

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 5th day of
June, 2014.

In the Matter of Ameren Missouri's Renewable Energy)
Standard Compliance Report 2013 and Renewable) File No. EO-2014-0291
Energy Standard Compliance Plan 2014-2016)

**ORDER GRANTING MOTION TO FILE RESPONSE OUT OF TIME
AND DENYING MOTION TO RE-CLASSIFY INFORMATION**

Issue Date: June 5, 2014

Effective Date: June 5, 2014

The Missouri Public Service Commission is allowing a late response to the motion to reclassify, and denying the motion to reclassify, because the disputed information is currently correctly classified.

Earth Island Institute d/b/a Renew Missouri ("Renew Missouri") filed the motion.¹

The Commission received a response with a request to file late² from Union Electric Company d/b/a Ameren Missouri ("Ameren"). Staff filed a reply.³

The motion seeks re-classification, from protected ("highly confidential") to unprotected ("public"), of certain information in Ameren's *Renewable Energy Standard Compliance Plan 2014-2016*.⁴

¹ EFIS No. 10, *Motion to Reclassify Information as Public*, filed on April 29, 2014.

² EFIS No. 17, *Ameren Missouri's Response to Renew Missouri's Motion to Reclassify Information as Public and Request to Accept Response Out of Time*, filed on May 13, 2014.

³ EFIS No. 20, *Staff's Reply and Recommendation to Deny Motion to Reclassify Information as Public*, filed on May 23, 2014.

⁴ Electronic Filing and Information System ("EFIS") No. 1, *Renewable Energy Standard Compliance Report 2013 and Renewable Energy Standard Compliance Plan 2014-2016*, filed on April 15, 2014. The Commission has amended the caption of this file to reflect which utility filed those documents.

A. Late Filing

In support of the motion, Renew Missouri cites the regulation governing protection of reported information. That regulation allows re-classification of information from highly confidential to public if the party that sought protection files no response to a motion for re-classification within ten days.⁵

If the asserting party fails to file the pleading required by this section, the commission may order that the designated information be treated as public information.[⁶]

Ameren filed no response to the motion within that time.

Ameren asks to file its response late. The Commission's regulations allow late filing as follows.

When an act is required or allowed to be done by order or rule of the commission at or within a specified time, the commission may—

* * *

(B) After the expiration of the specified period, permit the act to be done where the failure to act was the result of excusable neglect or for other good cause shown.[⁷]

Ameren alleges that the press of business caused Ameren to overlook the due date for the response. Staff supports the late filing and no party opposes it. The Commission is aware that Ameren's caseload before the Commission is heavier than usual.

Therefore, the Commission will allow the late filing of the response.

⁵ 4 CSR 240-2.135(12)(A).

⁶ 4 CSR 240-2.135(12)(B).

⁷ 4 CSR 240-2.050(3).

B. Re-Classification

The information at issue is the table at page 17, related to retail rate impact⁸ (“disputed information”), currently classified as highly confidential. Highly confidential information is available only to specified persons for specified purposes.⁹ Renew Missouri asks that the Commission allow any person to access that information without restriction.

Renew Missouri argues that nothing that Ameren has filed supports a highly confidential classification. But Renew Missouri cites no authority requiring that support when Ameren files its report. Also, Ameren and Staff cite support for the highly confidential classification in the disputed information itself, and in the Commission’s regulation defining highly confidential information to include:

* * *

3. Marketing analysis or other market-specific information relating to services offered in competition with others;
4. Marketing analysis or other market [-] specific information relating to goods or services purchased or acquired for use by a company in providing services to customers;
5. Reports, work papers, or other documentation related to work produced by internal or external auditors or consultants; [or]
6. Strategies employed, to be employed, or under consideration in contract negotiations[.¹⁰]

That language includes the disputed information, which Ameren describes as revenue forecasts and “estimated costs for landfill gas, assumptions on capital costs for new

⁸ 4 CSR 240-20.100(7)(B)1.F.

⁹ 4 CSR 240-2.135(5).

¹⁰ 4 CSR 240-2.135(1).

wind or solar builds along with the Company's decisions on the timing of new resources."¹¹ Renew Missouri's argument does not support the motion.

Renew Missouri argues that the public has an interest in how Ameren proposes to comply with the law, and how that compliance will affect rates. But, as Staff notes, the public is already a participant in this action¹² through its representative, the Office of the Public Counsel.¹³ Moreover, Ameren and Staff argue that reclassifying the disputed information will provide inside knowledge that contractors can use when bidding on Ameren's construction projects, resulting in higher costs, and higher rates. That outcome is not in the public interest, so Renew Missouri's argument does not support the motion.

Renew Missouri argues that the disputed information could assist participants in a separate action, the Commission's workshop on regulations related to the report.¹⁴ But, as Staff notes, the participants in that workshop and the participants in this action are almost exactly the same, so they already have access to the disputed information. The participants in the workshop who are not participants in this action have not sought intervention. Intervention has not been denied to any movant, so Renew Missouri's argument does not support the motion.

Therefore, the Commission will deny the motion.

¹¹ EFIS No. 17, *Ameren Missouri's Response to Renew Missouri's Motion to Reclassify Information as Public and Request to Accept Response Out of Time*, filed on May 13, 2014, page 1-2, paragraph 3.

¹² 4 CSR 240-2.010(10).

¹³ Section 386.710.1(2), RSMo 2000.

¹⁴ File No. EW-2014-0092.

THE COMMISSION ORDERS THAT:

1. The motion to file late is granted.
2. The *Motion to Reclassify Information as Public* is denied.
3. This order shall become effective upon issuance.

BY THE COMMISSION



Morris L. Woodruff

Morris L. Woodruff
Secretary

R. Kenney, Chm., Stoll, W. Kenney,
Hall, and Rupp, CC., concur.

Jordan, Senior Regulatory Law Judge