

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

Keelee Swopshire,	)	
	)	
Complainant,	)	
	)	
v.	)	<b><u>Case No. EC-2022-0148</u></b>
	)	
Union Electric Company d/b/a Ameren	)	
Missouri,	)	
	)	
Respondent.	)	

**MOTION FOR GUIDANCE REGARDING CONFIDENTIAL INFORMATION**

**COMES NOW** the Staff of the Missouri Public Service Commission (“Staff”), by and through undersigned counsel, and moves the Commission to provide guidance regarding confidential information available within the Missouri Public Service Commission’s (“PSC”) Electronic Filing Information System (“EFIS”).

1. On December 2, 2021, Keelee Swopshire (“Complainant”), a Missouri licensed attorney representing herself, filed a small formal complaint against Union Electric Company d/b/a Ameren (“Respondent”). The complaint was filed confidential in its entirety.

2. Complainant alleges that Respondent billed her for charges associated to the wrong meter. Cited in the complaint is the meter number that Respondent billed her for as well as a meter number that Complainant believes she should have been billed for. The meter number associated to the meter that Complainant believes she should have been billed for is currently associated to a third-party customer (“Customer X”).<sup>1</sup>

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<sup>1</sup> No one has moved to add Customer X as a necessary party to this case. Staff’s position in this case is that nothing in this case should affect Customer X in any way.

Complicating the issue more is that both the meters in this controversy were upgraded amid Complainant's residency, according to Respondent<sup>2</sup>, in which Complainant and Customer X each obtained a new meter number during Ameren's companywide equipment upgrade. Thus, this controversy centers on which meter number(s) correctly associate to Complainant's usage.

3. Part of Staff's investigation included submitting Data Requests (DRs) to Respondent for customer identities and usage data that attach to the meter numbers in question. Respondent, without objection, timely delivered responses which have been uploaded into EFIS and marked confidential with a customer-specific designation. The complainant has default access to confidential information in EFIS<sup>3</sup>.

4. Typically in billing complaints, Staff's DRs point to data associated with the parties. However, this case includes customer-specific confidential data for Customer X, who is not a participant in these proceedings. Customer X's data and identity tends to prove or disprove a fact of consequence to the pending matter<sup>4</sup>.

5. Rule 20 CSR 4240-2.135(6)(C) states "[a] customer of a utility may view his or her own customer-specific information, even if that information is otherwise designated as confidential." Otherwise, Rule 20 CSR 4240-2.135(6) states that "[c]onfidential information may be disclosed only to the attorneys of record for a party and to employees of a party who are working as subject-matter experts for those attorneys or who intend to file testimony in that case, or to persons designated by a party as an outside expert in that case." Subsection (7) of the same rule further states "[a]ny employee of a party or

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<sup>2</sup> Complainant disputes that her meter was upgraded while she lived at the serviced location on her account.

<sup>3</sup> Source: Representatives for both the PSC Administrative Support department and the PSC Data Center.

<sup>4</sup> § 401:1. Missouri practice, 22 Mo. Prac., Missouri Evidence § 401:1 (4th ed.)

outside expert retained by a party that wishes to review confidential information shall first certify in writing<sup>5</sup> that such expert or employee of a party will comply with the requirements of this rule.” Although the Complainant is an attorney, her default access to confidential information uploaded to EFIS is a result of her being a party, and thus, subsection (6) seems inapplicable. However, Rule 20 CSR 4240-2.135(13) states “[a]ll persons who have access to information under this rule shall keep the information secure and may neither use nor disclose such information for any purpose other than preparation for and conduct of the proceeding for which the information was provided.” Although subsection (13) does not include subsection (7)’s certification requirement, out of an abundance of caution, On March 14, 2022, Staff Counsel sent Complainant a copy of the PSC’s nondisclosure agreement (“NDA”) form through email and requested her agreement and signature concerning the confidential information pertaining to Customer X.

6. On March 14, 2022, Complainant declined to sign the NDA, and counter to her filing, stated that any relevant information in regard to her case should not be labeled or classified as confidential. Further, Complainant suggested that any third-party confidential information can be redacted in lieu of her signing an NDA.

7. Staff is not opposed to redacting Customer X’s identity throughout the case record, however Staff is unable to find precedent for an order requiring redaction of an already confidential document.

8. Staff proposes filing its Report to include Customer X’s data without revealing Customer X’s identity. Staff further proposes that in all filings and future filings and hearings in this case, the meters associated with Customer X, and any information

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<sup>5</sup> Certify through submission of a nondisclosure agreement.

derived from meters currently associated with Customer X, should be referred to by reference to Customer X, and not Customer X's actual identity.

9. Staff believes with the above clarifications, Complainant, Respondent, and Staff can adduce all relevant information necessary for the Commission to resolve this case without unnecessarily disclosing otherwise confidential information in the process.

**WHEREFORE**, Staff hereby requests the Commission's clarification of Rule 20 CSR 4240-2.135, and specifically that Staff's Report and all future filings and on-the-record discussion in this case refer to Customer X as "Customer X," and not Customer X's actual identity, or in the alternative that Customer X's identity be redacted from all documents filed in this case and marked as "confidential," and for such other and further relief the Commission deems just and reasonable under the circumstances.

Respectfully submitted,

**/s/ Don Cosp**

Don Cosp

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### **CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, hand delivered, transmitted by facsimile or electronically mailed to all counsel of record this 22<sup>nd</sup> day of March, 2022.

**/s/ Don Cosp**