BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

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

INTERVENORS' REPLY TO AMERENUE'S RESPONSE TO THEIR THIRD MOTION TO COMPEL DISCLOSURE

Come now Sierra Club, Missouri Coalition for the Environment, Mid-Missouri Peaceworks and ACORN (the Association of Community Organizations for Reform Now), and state:

1. The conference scheduled in the Commission's Order of May 25 was held on June 13 and resulted in Ameren's disclosure of one item (see Ameren's Response to Third Motion to Compel Disclosure, ¶ 7) but of nothing specifically requested in the Third Motion to Compel Disclosure.

2. In filing the Third Motion to Compel, Intervenors' intent was to abide by the terms of the Commission's May 25 Order, thereby narrowing the issues, without waiving their rights to seek, by appeal or otherwise, disclosure of information requested in the two previous motions.

3. Ameren avers in ¶¶ 14 and 27 of its Response that Intervenors have violated the protective order. However, we filed our Third Motion to Compel Disclosure as "Highly Confidential" on EFIS. Omission of "Highly Confidential" from the caption was inadvertent.

4. Ameren questions Intervenors' invocation of the public interest. The public

interest has been called "the guiding star of the public service commission law," in the light of which the statutes are to be interpreted. *State ex rel. Crown Coach Co. v. PSC*, 238 Mo.App. 287, 179 S.W.2d 123, 128 (1944). "But the dominant thought and purpose of the policy [of utility regulation] is the protection of the public while the protection given the utility is merely incidental." *Id.*, 179 S.W.2d at 126.

5. "All proceedings of the commission and all documents and records in its possession shall be public records." § 386.380, RSMo. On the other hand, "No information furnished to the commission by a corporation, person or public utility, except such matters as are specifically required to be open to public inspection by the provisions of this chapter, or chapter 610, RSMo, shall be open to public inspection or made public except on order of the commission…" § 386.480. In resolving the tension between these statutes, the public interest is the principle of construction. As a public administrative agency, the Commission should disclose to the public as much information as it can. *AT&T v. PSC,* 188 W.Va. 750, 423 S.E.2d 859, 862 (1992).

6. AmerenUE continues to insist that all parties have access to the full IRP (Response, ¶ 9). In truth, only counsel and such individuals as sign a personal non-disclosure agreement have access. Our intervening organizations can see no reason why their members in particular, and the public in general, should not be allowed to know such matters as AmerenUE's demand and capacity projections, which affect the need to build, or ability to avoid building, new, expensive and possibly polluting generating plants; the content of UE's proposed renewable resource portfolio; the date when UE might decide on a new base load generating plant; or the prospects for pumped storage—

all of which have been withheld. These are matters of policy appropriate for public debate, more than they are private business secrets.

7. Itemized replies to AmerenUE's Response would only rehash previous arguments. Intervenors' can do no better than to refer the Commission to the arguments in their motions to compel.

CONCLUSION

Movants ask the Commission to direct Ameren to make further disclosures as requested by Intervenors; or to require that Ameren give particular reasons why the matters it is withholding from public view are genuinely proprietary or highly confidential.

/s/Henry B. Robertson
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct PDF version of the foregoing was sent by email on this 22d day of June, 2006, to the parties listed currently on the Service List for this case according to the Public Service Commission web site.

/s/Henry B. Robertson