

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

In re: Union Electric Company's)	
2005 Utility Resource Filing pursuant to)	Case No. EO-2006-0240
4 CSR 240 – Chapter 22)	

**AMERENUE'S RESPONSE
TO THE ENVIRONMENTAL GROUP INTERVENORS'
3rd MOTION TO COMPEL DISCLOSURE**

COMES NOW Union Electric Company d/b/a AmerenUE (the Company or AmerenUE),
and, for its Response to the Environmental Group's¹ Motion to Compel Further Disclosure,
states as follows:

History of the Confidentiality Dispute

1. On December 5, 2005, AmerenUE filed its Integrated Resource Plan (IRP).
2. On December 6, 2005, the Missouri Public Service Commission (Commission) issued its Order Establishing Protective Order, which defines information that the Commission has consistently protected as Highly Confidential and Proprietary and which is consequently not to be disclosed to the general public. All parties to the case and certain representatives have access to the entire IRP, according to the terms of the Protective Order.
3. On January 5, 2006, the Environmental Group filed a Motion to Compel Disclosure.
3. On February 10, 2006, AmerenUE filed a Public version of the IRP filing. On February 15, 2006, AmerenUE filed a Proprietary version of the IRP filing.
4. On March 16, 2006, the Environmental Group filed its Motion to Compel Further Disclosure (Second Motion). AmerenUE filed its response on March 21, 2006.

¹ Sierra Club, Missouri Coalition for the Environment, Mid-Missouri Peaceworks, and Association of Community Organizations for Reform Now.

5. On May 25, 2006, the Commission issued an order on the Environmental Group's Second Motion. In its order, the Commission ordered no further disclosure by AmerenUE, but did address some of the Environmental Group's contentions. In doing so, the Commission pointed out that AmerenUE's concerns about release of its capacity position, the amount of energy it has to sell, and related information would be harmful to AmerenUE and its ratepayers. Similarly, the Commission agreed that it is appropriate not to require public disclosure of consultant reports, which are a significant portion of the materials which have been redacted from the public version of AmerenUE's IRP filing. The Commission's May 25 Order also did not otherwise modify in any respect the Protective Order issued in this case. Finally, on the basis that the Commission was not unable to determine from certain general responses whether certain specific portions of the IRP filing should remain protected, the Commission scheduled a conference so that the parties could discuss those specific portions. The order also set a date of June 13, 2006, for the parties to meet and determine what, if any, remaining areas of the dispute could be resolved.

6. On June 7, 2006, prior to the conference date of June 13, 2006, the Environmental Group filed a Third Motion to Compel Disclosure (Third Motion). This motion is largely nothing more than a repeat of the arguments from the previous motions which were not resolved by the Commission's order of May 25, 2006. In this pleading, AmerenUE will address each allegation separately, to provide the Commission with the specific reason for each redaction. With one exception, each redaction is directly supported by the Commission's Protective Order, including in most cases the two areas specifically addressed in the Commission's May 25 Order.

7. On June 13, 2006, the parties met and discussed the remaining disputed areas. AmerenUE agreed it would release additional information, specifically, the entire last paragraph

on page 23 of Document 9. As part of this filing, AmerenUE releases its claim of confidentiality for the information in this paragraph. Because AmerenUE believes it has complied in all respects with the Protective Order, no other resolution of the Environmental Group's contentions could be reached and all other issues raised in the Environmental Group's Third Motion remain in dispute.

Public Interest

8. The Environmental Group's Third Motion often cites the phrase 'Public Interest' arguing, without authority, that the "public interest" requires release of the information which AmerenUE has redacted from the public version of the IRP as confidential or proprietary in accordance with the Protective Order.

9. AmerenUE agrees there is a public interest in promoting the disclosure of certain information. However, this public interest is not absolute and the Commission has never held it to be absolute, as clearly evidenced by its Protective Order and its May 25 Order. Just as the public has an interest in the disclosure of information, a public utility (and similarly, its ratepayer) has important interests which merit protection of certain information. Indeed, these competing interests are the very reason the Commission issues protective orders. Protective orders allow the Commission to strike a balance between the public's need to know and the utility's need to keep confidential certain types of business information, including the information protected by the Protective Order. Further, the Commission and all parties in this case have access to *all* information contained in the IRP. That information is fully available to all parties to be used for the purposes existing in this IRP docket. The mere assertion of a 'Public Interest' tells the Commission nothing as to how that interest weighs against the interests of the utility and its ratepayers. AmerenUE will attempt to provide that analysis in this response.

Issues from Environmental Groups' Motions

10. AmerenUE will not address issues raised in the earlier motion to compel if they are not repeated in the Third Motion. It is AmerenUE's understanding that the Environmental Group has accepted the Commission's Order of May 25th on those issues and is no longer challenging those issues at this time.

Document 1

11. The redactions on pages 3, 4, 5 and 7 of Document 1 remain challenged. The Environmental Group argues that redactions of projected capacity positions, load duration curves, capacity additions in MW, dates for additions and decisions thereon, and projected percentages of energy to be supplied by CTGs have a remote impact on AmerenUE's wholesale market positions. Further, the Third Motion argues that certain information, such as peaking capacity needs after 2014, project too far into the future to prejudice the wholesale market.

12. This argument, as set forth by the Environmental Group, is misleading because it suggests that only information specifically addressed by the Commission's May 25 Order deserves protection. Information deserving of Commission protection is not limited to the two items the Commission ruled upon in its last order, that being consultant reports or information which directly impact the Company's ability to compete in the wholesale market. The Order reiterated that these two categories protected, but it did not limit protection to only these categories and did not disturb the confidentiality afforded *all* highly confidential and proprietary information, as defined by the Protective Order.

13. Redactions of future capacity or energy positions are a good example. First, that information is not otherwise publicly available. It consists of AmerenUE's projections of what will be needed in the future to provide service to its customers. Second, this information fits

directly within the definition of highly confidential business information protected by paragraph A of Attachment A to the Protective Order issued by the Commission in this case. Disclosure of this information may have a negative impact on AmerenUE's efforts to provide sufficient and efficient service at just and reasonable rates. The Environmental Group's arguments fail to consider that AmerenUE may be, at times, a purchaser of wholesale power. Further, it must purchase coal, natural gas and other fuel sources for the operation of its plants. The release of AmerenUE's projections of its future power needs or of similar information would give potential counterparties to power supply sales and purchase agreements a competitive advantage and, accordingly, would be detrimental to the ratepayer.

14. The redactions on page 6 of Document 1 also appearing on page 200 of Document 3 are challenged. In making this challenge, the Environment Group discusses a specific type of power generation which AmerenUE contemplates using in the future. At this point, the Environmental Group's Third Motion represents a *violation* of the Commission's Protective Order as it publicly releases information AmerenUE has designated as confidential and which has not yet been released by AmerenUE or by order of the Commission.

15. Regardless, this information is properly marked as confidential. The Third Motion argues that it is not a consultant report and it would only have a small impact on the Company's wholesale position. Again, the Environmental Group sets out a false premise by which to analyze AmerenUE's claim of confidentiality and mischaracterizes the Commission's previous order. The order found those two categories to be properly protected, but it did not find that all other information should be released. The redacted information is not otherwise in the public domain (except for the portion wrongly released by the Environmental Group). This information concerns a potential future option for AmerenUE to meet its future power needs.

The release of this information may give potential landowners an advantage if and when the Company attempts to secure a location for this project. This information deserves protection and squarely falls within the protections afforded by the Commission's Protective Order.

16. The Environmental Group argues that long-term projections should not be protected because they address events that will occur too far into the future. This argument appears several times throughout the Third Motion. This assertion ignores the world in which AmerenUE must operate. Decisions on how to provide sufficient power for the Company's customers are long-term decisions. Long-term projections are part of that process. In fact, the very point of the Commission's Integrated Resource planning rules is to ensure Missouri utilities utilize a long-term planning process to efficiently meet their power supply needs. Releasing this information would be harmful to the Company and to the ratepayers because it would provide potential suppliers with the competitive advantage of knowing the Company's future needs. Finally, this information is the type of information the Commission's Protective Order contemplates protecting.

Document 2

17. The redactions in Document 2, pages 39-43 are challenged. The Third Motion argues that the capacity and energy provided by certain portfolios, the impact of each portfolio upon the Company's financial condition and pollution emissions from each portfolio are regulatory matters and matters of public interest which should not be treated as confidential.

18. The Environmental Group does not explain how the mere fact an item is a regulatory matter and that the public might be "interested" to know about it means that it cannot be confidential. The very fact the Commission issued a protective order in this case belies the Environmental Group's assertion. The Protective Order is the manner in which the Commission

exercises its regulatory duties while protecting the need of the utility to protect certain information. In fact, this information is very deserving of protection. It is a graphical representation of the impact of various power supply choices including what types of power supply sources might be necessary, what impact each choice would have upon various financial ratios of the Company and what emission rates might result from each choice. While an emission rate may not appear to be confidential, the release of this information may allow a reader to determine what supply options are under consideration in each scenario. This information is not currently publicly available and falls squarely within the Commission's Protective Order in this case.

Document 3

19. The redaction of Table 1.1 in Document 3, page 3 is also challenged. The Third Motion argues that forecasts of resource needs for 20 years do not impact energy purchases or sales.

20. This information is not publicly available. AmerenUE uses long-term projections to assist it in making decisions for the supply of power. As discussed above, these decisions can be very long-term and so the projections should be held highly confidential. Disclosure of these forecasts may have a negative impact on the Company's ability to provide service at a just and reasonable rate as the information would provide potential counterparties to power supply sales and purchase agreements a competitive advantage and, accordingly, could lead to higher costs and consequently higher rates.

21. The redaction of Table 7.2 in Document 3 at page 170 is challenged. The Third Motion argues that because this table shows mixes of supply side and demand side resources, the public interest would be served by public disclosure.

22. Despite the continued bald assertion of “public interest,” there is no explanation as to why this means that the information should not remain confidential. All information before the Commission arguably involves the public interest in some way. What the Environmental Group does not take into account is the Commission’s duty to balance that public interest against the interests and rights of the utility (and its ratepayers). The Protective Order is an example of that balance. The information is available to the Commission and to parties in the case in a manner which allows the Commission to fulfill its public duty while protecting the Company from the harm that may result from full, public disclosure of that information. It is this balance which the Environmental Group’s motions in this case have failed to acknowledge.

23. The potential mixes of supply side and demand side resources are properly considered highly confidential. This information constitutes projections of different ways to meet AmerenUE’s future energy needs. Further, this information comes directly from a consultant report, which the Protective Order unambiguously defines as highly confidential information that is protected from public disclosure, as confirmed by the Commission’s May 25 Order.

Document 5

24. The redactions in Document 5, pages 45-61 are challenged. The Third Motion states that this is general information and should not be protected. Additionally, the Third Motion points out that data that is projected beyond 2003 is redacted throughout the rest of Document 5 and that it is of public interest.

25. The information in these pages comes from a subscription service, Economy.com. In other words, AmerenUE paid for this information, it is not available except through the purchase of the information and the AmerenUE does not have the authority to openly

disseminate this company's work product. The Protective Order, as amplified by the Commission's order of May 25, 2006, holds that this information is properly classified as confidential.

26. It is difficult to respond to an allegation as general as the "rest of Document 5" as Document 5 is 269 pages in length. However, the Environmental Group is correct in that only projected data is redacted in most of AmerenUE's IRP filing. This is part of the balancing of the interests of AmerenUE and the public. These forecasts are done by AmerenUE or a consultant and are not otherwise publicly available. They include forecasts for future peak load profiles and future revenue expected from the projected customer use. The release of this information would have a negative impact on AmerenUE's efforts to provide sufficient service at just and reasonable rates as it would provide potential partners in power supply sales and purchase agreements a competitive advantage and, accordingly, would be detrimental to ratepayers.

Document 9

27. The redactions in Document 9, pages 15-17 are challenged. Once again, the Environmental Group has improperly released redacted information within its public Third Motion, in direct violation of the Protective Order that is in place in this case. This information was filed as proprietary and the Commission has not issued a ruling releasing this information.

28. This section deals with private technical and business information which is not otherwise publicly available. This information is properly classified as Proprietary under the Commission Protective Order as it is the method of specific risk analysis used by the Company. This method is not specifically dictated by the IRP rules.

29. The redactions in Document 9, page 60 are challenged. The Third Motion alleges that the schedule of environmental controls for existing power plants is a matter of public interest and should be disclosed.

30. AmerenUE's schedule of when it may install additional pollution control devices at its power plants is not publicly available information. Release of a schedule of when certain equipment may be installed again hurts AmerenUE and its ratepayers, by telling the market when the Company will need certain equipment. The release of this information would put AmerenUE at a disadvantage in the market as it continues to develop and implement strategies to comply with environmental regulations.

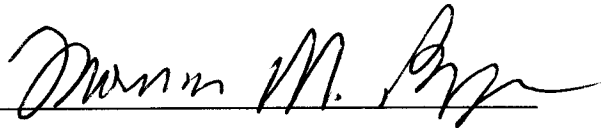
Summary

31. In summary, the remaining areas of dispute deal, in large part, with projections available only to AmerenUE that are not available to the general public. Release of this information would put the Company at a competitive disadvantage not only in the wholesale market, but in any area in which AmerenUE must function in the market, whether that involves the purchase of power, land, technology, emission credits, or similar items. This information also falls squarely within the protections afforded by the Commission's existing Protective Order. Finally, the Environmental Group's bare citation of "public interest" fails to recognize the need for a balancing of interests by the Commission which the Protective Order is designed to accomplish.

WHEREFORE, AmerenUE respectfully requests the Commission issue a ruling denying the Environmental Group's Third Motion to Compel and confirming that AmerenUE's prior filings of a Public, Proprietary, and Highly Confidential version of its IRP is proper.

Respectfully submitted,

UNION ELECTRIC COMPANY,
d/b/a AmerenUE

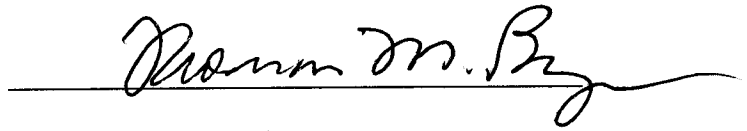
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Response to the Environmental Group Intervenors' 3rd Motion to Compel Disclosure was served to all persons on the official service list in Docket No. EO-2006-0430 via electronic mail (e-mail) or via regular mail on this 19th day of June, 2006.

A handwritten signature in black ink, appearing to read "Thomas M. Byrne", is written over a horizontal line. The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Thomas M. Byrne