

**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
July, 2006.

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

Case No. EO-2006-0240

**ORDER GRANTING IN PART AND DENYING IN PART THE THIRD
MOTION TO COMPEL DISCLOSURE OF AMERENUE'S
INTEGRATED RESOURCE PLAN**

Issue Date: July 25, 2006

Effective Date: July 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) and ordered 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 confidential or proprietary information from public disclosure.

Subsequently, 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. The Commission issued an order on May 25, finding that, in general, AmerenUE could protect from disclosure information that would disclose details about the company's positions regarding the sale and purchase of energy in the wholesale market. The Commission also found that AmerenUE could protect information contained in, or derived from, confidential consultant reports.

The Commission's order did not attempt to deal with questions about the public release of specific information in AmerenUE's IRP. Instead, the Commission ordered the parties to meet on June 13 to discuss the release of additional specific information. Following that conference, on June 17, Sierra Club, Missouri Coalition for the Environment, Mid-Missouri Peaceworks, and ACORN filed a third motion to compel AmerenUE to disclose further details of its IRP. AmerenUE responded to that motion on June 19, and the Sierra Club group replied on June 22.

The Sierra Club group's motion acknowledges the Commission's May 25 order, but requested public disclosure of nine specific portions of five documents within the larger IRP. The Commission will address each of the specific requests.

The first request, found in paragraph 10 of the Third Motion to Compel, concerns Document No. 1, which is the Executive Summary of the IRP. The Sierra Club group contends that information in that document concerning projected capacity position and load durations curves, capacity additions and percentages of energy to be supplied by

combustion turbine generation would have only remote and speculative effects on AmerenUE's wholesale market positions and should be released to the public. AmerenUE responds by arguing that the public disclosure of AmerenUE's projections of its future power needs would give a competitive advantage to the parties with whom AmerenUE must deal for future power supply sales and purchase agreements. Accordingly, the public release of such information would be detrimental to AmerenUE and its ratepayers.

The Commission finds that the public release of the information cited by the Sierra Club group would potentially be detrimental to AmerenUE and its ratepayers. The details of AmerenUE's capacity positions and load duration curves could be important in negotiations for future power supply sales and purchase contracts. To hand that information to the other parties in those negotiations would put AmerenUE at a disadvantage, possibly resulting in higher costs that would ultimately be paid by AmerenUE's ratepayers. This portion of the motion to compel will be denied.

The second request, found in paragraph 11 of the Third Motion to Compel, also concerns Document No. 1. Page 6 of the document, and also Page 200 of Document No. 3, include a statement indicating that AmerenUE is contemplating the addition of a specific type of power generation in the future. The Sierra Club group argues that this information is of great interest to the public, that its release could not harm AmerenUE or its ratepayers, and that it should be made available to the public. AmerenUE replies that the information should remain confidential because its disclosure could harm AmerenUE's efforts to acquire sites for the future generation.

The Commission does not need to decide whether the information about the addition of a specific type of power generation should remain confidential because AmerenUE has

decided to make that information available to the public as part of its recently filed rate case. Since that information is now available to the public from other sources, there is no reason to maintain its confidentiality in the IRP.

The third request, found in paragraph 12 of the Third Motion to Compel, concerns information found in Document No. 2, which is entitled, Filing Requirements. The Sierra Club group argues that tables in that document showing project capacity and energy for certain portfolios to 2025, measures of financial condition to 2022, average rates, and pollutant emissions, are matters of public interest that are not relevant to concerns about competition, and should not be exempt from disclosure. AmerenUE replies that the information is a graphical representation of the types of power supply sources that might be necessary, the impact each choice would have upon various financial ratios and what emission rates might result from each choice. It contends that the public release of this information would be harmful to the company and its ratepayers.

The Commission finds that AmerenUE should be allowed to protect this information from public disclosure. The public release of specific information about plans for future power supply sources could have an impact on future negotiations for the acquisition of that power supply. This portion of the motion to compel will be denied.

The fourth request, found in paragraph 13 of the Third Motion to Compel, concerns information found in Document No. 3, which is entitled, Integrated Resource Analysis. The information in question is found in table 1.1, entitled Resource Needs, which includes forecasts of AmerenUE's resource needs through 2025. The Sierra Club group argues that forecasts of resource needs 20 years in the future could not have any impact on energy purchases or sales and therefore should be made public. AmerenUE replies that decisions

about power supply are very long-term and that forecasts of future resource needs are relevant to power supply decisions.

The Commission finds that AmerenUE should be allowed to protect this information from public disclosure. Contrary to the Sierra Club group's assertion, power supply decisions are long-term decisions and power supply contracts that are entered into to meet those power supply needs can last for many years. The public release of specific information about the need for future power supply resource needs could have an impact on future negotiations for the acquisition of that power supply. This portion of the motion to compel will be denied.

The fifth request, found in paragraph 14 of the Third Motion to Compel, also concerns information found in Document No. 3. Table 7.2 contains projections of AmerenUE's energy portfolios through 2025. The Sierra Club group contends that these projections should be made public because they are of great interest to the public, but are too speculative to have a significant impact on AmerenUE's future market positions. AmerenUE replies that the information in table 7.2 projects different ways in which AmerenUE could meet its future energy needs with a resulting impact on future negotiations to meet those needs. Further, AmerenUE indicates that the information is taken from a consultant's report and should be protected from public disclosure on that basis.

The Commission finds that AmerenUE should be allowed to protect this information from public disclosure. The public release of specific information about future power supply resource needs could have an impact on future negotiations for the acquisition of that power supply. This portion of the motion to compel will be denied.

The sixth request, found in paragraph 15 of the Third Motion to Compel, concerns information found in Document No. 5, which is entitled, Load Forecast Data and Methodology. The information in question is found in a series of tables and graphs that include general economic data about employment, income, household size, and other information about AmerenUE's customers and service area. The Sierra Club group argues that this information is non-confidential, public information that is not specific to AmerenUE and should be released to the public. AmerenUE counters that the data contained in these tables and graphs comes from a subscription service, Economy.com, and that AmerenUE does not have the authority to publicly release that company's work product.

In its May 25 order, the Commission found that AmerenUE could protect information contained in, or derived from, confidential consultant reports. The information obtained from a confidential subscription service shall be protected from public disclosure for the same reasons that the Commission previously found persuasive regarding consultant reports. This portion of the motion to compel will be denied.

The seventh request, found in paragraph 16 of the Third Motion to Compel, also concerns information found in Document No. 5. The Sierra Club group points out that in this document projected data beyond 2003 is redacted. It contends that there is no reason not to disclose this data. AmerenUE responds by claiming that the forecasts include future peak load profiles and future revenue expectations from projected customer use. It argues that the release of this information would provide potential power sales buyers and sellers with a competitive advantage, to the detriment of AmerenUE and its ratepayers.

The Commission finds that AmerenUE should be allowed to protect this information from public disclosure. The public release of specific information about the need for future

power supply resource needs could have an impact on future negotiations for the acquisition of that power supply. This portion of the motion to compel will be denied.

The eighth request, found in paragraph 17 of the Third Motion to Compel, concerns information found in Document No. 9, which is entitled, Risk and Uncertainty Analysis Briefing. The dispute concerns the five simulation variables that AmerenUE identified as the key risk drivers and used in a risk analyst simulation using the MIDAS software system. The Sierra Club group argues that the mere identity of the variables used in the simulation cannot be a trade secret and should not be protected from disclosure. AmerenUE responds that the information is properly classified as proprietary as it is the method of specific risk analysis used by the Company.

The Commission finds that AmerenUE has not shown that the identity of the five simulation variables that it used in its analysis should be protected from disclosure. Certainly the disclosure of these variables, which seem obvious to any knowledgeable observer, cannot cause any competitive harm to AmerenUE, as its competitors would have the same knowledge. Furthermore, AmerenUE has made no argument suggesting that the disclosure of the identity of the variables would compromise the proprietary nature of the MIDAS software system. The information should be made available to the public.

The ninth request, found in paragraph 18 of the Third Motion to Compel, also concerns information found in Document No. 9. The challenged information concerns the schedule for the installation of environmental controls for SO₂ and NO_x reduction. The Sierra Club group argues that this information should be made available to the public because it is not a trade secret, is not related to wholesale marketing decisions, and is of

public interest. AmerenUE counters that the release of details about when it will need to install certain equipment would place it at a disadvantage in the market for that equipment.

The Commission finds that AmerenUE should be allowed to protect this information from public disclosure. The public release of specific information about the need for future equipment purchases could put AmerenUE at a disadvantage in its negotiations to purchase that equipment. This portion of the motion to compel will be denied.

The Commission has found that AmerenUE should be required to make two items of information available to the public. To accomplish the release of this information, the Commission will direct AmerenUE to file unredacted versions of the pages containing the information to be disclosed. AmerenUE will not be required to refile the entire documents.

IT IS ORDERED THAT:

1. The Third Motion to Compel Disclosure Filed by Intervenors Sierra Club, Missouri Coalition for the Environment, Mid-Missouri Peaceworks, and ACORN is granted in part. Specifically, Union Electric Company, d/b/a AmerenUE, shall, no later than August 4, 2006, file, as public documents, unredacted versions of the following pages of its IRP, disclosing the information addressed in this order:

Document No. 1, Page 6;

Document No. 3, Page 200; and

Document No. 9, Page 15.

2. In all other respects, the Third Motion to Compel Disclosure Filed by Intervenors Sierra Club, Missouri Coalition for the Environment, Mid-Missouri Peaceworks, and ACORN is denied.

3. This order shall become effective on July 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, dissenting opinion in part and
concurring opinion in part to follow

Woodruff, Deputy Chief Regulatory Law Judge