. Staff has stated that its present access allows Company to restrict or control its investigation and Company has not denied this allegation. Company has merely said that Staff's pleadings do not state why the present access is inadequate. Company states that the request is unprecedented and unsupported by statutory or judicial authority. That a request might be unprecedented is not in itself a reason to deny a motion. It is within the Commission's powers "to enter in or upon and to inspect the property, buildings, plants, factories, powerhouses, ducts, conduits and offices of any such corporation or persons." Section 393.140(7), RSMo 1978, as amended. This grant of power is broad. Once an act is determined to be within the

Commission's authority these statutes are to be liberally construed in order to effectuate the purposes for which they are enacted. State ex rel. Utility Consumers Council of Missouri, Inc., v. Missouri Public Service Commission, 585 S.W.2d 41, 49 (Mo. en banc 1979).

Company states that the issue herein is its right to insist upon reasonable conditions of safety and security to protect Staff and Company employees and the integrity and reliability of the plant. The Commission believes reasonable conditions of safety and security are necessary. However, these conditions must not be used to unnecessarily restrict access to the plant in violation of the statute. The Commission believes procedures can be implemented to give Staff the access required without violating conditions of safety and security.

Thus, the Commission is of the opinion that Staff's request is within the ambit of the Commission's authority to inspect and should be granted. The Commission determines that Company's request for a denial of expedited treatment and for two additional days in which to respond to the merits of Staff's motion should be denied.

It is, therefore,

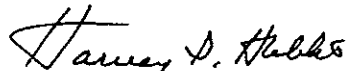
ORDERED: 1. That Staff's motion herein is granted hereby.

ORDERED: 2. That Company's requests as enumerated above are denied hereby.

ORDERED: 3. That Company is ordered hereby to comply with the statute by granting the Commission's Staff the access requested as recited herein.

ORDERED: 4. That this order shall become effective on the date hereof.

BY THE COMMISSION

  
Harvey G. Hubbs  
Secretary

(S E A L)

Steinmeier, Chm., Musgrave, Mueller.  
Hendren and Fischer, CC., Concur.