

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

Motion to Declassify Surveillance Monitoring)	
Report of Ameren Missouri for the Twelve)	File No. EO-2014-0011
Month Period Ending December 31, 2012)	

STAFF RESPONSE TO JOINT MOVANTS AND AMEREN MISSOURI

Comes now the Staff of the Missouri Public Service Commission (“Staff”), through the Staff Counsel’s Office, and in response to the Missouri Public Service Commission’s (“Commission’s”) July 10, 2013, *Order Denying Motion For Expedited Treatment And Directing Filing* states that it concurs with the argument of Union Electric Company d/b/a Ameren Missouri (“Ameren Missouri”) that the request of the Office of the Public Counsel (Public Counsel”), the Missouri Industrial Energy Consumers (“MIEC”), AARP, and Consumers Council of Missouri (“Consumers Council”) (collectively “Joint Movants”) to declassify the fuel adjustment clause annual Surveillance Monitoring Report submission of Ameren Missouri¹ is effectively a request to amend the Commission’s Rules 4 CSR 240-3.161(6) and 4 CSR 240-20.090(9) that the annual and quarterly report submissions are no longer to be treated Highly Confidential. In support of the Staff’s position, the Staff states as follows:

1. On July 22, 2013, the Staff requested an extension of time to Thursday, July 25, 2013, to respond to the motion of the Joint Movants, so it could also respond to the July 22, 2013 response of Ameren Missouri. On July 23, 2013, the Commission issued *Order Granting Extension Of Time* in which it granted to the Staff an extension of time to July 25, 2013 to file its response to the Joint Movants and Ameren Missouri.

¹ Page 4, paragraph 7 of Ameren Missouri’s Response To Motion To Make Certain Documents Public filed on July 22, 2013.

2. Joint Movants at page 2, paragraph 5 of their joint motion state as rationales for declassifying the report as follows: “Ratepayers in general, including Movants, have an interest in knowing how Ameren is performing financially. . . Moreover, its financial well-being could bear on its ability to provide safe and adequate service.” Joint Movants asked for expedited treatment at page 3, paragraph 8 “because of the general interest and importance of the Report and because this is unlikely to be a contested issue.” The Joint Movants note in their July 9, 2013 pleading that they received the Surveillance Monitoring Report marked Highly Confidential pursuant to Rules 4 CSR 240-3.161(6) and 4 CSR 240-20.090(9). Thus, the Joint Movants are not saying that they have not been able to access the Surveillance Monitoring Report, they are arguing that ratepayers should have access to the information.

3. First, the Staff would note the Commission’s September 21, 2006 Final Order Of Rulemaking in Case No. EX-2006-0472, In the Matter of a Proposed Rule Regarding Electric Utility Fuel and Purchased Power Cost Recovery Mechanisms, the Commission agreed with Ameren Missouri that the Surveillance Monitoring Report should be designated highly confidential and undergo the standard procedure for a challenge to its classification:

COMMENT: AmerenUE suggests that in [4 CSR 240-3.161](6), since surveillance monitoring reports will be available to parties other than Staff and OPC, who have statutory confidentiality obligations, it is necessary that such reports be deemed "Highly Confidential."

RESPONSE AND EXPLANATION OF CHANGE: The Commission agrees that the reports should be declared highly confidential, subject to the standard procedure for challenging such classification. The Commission is presently in the process of proposing a rule that will allow for classification of information without the issuance of a protective order, but will continue to use its standard protective order until that rule is final. The language in (6) will be modified to treat the surveillance reports as highly confidential as set forth below.

4. Ameren Missouri states in paragraph 4, on page 3 of its July 22, 2013 responsive filing and the Staff concurs that if a particular surveillance report did not meet the definition of Highly Confidential in a particular proceeding, it could qualify for protection as Proprietary pursuant to 4 CSR 240-2.135(1)(A). Rule 4 CSR240-2.135(1)(A) states that “Proprietary information is information concerning trade secrets, as well as confidential or private technical, financial, and business information.”

5. Ameren Missouri states in paragraph 3, on page 3 of its July 22, 2013 responsive filing that “[t]he purpose of the surveillance reports is to allow the Commission’s Staff, OPC, and other stakeholders such as MIEC, as a party to the Company’s rate case where the rate adjustment mechanism was last approved, to monitor trends in the Company’s earnings over multiple periods.” Section 386.266.4(1) states at the outset that the Commission must find that the adjustment mechanism that it approves is reasonably designed to provide the utility with a sufficient opportunity to earn a fair return on equity. In monitoring a utility’s financial information, changes or unexplained or unexpected financial data may result in a Staff phone call to or a Staff meeting with utility personnel, but it would take a trend over a relevant amount of time to warrant a commitment of Staff resources to determine how much of an overearnings situation a utility may be in. The Staff’s need for utility financial information is only for its own analytical use ultimately for submission to the Commission.

6. At page 2, paragraph 4 of Joint Movants’ joint motion, Joint Movants note that in Ameren Missouri’s last general electric rate case, File No. ER-2012-0166, the Commission and the parties “considered and discussed extensively, in public with Ameren’s consent, the identical report, only for the twelve months period ending June 30, 2012.” There is no Ameren Missouri general electric rate case presently on file at the Commission. The Joint Movants did not

mention in their joint motion that they filed a similar pleading establishing File No. EO-2013-0413 earlier this year when the Legislature was in Session. Ameren Missouri declassified its annual Surveillance Monitoring Report in that instance. The Legislature is not in Session this time.

7. In its March 11, 2013, Notice Of Submission Of Revised Surveillance Monitoring Report in File No. EO-2013-0413, at page 2, paragraph 4 Ameren Missouri states that part of the significant concerns it has about making the Surveillance Monitoring Report public is that these reports do not have extensive disclosures accompanying them, in part, because “these reports are intended to be provided only to experts in public utility ratemaking . . . who have a clear understanding of the proper (and improper), use of the information in the reports, and of the limitation of that information.”

8. As the Commissioners are well aware, beside the Commission’s rule on confidential information, 4 CSR 240-2.135, there is a specific statute, Section 386.480 RSMo. 2000, limiting information provided to the Commission by a corporation, person, or public utility that shall be open to public inspection or made public, which statute is applicable to (a) any officer or employee of the Commission and (b) the Public Counsel or any employee of the Public Counsel.

Wherefore the Staff concurs with Ameren Missouri that the request of the Public Counsel, MIEC, AARP, and Consumers Council to declassify the fuel adjustment clause annual Surveillance Monitoring Report submission of Ameren Missouri is effectively a request to amend the Commission’s Rules 4 CSR 240-3.161(6) and 4 CSR 240-20.090(9) such that the annual and quarterly report submissions are no longer to be treated Highly Confidential.

Respectfully submitted,

/s/ Steven Dottheim

Steven Dottheim

Chief Deputy Staff Counsel

Missouri Bar No. 29149

Attorney for the Staff of the

Missouri Public Service Commission

P. O. Box 360

Jefferson City, MO 65102

(573) 751-7489 (Telephone)

(573) 751-9285 (Fax)

steve.dottheim@psc.mo.gov (e-mail)

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing *Staff Response To Joint Movants And Ameren Missouri* have been transmitted electronically to all counsel of record this 25th day of July 2013.

/s/ Steven Dottheim