

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 26th day
of January, 2006.

In Re: Union Electric Company's 2005)
Utility Resource Filing Pursuant to)
4 CSR 240 - Chapter 22)

Case No. EO-2006-0240

**ORDER REGARDING MOTION TO COMPEL DISCLOSURE OF
INTEGRATED RESOURCE PLAN**

Issue Date: January 26, 2006

Effective Date: January 26, 2006

On December 5, 2005, Union Electric Company, d/b/a AmerenUE, submitted an Integrated Resource Plan (IRP) as required by the Commission's rules, specifically 4 CSR 240 - Chapter 22. AmerenUE has filed its entire IRP as highly confidential, meaning that none of that document is available to the public.

On January 5, 2006, Sierra Club, Missouri Coalition for the Environment, Mid-Missouri Peaceworks, and the Association of Community Organizations for Reform Now (ACORN) – hereafter referred to as the Movants – filed a motion asking the Commission to require AmerenUE to make its IRP more available to the public by specifying those portions of the IRP that truly are entitled to protection from disclosure. The Movants ask that all other portions of the IRP be designated as public information.

AmerenUE filed a response to the motion on January 10. AmerenUE concedes that parts of the IRP can be made available to the public, but insists that much of the report contains confidential business information that must be protected from public disclosure.

AmerenUE explains that the IRP is over 3,000 pages long and indicates that confidential information is dispersed throughout the report, making it impractical and unduly burdensome to redact the confidential information from the entire report.

In order to address the concerns raised in the motion, AmerenUE proposes to refile redacted versions of the seven-page Executive Summary and the 200-page Integrated Resource Analysis section of the IRP. AmerenUE argues that the remaining 2,800 pages of the filing consist largely of backup data and analysis that merely supports the Integrated Resource Analysis. AmerenUE suggests that such technical data would be of little interest or use to the general public. Counsel and experts employed by the parties – including a designated internal representative of eligible intervenors¹ – would have access to the entire IRP filing provided that they execute a Commission-prescribed confidentiality agreement that would limit their ability to disclose the contents of the IRP. AmerenUE proposes to file a redacted version of its IRP by February 24, which would be 45 days after it filed its proposal on January 10.

As directed by the Commission, the Movants filed a reply to AmerenUE's proposal on January 19. That reply indicates that the Movants are not satisfied with AmerenUE's proposal. They contend that much of the IRP is already public information and should not be maintained as highly confidential in this report. They repeat their request that

¹ AmerenUE's proposal would limit "eligible intervenors" as follows:

(a) Each intervenor (other than those who are ineligible, as delineated below) may designate one internal representative who will, for purposes of the Protective Order, be treated as an outside expert or consultant (and shall be fully bound by the Protective Order as if he or she were an outside expert or consultant), who will be provided access to the entire IRP upon the filing by such person of the Nondisclosure Agreement appended to the Protective Order as Appendix A; and

(b) An intervenor is not eligible for the access described in condition (a) if the intervenor or its affiliate or subsidiary is now, or is reasonably expected in the future, to be a power purchaser of power sold off-system by AmerenUE, or is now or is reasonably expected to be in the future, a supplier of labor, materials, services, supplies, power, fuel, transportation, or any other input of any kind that is or may be utilized by AmerenUE to meet its resource needs.

AmerenUE be required to specify those portions of the entire report that may be treated as highly confidential, with the remaining portions treated as public information.

The Office of the Public Counsel and the Missouri Department of Natural Resources have also filed replies to AmerenUE's proposal. DNR suggests that AmerenUE should make additional documents available to the public. Public Counsel argues that the Commission should order AmerenUE to file a public version of its entire IRP in a week or ten days with only truly sensitive information redacted.

The Movants' motion to compel disclosure of the IRP raises several issues. First, that motion asks the Commission to deny AmerenUE's motion for a protective order and to revoke the protective order that has been issued. That request reveals a misunderstanding of the protective order that the Commission has issued. The Commission's protective order does not make any determination about what information in AmerenUE's IRP should be highly confidential and what information should be released to the public. Rather, the protective order merely establishes the framework through which the Commission will deal with that question. As a result, there is no need to revoke the existing protective order.

AmerenUE filed its information as highly confidential and, as they were permitted to do under the protective order, the Movants have challenged that designation. As provided in the protective order, the Commission now must decide whether that information will be allowed to remain highly confidential.

In making that decision, the Commission is mindful of the fact that Section 386.480, RSMo 2000, requires that information provided to the Commission by a public utility is not to be open to public inspection or made public except by order of the Commission, unless such matters are specifically required to be open to public inspection by the provisions of

Chapter 386 or Chapter 610, RSMo. That means that the information filed by AmerenUE in its IRP as confidential is not to be made public until the Commission orders that it be opened to the public.

The Commission is, of course, aware of the legitimate interest of the public in having access to as much information as possible about the operation of a public utility. On the other hand, AmerenUE, and its ratepayers, have a legitimate interest in protecting certain information from disclosure. Clearly, AmerenUE, its ratepayers, and ultimately, the public at large, would be harmed if information is disclosed that would place the company at a competitive disadvantage in obtaining needed supplies of fuel, purchased power or other materials, or in selling energy on the wholesale market.

All of the parties, including the Movants, recognize that some information in the IRP should be allowed to remain highly confidential. AmerenUE acknowledges that some of the information in the IRP can be released to the public. The real question is where to draw the line.

At this point, none of the parties have any clear idea on where that line should be drawn. The document is too large, and the issues, as yet, too unclear, to allow the Commission to make any such determination in this order. Instead, as suggested by Public Counsel, the Commission will order AmerenUE to file a redacted version of the entire IRP filing. In preparing the redacted version of the IRP, AmerenUE must strive to make all non-sensitive information available to the public. The redacted version of the IRP will provide the parties, and the Commission, with a starting point from which to resolve any disputes about what specific information can be released to the public. In order to facilitate

that discussion, the Commission will schedule a conference to follow the filing of the redacted version of the IRP filing.

IT IS THEREFORE ORDERED:

1. That Union Electric Company, d/b/a AmerenUE, shall file a redacted version of its entire integrated resource plan filing no later than February 10, 2006.

2. That a conference will be held on February 22, 2006, at 10:00 a.m. The conference will be held at the Commission's office at the Governor Office Building, Room 305, 200 Madison Street, Jefferson City, Missouri. This building meets accessibility standards required by the Americans with Disabilities Act. If you need additional accommodations to participate in this conference, please call the Public Service Commission's Hotline at 1-800-392-4211 (voice) or Relay Missouri at 711 before the conference.

3. That this order shall become effective on January 26, 2006.

BY THE COMMISSION



Colleen M. Dale
Secretary

(S E A L)

Davis, Chm., Gaw, Clayton, and
Appling, CC., concur.
Murray, C., dissents, with separate
dissenting opinion attached.

Woodruff, Deputy Chief Regulatory Law Judge