

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	)	

**INTERVENORS REPLY TO AMERENUE'S RESPONSE TO THEIR 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 that they find the compromise proposed in AmerenUE's response unacceptable.

1. UE would allow Intervenor each to designate a single member as an internal expert if that person will sign a non-disclosure agreement. Intervenor appreciate that this could be of limited use to them, but the proposal does nothing to address the issue of public access.

2. UE also proposes to release publicly the 7-page Executive Summary and 200-page Integrated Resource Analysis, rewritten or redacted at UE's discretion, but to keep the vast bulk of the IRP wholly confidential. UE justifies this in part by asserting that the information supporting its analysis will be of no use to outsiders (Response ¶ 3 and p. 9). On the contrary, the validity of UE's summary and conclusions can only be assessed by reference to the supporting information. We cannot assess the changes or redactions to the two documents they propose to release until we see them; we therefore withhold consent to this proposal..

3. Intervenor's doubt that the standard protective order applies in the IRP context. That order assumes an adjudicatory process with discovery and prefiled or live testimony. On the other hand, 4 CSR 240-22.080(6) allows an intervenor to file a report and comments without going through discovery or a hearing; access to the IRP automatically follows intervention. Therefore Intervenor's believe that the standard order should be modified to direct the utility filing the IRP to specify what they seek to hold confidential.

4. Under Chapter 22, "A request for a protective order... seeks to protect *anything contained in the filing* as trade secrets, or as confidential or private technical, financial or business information", not the entire filing. 4 CSR 240-22.080(1)(E)(emphasis added). This puts the burden on Ameren to justify its classifications with particularity and does not allow blanket claims of confidentiality.

5. For illustrative purposes, and not to assume the burden properly borne by UE, Intervenor's will now give examples of portions of the filing they do not believe merit classification as highly confidential or proprietary, based on an incomplete reading of the IRP. The references will be somewhat vague for the purpose of complying with the Protective Order.

6. Document 4, Appendix 1 is an assessment of the regulatory environment. Nothing in it appears to be other than public information.

7. Document 4, Appendix 7 is available on the consultant's website (p. 1). It is not proprietary to UE and is apparently available to anyone including another utility that gets the log-on information and cares to access it. It could not therefore adversely affect

UE's competitive position.

8. Document 4, Appendix 3 is a MAIN study. It is not proprietary to UE and, while it refers to one category of underlying information as proprietary (p. 3 ¶ 6), it even says these schedules have little effect on the outcome of the study and their submission should no longer be required (p. 14).

9. Document 6 explicitly envisages a public, collaborative process (pp. 1–2). It describes past and existing practices (pp. 7, 15–8), proposing nothing new. The public would benefit from knowledge of these programs.

10. The report in Document 7, Appen. 1 uses publicly available reports on programs (pp. 5-6) and published tests (pp. 10-11); with few if any exceptions (possibly on pp. 11-2, 19-20) Intervenor see no information here that needs to be confidential.

11. Document 8 includes filings from 1995 and 1997. They describe existing programs that UE either implemented or rejected. Nothing in them appears to us to be highly confidential or proprietary. On information and belief, Intervenor suggest that they were publicly available documents when they were originally filed.

12. The study in Document 15 uses assumptions and inputs that are general or hypothetical. It does not appear to rely on proprietary or confidential information from AmerenUE.

13. Document 5 may well contain proprietary and confidential information, yet it is loaded with statistical data and graphs that are not, or should not be, confidential.

14. UE's Response refers to "key siting considerations for possible new generating units" (Response p. 5) as confidential. Yet most relevant siting information is

public, e.g. access to rail and transmission connections; availability of water; and environmental considerations like location in a non-attainment area, in a floodplain, in protected species' habitat or close to a Class I area.

15. UE has shown a readiness to declassify information at its pleasure. It has been widely reported in the state's newspapers that UE considers a second nuclear unit at Callaway to be its number one supply-side option, "on paper." The *St. Louis Post-Dispatch* reported on Dec. 17, 2005, p A35, that Ameren was buying three natural gas peaking plants. On Jan. 18, 2006, the *Post-Dispatch*, p. D1, reported that Ameren wants to rebuild the Taum Sauk pumped storage facility. All these supply-side options (including pumped storage though not specifically Taum Sauk) were within the scope of the "confidential" IRP filing until Ameren decided otherwise.

16. UE portrays itself as the protector of ratepayers (Response, pp. 3, 4, 5, 6, 7, 10). There is always a tension between the interests of a utility that profits from higher rates and those of the public that pays those rates. That is why the Commission regulates AmerenUE in the public interest. It is also why the public has a right to know what is in UE's Plan.

WHEREFORE, Movants respectfully request the Public Service Commission to reject the proposal in AmerenUE's Response to the Motion to Compel Disclosure and compel Ameren to designate specifically what portions, if any, of its Integrated Resource Plan are entitled to highly confidential or proprietary treatment.

/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 19th day of January, 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

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