

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

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

AMEREN MISSOURI'S REPLY TO CO-MO'S RESPONSE

COMES NOW Union Electric Company d/b/a Ameren Missouri (“Ameren Missouri” or “Company”), and in response to the Response filed by Co-Mo on March 23, 2022, respecting Ameren Missouri’s request that selected access to highly confidential information be given to certain specified Ameren Missouri personnel in this case, states as follows:

1. Co-Mo claims the Company should have hired outside experts more than one month ago. That claim is flawed, as shown by the occurrences in this case leading up to Co-Mo’s filing last week.

2. When Co-Mo filed its deficient Motion for Protective Order on February 16, Ameren Missouri had no idea what relief Co-Mo sought. “[P]rivate confidential financial and business information”, as it was described by Co-Mo, is routinely submitted in Commission cases and the rule provides substantial protections for it. Co-Mo’s Motion was devoid of any specification whatsoever as to what restrictions, beyond those already contained in the rule, Co-Mo desired. And Co-Mo’s Motion ignored the showings it was required to make under 20 CSR 4240.2.135(4). Co-Mo, arguably, corrected those deficiencies in its March 7 Reply to the Company’s Response to Co-Mo’s Motion. The Company continued to have concerns about Co-Mo’s request, but the Commission ultimately granted the Motion just over a week ago, on March 16. It is simply untrue, however, that the Company “knew” anything between February 16 and March 16, other than that Co-Mo was seeking a protective order and, as of March 7 but no sooner, that it was *seeking* to exclude all meaningful involvement in this case by any of Ameren Missouri’s

more than 4,000 employees. The Company certainly should not have been expected to make efforts to locate and engage, and incur the expense of, outside consulting services in the rates, tariffs, utility ratemaking, and finance area, and with expertise in distribution planning/engineering, simply because Co-Mo asked for relief. It was of course up to the Commission whether such relief would be granted.

3. Regardless, promptly after the Commission granted Co-Mo's Motion the Company, as the Commission's order granting the Motion indicated it could do, sought targeted and limited relief from the Protective Order as to just four individuals, none of whom are involved in any activities involving competing with other providers, and none of whom are within the organizations or chains of command with those who would have such involvement.

4. Co-Mo also attempts to justify its attempt to deprive Ameren Missouri of use of the most qualified and efficient resources available to it by mischaracterizing the "agreement" Co-Mo references. The facts are this: (a) Co-Mo did not file its entire case on March 10, as the procedural schedule required; (b) Co-Mo only provided the information for which it claims Highly Confidential treatment after *the undersigned* counsel reached out to *Co-Mo*; (c) the "agreement" was in fact a condition precedent *imposed by Co-Mo*; i.e., Co-Mo would only provide the information even to the undersigned counsel on the condition no one else associated with Ameren Missouri could see it. The undersigned counsel did not believe the condition was appropriate, but believed it was in his client's interest to at least himself see information as soon as possible so that at least some discovery could be conducted, albeit without assistance from his client.

5. With respect to Co-Mo's requested "protocols"

- a "description" of those with whom the information would be shared is unnecessary; apparently Co-Mo overlooks the fact that the Company specified those individuals by name. They are all in the St. Louis office.

- Electronic versions can “assuredly be kept from others” because the undersigned counsel, as an officer of the Commission would, of course, and will, so instruct those four individuals.
- It is beyond unreasonable for Co-Mo to suggest that the undersigned counsel could only exchange information via “paper copies”, and that would be true if the undersigned counsel was located in St. Louis, but it is especially true given the 130-mile distance between Ameren Missouri’s offices and counsel’s office in Columbia.
- The Commission’s confidential information rule already requires the information be destroyed upon conclusion of this litigation.
- There is a relationship between the areas of respective expertise of the individuals who would have access to the information, all of whom are under a duty to use the information only for purposes of this case – period – they will abide by the requirement, but there should be no restriction on their ability to communicate with one another or counsel, as this case is handled.
- There will be no need for a “log” as the undersigned counsel intends – and should be allowed to – share the information with only these four individuals in order that a logical, integrated case, via testimony and hearing, can be developed and presented to the Commission. They will be instructed not to store the information on shared drives and to keep it segregated from other materials to facilitate destruction once the litigation is over.

In summary, the Commission’s rule already provides all of the protections Co-Mo is due.

WHEREFORE, Ameren Missouri renews its prayer that the Commission enter its order allowing access to highly confidential information in this case to the four individuals specified in its Motion, once they have submitted the appropriate non-disclosure form, and that it reject Co-Mo's attempt to effectively and unnecessarily enlarge the reasonable protections already provided by 20 CSR 4240-2.135 through its unprecedented request that the Commission force a party to only utilize retained, outside experts to provide evidence to the Commission in a case.

Respectfully submitted,

/s/ James B. Lowery

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**ATTORNEY FOR UNION ELECTRIC
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 29th day of March 2022, served the foregoing either by electronic means, or by U. S. Mail, postage prepaid addressed to all parties of record.

/s/James B. Lowery
James B. Lowery