

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

In the Matter of Union Electric Company d/b/a )  
Ameren Missouri's 2<sup>nd</sup> Filing to Implement )  
Regulatory Changes in Furtherance of Energy )  
Efficiency as Allowed by MEEIA )

**File No. EO-2015-0055**

**ORDER REGARDING OPC'S MOTION FOR PROTECTIVE ORDER**

Issue Date: July 16, 2015

Effective Date: July 16, 2015

On July 13, 2015,<sup>1</sup> the Office of the Public Counsel ("OPC") filed a Motion for Protective Order and Motion for Expedited Treatment. In those motions, OPC objects to a notice of deposition filed by Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri"). That notice states that Ameren Missouri would like to depose Dr. Geoff Marke on July 17. OPC's asks for expedited treatment of its motion by requesting a Commission ruling no later than 3:00 p.m. July 16.

OPC argues that such a deposition would violate Missouri Rule of Civil Procedure 56.01(c).<sup>2</sup> That rule allows a party from whom discovery is sought to apply for a protective order to protect that party from annoyance, embarrassment, oppression, or undue burden or expense.

In support of its argument, OPC points out that the evidentiary hearing is set for July 20, and that Dr. Marke has already been deposed once for this case. OPC also states that less onerous discovery methods, such as data requests, are available for Ameren Missouri. In the alternative, OPC states that should the Commission allow Dr. Marke to be

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<sup>1</sup> Calendar references are to 2015.

<sup>2</sup> Commission Rule 4 CSR 240-2.090(1) states that discovery may be obtained as done in circuit court. It also states that sanctions for abuse of the discovery process shall be the same as allowed in circuit court.

deposed, such deposition should be limited to matters in the supplemental direct testimony he filed on July 9.<sup>3</sup>

Ameren Missouri responded on July 14. Ameren Missouri states that its notice of deposition was issued less than 48 hours after Dr. Marke filed his supplemental testimony. Ameren Missouri states that the notice would have been issued sooner had OPC's counsel returned Ameren's Missouri's phone calls and an e-mail sent to inquire about agreeable times for the deposition.

Ameren Missouri attached an e-mail from its counsel to OPC's counsel to its July 14 pleading. That e-mail states that the deposition would be limited to the non-unanimous utility stipulation and Dr. Marke's supplemental testimony in support thereof.

Upon review of OPC's motion and Ameren Missouri's response, the Commission finds that OPC has not shown sufficient cause to entirely block Ameren Missouri's ability to depose Dr. Marke. However, such deposition shall be limited to the non-unanimous utility stipulation and Dr. Marke's supplemental testimony in support thereof.

**THE COMMISSION ORDERS THAT:**

1. The Motion for Expedited Treatment filed by the Office of the Public Counsel is granted.
2. The Motion for Protective Order is granted in part and denied in part. Ameren Missouri's July 17, 2015 deposition of Dr. Geoff Marke shall be limited to the non-unanimous utility stipulation and Dr. Marke's supplemental testimony in support thereof.

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<sup>3</sup> On July 15, the Staff of the Commission concurred in OPC's motion.

3. This order shall be effective when issued.



**BY THE COMMISSION**

A handwritten signature in black ink that reads "Morris L. Woodruff". The signature is written in a cursive style.

Morris L. Woodruff  
Secretary

Ronald D. Pridgin, Deputy Chief Regulatory  
Law Judge, by delegation of authority  
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,  
on this 16<sup>th</sup> day of July, 2015.