

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 25th day of
May, 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 FURTHER DISCLOSURE OF
INTEGRATED RESOURCE PLAN AND SCHEDULING CONFERENCE**

Issue Date: May 25, 2006

Effective Date: May 25, 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 initially filed its entire IRP as highly confidential, meaning that none of that document was available to the public.

On January 26, 2006, the Commission granted a motion filed by the 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 – requiring 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.

AmerenUE responded to that order by filing a public version of its IRP on February 10. The public version of the IRP disclosed part of that document, but AmerenUE redacted large portions of the filing to protect what it contends is confidential or proprietary information from public disclosure. Thereafter, the parties discussed the public disclosure of the IRP at a conference convened by the Commission on February 22.

On March 16, Sierra Club, Missouri Coalition for the Environment, Mid-Missouri Peaceworks, and ACORN filed a motion asking the Commission to compel AmerenUE to disclose more of the IRP filing to the public. AmerenUE responded to that motion on March 21 and the movants replied to AmerenUE's response on March 24.

The motion seeking further disclosure contends that AmerenUE must justify non-disclosure but cites several specific documents and portions of documents within the IRP filing that the movants believe should be disclosed. The movants separately address specific portions of the seventeen documents that comprise the IRP. AmerenUE's response does not address each of the specific objections. Rather it offers two general explanations of why information should be protected from disclosure. The Commission is unable to determine from the general responses whether specific information should be protected from disclosure. For that reason, the Commission will schedule another conference for the purpose of discussing the further disclosure of specific information. But, in order to provide some guidance to the parties before that conference, the Commission will address the general reasons AmerenUE offers to justify the non-disclosure of specific information.

The movants challenge AmerenUE's redaction of graphs, figures and dates that reveal specific information about such things as capacity needs, reserve margins, and other specific information that may have an impact on AmerenUE purchase and sale of energy in the wholesale market. The movants suggest that because AmerenUE operates as a regulated monopoly within its service territory, it does not need to protect such details from competitors. AmerenUE's response argues that while it is a regulated monopoly for the service it provides to retail customers, it must compete to buy and sell energy in the

wholesale market. It contends that public disclosure of its precise capacity position, the amount of energy it has available to sell, and the precise times of the day and year that such energy is available, would harm its ability to compete in that market.

The Commission finds that although AmerenUE has a monopoly for the provision of retail electric service within its service territory, it does compete for the sale and purchase of energy within the wholesale electric market. Both the sale and purchase of energy in the wholesale market potentially has a large impact on AmerenUE's ratepayers. Therefore, it is in the interest of AmerenUE's ratepayers, as well as in the interest of the company, to protect the details of the company's positions from disclosure to competitors.

The movants also challenge AmerenUE's redaction of entire reports that have been prepared at AmerenUE's request by outside consultants. The movants argue that much of the information found in these reports is available to the public from other sources. They contend that the mere fact that such information is contained in a consultant's report should not mean that the information can be treated as confidential.

AmerenUE responds that the reports prepared by outside consultants contain the expert findings and opinions of those consultants. AmerenUE and its ratepayers have paid those consultants to take what may be information available to the public and by the application of their expertise, analyze that information to produce recommendation for the benefit of AmerenUE and its ratepayers. The benefits of that analysis should not necessarily be made available to other entities that have not paid for that analysis. Furthermore, AmerenUE points out that the consultants that prepared the reports have themselves declared that their reports must be kept confidential.

The Commission finds that protecting such reports from disclosure is appropriate. The Commission's standard protective order, which has been issued in this case, defines highly confidential information to include "reports, work papers or other documentation related to work produced by internal or external auditors or consultants."¹ That means that AmerenUE has a reasonable expectation that such reports will not be disclosed.

Furthermore, reports prepared by outside consultants represent the research, knowledge, and wisdom of those consultants. Such consultants are paid by AmerenUE and other utilities for their expertise. Those consultants have a property interest in seeing that their expertise is limited to the company that pays for their knowledge. If the report the consultant prepares for AmerenUE is made available to the public, which would include other similar utilities, the consultant may be unable to sell that knowledge to those other utilities. Other utilities are unlikely to pay the consultant for information that they can obtain for free.

If this Commission were to establish a policy of making such reports public, AmerenUE and other Missouri utilities might face legal action by consultants to recover damages for the disclosure of their reports. In addition, in the future, consultants might be hesitant to prepare reports for Missouri utilities knowing that those reports will be made public. As a result, Missouri utilities would be deprived of the benefit of the expertise of those consultants. For those reasons, the Commission will allow AmerenUE to protect reports prepared by outside consultants from public disclosure.

¹ Protective Order, Attachment A, Paragraph A.

IT IS ORDERED THAT:

1. A conference will be held on June 13, 2006, at 1:00 p.m., 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.

2. The purpose of the conference will be to discuss the release to the public of additional information from Union Electric Company, d/b/a AmerenUE's Integrated Resource Plan.

3. This order shall become effective on May 25, 2006.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale
Secretary

(S E A L)

Davis, Chm., Murray, Clayton,
and Appling, CC., concur.
Gaw, C., dissents.

Woodruff, Deputy Chief Regulatory Law Judge