

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

Jimmie E. Small,)	
)	
Complainant,)	
)	
v.)	File No. EC-2015-0058
)	
Union Electric Company)	
)	
Respondent.)	

ORDER OF CLARIFICATION AND RE-CLASSIFICATION

Issue Date: October 29, 2014

Effective Date: October 29, 2014

Jimmie E. Small filed a complaint.¹ Union Electric Company (“Ameren”) filed an answer and motion to dismiss.² Staff filed *Staff Recommendation to Dismiss Complaint with Prejudice* (“recommendation”).³ The Commission issued a ruling on Staff’s motion to dismiss and other matters (“order”).⁴ As to that order, Staff filed a *Motion to Reconsider* (“motion”).⁵

A. Reconsideration

The motion seeks relief on the following grounds:

[T]he Commission ordered Staff to file a redacted public version of its report on October 15, 2014, in its [order].⁶

¹ Electronic Filing and Information System (“EFIS”) No. 1, filed on August 29, 2014.

² EFIS No. 9, *Answer and Motion to Dismiss*, filed on October 2, 2014.

³ EFIS No. 10, filed on October 3, 2014.

⁴ EFIS No. 13, *Orders for Small Formal Complaint, Denying Motions to Dismiss, and Setting Time for Filing*, issued on October 15, 2014, page 2.

⁵ EFIS No. 17, *Motion to Reconsider* filed on October 22, 2014, page 1, paragraph 1.

⁶ EFIS No. 17, *Motion to Reconsider* filed on October 22, 2014, page 1, paragraph 1.

But the Commission did not order Staff to file a redacted public version of its report.

The Commission ordered Staff:

. . . to file a version of the recommendation, redacted as to highly confidential information and without attachments, for public viewing.[⁷]

The order identifies⁸ the recommendation as the *Staff Recommendation to Dismiss Complaint with Prejudice*.⁹ The recommendation consists of attached documents with the cover pleading that states:

The details of Staff's investigation of this complaint are stated in Staff's report attached as Appendix A. [¹⁰]

"Report of the Staff" is the title of the attachments. So, when the Commission ordered to file a version of the recommendation, redacted as to highly confidential information and without attachments [,]" the Commission was ordering Staff to file the recommendation redacted as to highly confidential information, not the attached report.

Therefore, the Commission will deny the motion.

B. Reclassification

The Commission will also change the classification of the report. The report is currently classified as highly confidential. Highly confidential material is available only to the parties' attorney and outside (non-client) experts,¹¹ which means that Ameren personnel

⁷ EFIS No. 13, *Orders for Small Formal Complaint, Denying Motions to Dismiss, and Setting Time for Filing*, issued on October 15, 2014.

⁸ EFIS No. 13, *Orders for Small Formal Complaint, Denying Motions to Dismiss, and Setting Time for Filing*, issued on October 15, 2014, page 2, second paragraph.

⁹ EFIS No. 11, *Staff Recommendation to Dismiss Complaint with Prejudice* filed on October 8, 2014.

¹⁰ EFIS No. 17, *Motion to Reconsider* filed on October 22, 2014, page 1, paragraph 1.

¹¹ 4 CSR 240-2.135(5) and (5)(A).

involved in the case cannot see it. In support of highly confidential classification for the entire recommendation, the motion cites a Commission regulation.

That regulation restricts access to information in a complaint action:

The commission may order, at any time after the filing of a complaint, an investigation by its staff as to the cause of the complaint. The staff shall file a **report** of its findings with the commission and all parties to the complaint case. The investigative report shall **not** be made **public** unless released in accordance with section 386.480, 392.210[.2, related to telecommunications], or 393.140(3), RSMo, or during the course of the hearing involving the complaint. [¹²]

Thus, Staff is correct that the report should not be public, but highly confidential classification is not the only non-public classification in the Commission's regulations:

The commission recognizes two (2) levels of protection for information that should not be made public.

(A) Proprietary information is information concerning trade secrets, as well as confidential or private technical, financial, and business information. [¹³]

Proprietary information is available to any Ameren employees who might be involved in the case.¹⁴ Classifying the report as proprietary will protect the report from public disclosure but allow access by the appropriate parties.

Therefore the Commission will direct the report be re-classified from highly confidential to proprietary.

C. Rulings

Therefore, the Commission will deny the motion and order the Commission's Data Center to re-classify the report as proprietary.

¹² 4 CSR 240-2.070(11) (emphasis added).

¹³ 4 CSR 240-2.070(1).

¹⁴ 4 CSR 240-2.070(4).

THE COMMISSION ORDERS THAT:

1. The *Motion to Reconsider* is denied.
2. The Commission's Data Center shall re-classify the "Report of the Staff," attached to the *Staff Recommendation to Dismiss Complaint with Prejudice*, as proprietary.
3. This order shall be effective when issued.



BY THE COMMISSION

A handwritten signature in black ink that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

Daniel Jordan, Senior Regulatory Law Judge,
by delegation of authority pursuant
to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 29th day of October 2014.