

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

In the Matter of the Application of Union Electric)
Company for Authority to Continue the Transfer)
of Functional Control of Its Transmission System)
to the Midwest Independent Transmission System)
Operator, Inc.)

File No. EO-2011-0128

**ORDER DENYING PUBLIC COUNSEL’S MOTION TO COMPEL
AMEREN MISSOURI TO RESPOND TO A DATA REQUEST**

Issue Date: November 18, 2011

Effective Date: November 18, 2011

On November 4, 2011, the Office of the Public Counsel filed a motion asking the Commission to issue an order compelling Union Electric Company, d/b/a Ameren Missouri to answer ten specified data requests submitted by Public Counsel. Ameren Missouri filed its response to Public Counsel’s motion on November 14. Ameren Missouri indicates it has reached agreement with Public Counsel on nine of the ten contested data requests. The parties remain apart on only one data request: DR No. 2025.

Public Counsel’s DR No. 2025 asks Ameren Missouri to:

provide a copy of all documents created in the last three years by or for Ameren Services or other Ameren affiliates that represent the interest of UE at MISO which contain requests for input from UE on issues pertaining to UE’s interests as a member of MISO.

Public Counsel served that DR on Ameren Missouri on August 30, 2011. Ameren Missouri offered a timely objection to the DR on September 6, asserting that the information sought in the DR was not relevant to any issue in this case, that the request was vague and overbroad, and that production of the requested documents would be unduly burdensome.

Public Counsel responded to Ameren Missouri’s stated objection to the DR on September 27 by offering to clarify the DR by modifying it to request a copy of:

all documents that 1) pertain to UE's interests as a member of MISO; 2) were created in the last three years by or for Ameren Services or other Ameren affiliates that represent the interests of UE at MISO; and 3) have been provided to UE.

Ameren Missouri did not respond to Public Counsel's offer to clarify the DR and did not provide the requested documents.

In considering the merits of Public Counsel's motion to compel, it is important to recognize the procedural schedule for this case. The hearing of this case is set to begin on November 21, 2011, and continue the next day on November 22. Public Counsel filed its motion to compel on November 4, which is only seventeen calendar days before the start of the hearing. As Ameren Missouri complains, Public Counsel's request for documents is broad and would require Ameren Missouri to expend a great deal of time and effort to track down and evaluate what could be thousands of e-mails, letters, and other documents that would fall within the terms of the data request. Furthermore, Ameren Missouri would have to undertake this task in the few days remaining before the start of the evidentiary hearing.

In determining whether Ameren Missouri should be compelled to respond to Public Counsel's data request, it is appropriate for the Commission to balance Public Counsel's need to obtain the information against the burden that would be imposed on Ameren Missouri to collect that information in the short time remaining before the start of the hearing.¹

Public Counsel has broad authority to obtain information from Missouri's regulated utilities.² In other circumstances, the Commission might well order Ameren Missouri to comply with Public Counsel's data requests. However, this case has been pending for over

¹ *State ex rel. Anheuser v. Nolan*, 692, S.W. 2d 325, 328 (Mo. App. E.D. 1985).

² Section 386.450, RSMo 2000.

a year and the hearing of the case starts in less than a week. Public Counsel could have requested this information long ago and could have filed its motion to compel in September, after Ameren Missouri objected to the data request. Instead, Public Counsel waited until just seventeen days before the hearing to file its motion to compel. Under that circumstance, Public Counsel's interest in obtaining the requested information is outweighed by the burden that would be placed on Ameren Missouri to respond to the data request before the hearing.

For that reason, the Commission will deny Public Counsel's motion to compel.

THE COMMISSION ORDERS THAT:

1. Public Counsel's Motion for Order Compelling Responses to Data Requests is denied.
- 2 This order shall become effective immediately upon issuance.

(S E A L)

BY THE COMMISSION



**Steven C. Reed
Secretary**

Morris L. Woodruff, Chief Regulatory
Law Judge, by delegation of authority
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 18th day of November, 2011.