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STATE OF MISSOURI

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PUBLIC SERVICE COMMISSION

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TRANSCRIPT OF PROCEEDINGS

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Conference

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June 13, 2006

Jefferson City, Missouri

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Volume 3

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In Re: Union Electric Company's)

2005 Utility Resource Filing) Case No. EO-2006-0240

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Pursuant to 4 CSR 240 - Chapter 22)

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MORRIS L. WOODRUFF, Presiding,
SENIOR REGULATORY LAW JUDGE.

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1 P R O C E E D I N G S

2 JUDGE WOODRUFF: Good afternoon, everyone,
3 and welcome to EO-2006-0240, which concerns the utility
4 resource filing of Union Electric Company. We'll start
5 today by taking entries of appearance, beginning with
6 Ameren.

7 MR. LOWERY: Your Honor, thank you. My
8 name is James Lowery with Smith Lewis, LLP, 111 South
9 Ninth, Suite 200, Columbia, Missouri 65201, representing
10 AmerenUE.

11 JUDGE WOODRUFF: Thank you. For Staff?

12 MR. DOTTHEIM: Steven Dottheim, Post Office
13 Box 360, Jefferson City, Missouri 65102, appearing on
14 behalf of Staff of the Missouri Public Service Commission.

15 JUDGE WOODRUFF: Thank you. For the Public
16 Counsel?

17 MR. DANDINO: Michael Dandino, Office of
18 the Public Counsel, Post Office Box 2230, Jefferson City,
19 Missouri 65102, representing the Office of the Public
20 Counsel and the public.

21 JUDGE WOODRUFF: Thank you. And for the
22 Sierra Club, Missouri Coalition for the Environment,
23 Peaceworks and ACORN?

24 MR. ROBERTSON: Henry Robertson, your
25 Honor, Great Rivers Environmental Law Center, 705 Olive

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1 Street, Suite 614, St. Louis, 63101.

2 JUDGE WOODRUFF: Thank you. I'll run down
3 the list of other parties, although I don't see any other
4 attorneys here. Department of Natural Resources? I don't
5 see a response. Missouri Industrial Energy Consumers? No
6 response. Missouri Energy Group? No response. Noranda
7 Aluminum? Again, no response.

8 All right. Well, the Commission scheduled
9 this conference for the purposes of allowing -- to
10 facilitate discussions amongst the parties about the
11 further release of information to the public from
12 AmerenUE's filings. And I note that there has been a
13 third motion to compel additional disclosure that was
14 filed by Sierra Club and related organizations on the 7th
15 of June, I believe it was, and that kind of tees up the
16 information for you-all or the arguments for you-all as to
17 what further information might be released.

18 Of course, I'm not going to rule on that at
19 this point, but I will -- the ten days will run for
20 responses on that, I believe, on the 17th, which is -- I
21 believe it's Saturday. So we'll make responses due on the
22 19th, the following Monday.

23 So you can discuss that today and hopefully
24 reach an agreement. If you can't reach an agreement, like
25 I say, file your responses on Monday, the 19th.

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1 Any other matters you want to bring up
2 while we're on the record?

3 MR. LOWERY: None other, your Honor, than
4 depending on the outcome of today's meeting, we would, I
5 think, at this point probably anticipate filing some kind
6 of pleading by Monday, probably in part reporting on
7 today's events and also, to the extent necessary,
8 responding to the motion to compel and its particulars.

9 JUDGE WOODRUFF: Very good.

10 MR. ROBERTSON: Your Honor, I don't expect
11 any -- based on past experience, I don't expect any
12 further disclosure to be forthcoming today, and I was
13 hoping to, if not get a ruling, then maybe get on the
14 record. I'd like to reach some closure on this subject if
15 possible.

16 JUDGE WOODRUFF: I'd certainly like to get
17 some closure on this as well. As I indicated, I'm not
18 going to be able to make a ruling today. It's something
19 that will have to be reviewed by the Commission in agenda
20 at some point, unless you can -- say you can reach an
21 agreement. If there's anything you'd like to put on the
22 record at this time, feel free.

23 MR. ROBERTSON: Well, let me just say that
24 this originated -- I think you're pretty up to date on
25 what's happened in this so far, and we filed for

1 disclosure. Originally the entire plan was filed as
2 highly confidential. We were successful in getting an
3 Order from the Commission to release part of that.

4 Since then, there's been another round of
5 motions. We're now at round three. Nothing came out of
6 the second motion for disclosure until we got the
7 Commission's Order on May 25th, which ruled that two broad
8 categories of information were properly confidential, one
9 being consultants' reports, which I think is quite clear,
10 and the other being that Ameren is privileged in its
11 energy and capacity positions insofar as they affect its
12 positions in the wholesale markets.

13 The scope of that ruling is not so clear to
14 me, and part of the reason for the third motion is to test
15 the extent of that ruling. My clients feel they have an
16 interest, and I think it's legitimate, in knowing what
17 Ameren's plans are.

18 Even after the public version has been
19 filed, they are still not allowed to know, for instance,
20 what Ameren's capacity or demand projections are, when
21 they might make the decision on base load, whether to do
22 nuclear or coal. They're not allowed to know how much
23 wind is in their renewable portfolio. They're not allowed
24 to know what plans Ameren may have as far as Church
25 Mountain, whether they intend to build a pump storage

1 facility there, how big it might be, how much it might
2 cost, et cetera. And they're also interested in what
3 Ameren plans to do in the demand side management area.

4 I also want to cite PSC Rule 2.0851 which
5 says that a party applying for Protective Order must state
6 with particularity why the moving party seeks protection
7 and what harm may occur if the information is made public,
8 and Ameren has never done that. They have made conclusory
9 statements about competitive harm but never, I don't
10 think, satisfied the particularity required for a
11 Protective Order.

12 I'm tempted to ask right now. Based on my
13 third motion to compel disclosure, would you disclose
14 anything further?

15 MR. LOWERY: Well, Mr. Robertson, I'll let
16 the judge rule on whether we're going to have a back and
17 forth colloquy between the two of us about that on the
18 record, but we will discuss that issue in the conference
19 that the Commission has ordered. We are going to base our
20 discussions on the terms of the Protective Order and the
21 terms of the Commission's previous ruling at this point
22 that resulted in the Order and this conference.

23 There are -- I will say for the record that
24 it is our view that a vast, vast majority of the things
25 that have been brought up in the third motion to compel

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1 have already been dealt with in the Protective Order
2 and/or in the Commission's Order which interprets the
3 Protective Order that was issued a few weeks ago. I don't
4 remember the exact date, but it's the last Order the
5 Commission issued. And we don't have any intention of
6 varying the terms of the Protective Order or varying or
7 departing from what the Commission has already ordered is
8 and is not confidential.

9 I don't think that necessarily means
10 there's absolutely nothing that may be a subject of
11 discussion, but to the extent that the Protective Order or
12 the Commission's Order has already ruled on these issues,
13 we don't intend to consent to a change to the Protective
14 Order at this point in time.

15 MR. ROBERTSON: And I've not asked for that
16 in the third motion. It is my intention to abide by the
17 Commission's Order of May 25th and to see what else I
18 thought was not covered by that Order which we might ask
19 for disclosure.

20 JUDGE WOODRUFF: Certainly. And as soon as
21 possible, the Commission will make a ruling on that third
22 motion to compel, after a chance to respond and after your
23 discussions today.

24 MR. LOWERY: I will say, your Honor, that
25 in response to this question about the Commission's rule

1 and the particularity, there have been numerous, numerous
2 pleadings on this issue filed. There have been numerous
3 versions of the IRP now filed. And we have in our -- it's
4 now been probably a couple of months ago, but when we
5 filed the last version, we with great particularity went
6 through and delineated what was being withheld and on what
7 bases, under what portions of the Protective Order, the
8 consultant's reports, whether they be competitively
9 sensitive information.

10 These issues about our energy and capacity
11 position that happen to be -- I don't know whether the
12 Sierra Club expects us to explain, you know, if power
13 trader X knew our capacity position, that would harm us in
14 this particular way. I don't know if that's how they are
15 interpreting the rule.

16 But I think it's pretty self evident to the
17 Commission and those who understand the cost of service
18 impact that off-system sales and power purchases in the
19 wholesale markets and those type of things have on
20 ratepayers, I believe it's rather self evident why that
21 type of information cannot be in the general public
22 domain.

23 And I do not believe the Commission's rule
24 contemplates nor a matter of practicality necessitates any
25 greater particularity on these points.

1 JUDGE WOODRUFF: I'm not going to ask you
2 to argue your motion to compel at this point.

3 Any other matters anyone wants to bring up
4 while we're on the record?

5 MR. ROBERTSON: Well, I would like to
6 respond to that last point Mr. Lowery made. I think that
7 the Commission's Order narrowly defines the details of
8 their capacity and energy positions that are properly kept
9 confidential, but when you talk about whether they're
10 going to add so many megawatts of wind in 2008 or today or
11 so many megawatts of coal at some time in the future, I
12 don't think that is the kind of detailed information
13 that's going to affect their -- their capacity position in
14 the wholesale market from day to day. It seems to be the
15 scope of the ruling as I understand it.

16 JUDGE WOODRUFF: Well, there's certainly a
17 lot of matters for you to discuss today, and I'll leave
18 you to your discussions. With that, we are off the
19 record, and this on-the-record portion of this proceeding
20 is adjourned.

21 WHEREUPON, the recorded portion of the
22 conference was concluded.

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