

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

In the Matter of the Application of Co-Mo	)	
Electric Cooperative for Approval of	)	Case No. EO-2022-0190
Designated Service Boundaries Within	)	
Portions of Cooper County, Missouri.	)	

**RESPONSE TO AMEREN MISSOURI'S MOTION TO ALLOW  
SELECTED ACCESS TO HIGHLY CONFIDENTIAL INFORMATION  
AND MOTION FOR EXPEDITED TREATMENT**

**COMES NOW** Co-Mo Electric Cooperative (Co-Mo), and for its Response to the above-referenced Motion states as follows:

1. Ameren Missouri has multiple times, in pleading and argument, referenced Co-Mo's having submitted itself to the Commission's jurisdiction as a reason to suggest Co-Mo should be viewed less favorably in its efforts to restrict access to sensitive business information by its primary competitor, Ameren Missouri. An adversarial proceeding such as the present case necessarily requires multiple parties. Co-Mo would have no need to avail itself of the Commission's jurisdiction for this matter if Ameren Missouri had negotiated a territorial agreement with Co-Mo covering Fox Hollow as contemplated by the new Section 386.800, RSMo. No weight should be given to an argument suggesting a party must waive some rights in order to assert others.

2. As for delays, Ameren Missouri was put on notice on February 16<sup>th</sup> (the filing date of Co-Mo's Motion for Protective Order) that Co-Mo was seeking a Highly Confidential designation for its feasibility study. Thus, Ameren Missouri has had more than a month to retain an outside expert in preparation for review of any documents subject to the requested Protective Order. Further, had Co-Mo sent its Highly Confidential documents via email to Ameren Missouri's outside counsel (or filed them on EFIS) prior to either the Commission entering its Protective

Order on March 16<sup>th</sup> or negotiating an alternative agreement between the parties, Ameren Missouri's in-house counsel would have received a copy of those documents. Co-Mo and Ameren Missouri's outside counsel negotiated an agreement whereby outside counsel would not share the Highly Confidential documents with inside counsel. With that agreement in place, Co-Mo provided the Highly Confidential documents to Ameren Missouri's outside counsel on March 11<sup>th</sup>, just four days after the filing of Co-Mo's direct testimony where the Highly Confidential documents were made a schedule thereto. Co-Mo rightly delayed delivery of the documents until a satisfactory agreement between the parties was reached which was prior to the Protective Order being entered. Ameren Missouri could, and perhaps should, use outside experts to review the Highly Confidential documents and provide any advice and assistance desired by Ameren Missouri. Co-Mo does not object to Ameren Missouri's outside counsel sharing the Highly Confidential documents with an outside expert. It is Co-Mo's belief that this is the approach contemplated by the Commission in issuing its Protective Order. Co-Mo requests the Commission require Ameren Missouri to use outside experts instead of its own employees to assure appropriate safeguards of the Highly Confidential documents.

3. Should the Commission be persuaded by Ameren Missouri's Motion, Co-Mo asks that protocols be specified which ensure limited access of Co-Mo's Highly Confidential documents. Co-Mo requests such protocols include descriptions of to whom the information is to be shared, that such persons be limited to the St. Louis office Ameren Missouri refers to in its Motion, how the information is to be shared, in what format the information is to be shared, and how any electronic versions of information can be assuredly kept from others within the Ameren Missouri organization. Co-Mo suggests a limited number of paper copies may be most easily controlled and that all such copies shall be destroyed upon the Commission's Order directing this file to be

closed and a certificate stating such copies have been destroyed shall be provided to Co-Mo's counsel at that time. Co-Mo also suggests that under this scenario only the information necessary for the non-retained expert's particular area of analysis should be provided to that expert. Further, Co-Mo requests that a log of all information be kept by Ameren Missouri and shared with Co-Mo reflecting precisely the information given to each internal expert.

**WHEREFORE**, Co-Mo respectfully requests the Commission deny Ameren Missouri's Motion to Allow Selected Access to Highly Confidential Information. If the Commission grants Ameren Missouri's Motion, Co-Mo respectfully requests that the Commission issue guidance to Ameren Missouri on what manner of disclosure will be permitted including safeguards against further disclosure.

**Respectfully submitted,**

*/s/ Megan E. Ray*

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## CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was sent by electronic mail, on March 23, 2022, to the following:

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