

agency entities not covered by statutory confidentiality requirements who may be parties to this case.² Consequently, the Company seeks a protective order allowing it to designate such information as "Highly Confidential" under 20 CSR 4240-2.135(4). The Company has redesignated Chapters 6 (and Appendix A) and 9 as filed in EFIS pending the Commission's ruling on this request and is in the process of preparing a Highly Confidential versions of Chapters 6 (and Appendix A) and 9 that can be filed in the near-term.³

3. Under 20 CSR 4240-2.135(4), a motion for greater protection, like this one, must explain the following:

- A. What information must be protected,
- B. The harm to the disclosing entity or the public that might result from disclosure of the information ("Potential harm"), and
- C. How the information may be disclosed while protecting the interests of the disclosing entity and the public.

4. What information must be protected: resource cost information for candidate resources in Chapters 6 (and Appendix A) and 9 of the IRP, in any related workpapers, and any such resource cost information that may later be sought via discovery⁴ The information for which Highly Confidential treatment is sought cannot be found in any other public document.

5. Potential harm: Highly Confidential protection for these materials is needed for several reasons. First, the Company continues to engage in negotiations with developers for

² Employees of the Commission, the Office of the Public Counsel, and the Division of Energy are all covered by statutes protecting the confidentiality of information submitted to the Commission by utilities.

³ Due to the absence of Company administrative staff due to illness, it may take a business day or two to complete preparation of the Highly Confidential versions.

⁴ For purposes of this Motion, "resource cost information" includes cost estimates and curves used for different types of supply-side resources, and related information used to develop such estimate and curves such as requests for proposals (RFP) responses and information showing resource cost components like bids or pricing for equipment, materials, and labor.

additional generation resources needed as described in the Company's IRP.⁵ The Company may, in the near-term or later, engage in such discussions for generation needed for other purposes. The Company and each developer as a routine course enter a Non-Disclosure Agreement to ensure that proprietary and competitively sensitive information is not disclosed. It would be harmful to the Company, and ultimately its customers, if resource cost information were known to other potential counterparties. It could also potentially be harmful to other Missouri electric utilities and their customers for the same reasons.

6. The Company also continues to engage in negotiations with other contractors related to potential generation projects. The Company and the suppliers may be subject to confidentiality obligations with respect to each other's information, particularly as to costs and pricing. It would be harmful to the Company and ultimately its customers if confidentiality concerns have a chilling effect on future negotiations with such parties.

7. The interests of the developers, equipment suppliers, and other suppliers whose pricing informed cost information in the IRP could also be harmed due to the highly sensitive and competitive nature of their costs and pricing. This is why the Supplier Terms contain confidentiality provisions and the Company's RFPs (as is typical of RFPs) contain the Company's agreement to maintain the confidentiality of the RFP responses.

8. 20 CSR 4240-2.135(4) is in keeping with Missouri Supreme Court Rule 56.01(c)(7), which provides that protective orders may be issued "... to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including ... that a trade

⁵ One such developer, Invenergy, is a party to this docket and is the developer of one of the projects in the Company's pending solar CCN docket (EA-2023-0286) (as well as having been the developer for the project at issue in File No. EA-2022-0245, for which the Commission granted a CCN earlier this year).

secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way ..."

9. How the information may be disclosed while protecting the interests of the disclosing entity and the public: Granting this protective order will prevent access to competitively sensitive information that could work to the disadvantage of counterparties to other generation negotiations. The information will still be disclosed to attorneys of record for all parties to the case, to any state agency parties and their employees covered by statutory confidentiality requirements, and to designated outside experts of any non-state agency party, allowing all parties to the IRP docket the ability to fully participate in the docket.

10. Based on the reasons given herein, the Commission has previously issued a protective order on the terms requested in several other dockets, as cited above.

11. Attached to this motion is the disclosure form the Commission directed to be used in File No. EA-2023-0286, as well as several other dockets. The Company requests that the Commission direct use of that same form (marked as Exhibit A hereto) in this docket for those persons who will be authorized to access "confidential" information. That form, however, needs to be modified for those persons who, under the terms of the protective order requested hereby, can access "Highly Confidential" information. Consequently, the Company requests that the Commission direct use of a modified form (marked as Exhibit B hereto) in this docket for those persons who will be authorized to access "Highly Confidential" information.

12. Under 20 CSR 4240-2.135(10), "confidential" information is to be denoted as follows: ****confidential information****. Because Ameren Missouri has submitted "confidential" information and will submit "Highly Confidential" information, Ameren Missouri will utilize three

asterisks to denote "Highly Confidential" information, as follows: *****highly confidential information*****.

Request for Expedited Treatment

13. The Company requests that the Commission act on its request for a protective order as soon as possible, preferably today, November 30, 2023.

14. Granting the request for a protective order will prevent the harms to the Company and its customers described above by making clear that any resource cost information in Chapters 6 (and Appendix A) and 9 should not be shared with any employees of a party, or if it has been shared, that such employees should promptly return all such information to the party's attorney of record. Such an order will not harm the public or the Company's customers.

15. The Company apologizes for not anticipating the need for such a protective order and has filed this motion as soon as it reasonably could after employees of a non-state party to this docket filed non-disclosure agreements.

WHEREFORE, Ameren Missouri respectfully requests that the Commission issue a protective order:

- a. Designating as Highly Confidential resource cost information⁶ for candidate resources in Chapters 6 (and Appendix A) and 9 of the IRP, in any related workpapers, and any such resource cost information that may later be sought via discovery;
- b. Directing that any resource cost information in Chapters 6 (and Appendix A) and 9 should not be shared with any employees of a non-state party, or if it has

⁶ As earlier defined.

been shared, that such employees should promptly return all such information to the party's attorney of record; and

- c. Directing the use of the Non-Disclosure Agreement forms marked as Exhibits A and B hereto.

Respectfully submitted,

/s/ James B. Lowery

James B. Lowery, Mo. Bar #40503

JBL LAW

9020 S. Barry Rd.

Columbia, MO 65201

Telephone: 573-476-0050

E-Mail: lowery@jblawllc.com

/s/ Wendy K. Tatro

Wendy K. Tatro, Mo. Bar #60261

Director and Assistant General Counsel

Ameren Missouri

1901 Chouteau Avenue

St. Louis, MO 63103

Telephone: (314) 554-3484

Facsimile: (314) 554-4014

E-Mail: AmerenMOService@ameren.com

**ATTORNEYS FOR UNION ELECTRIC
COMPANY d/b/a AMEREN MISSOURI**

CERTIFICATE OF SERVICE

The undersigned certifies that true and correct copies of the foregoing was served on counsel for all parties of record via electronic mail (e-mail) on this 30th day of November, 2023.

/s/ James Lowery
James Lowery

NONDISCLOSURE AGREEMENT

For Case No.: EO-2024-0020

(To Access Confidential Information)

I, _____, have reviewed the Commission's Rule at 20 CSR 4240-2.135 on the _____ day of ___, 20__.

I have requested review of the confidential information produced in Case No. EA-2023-0286 on behalf of _____.

I hereby certify that:

(a) Only employees of a party that are acting as an expert for that party or that have been retained for this case as an outside expert for that party may receive confidential information;

(b) An employee is a person in the service of his or her employer whose services are controllable by the employer.

(c) I am employee of [state name of intervenor] acting as its expert and/or its employee who intends to file testimony in this docket, or I am an outside expert for [state name of intervenor] retained to provide expert consultation or testimony in this docket; and

(d) I have read and agree to abide by the Commission's Rule at 20 CSR 4240-2.135.

Dated this _____ day of _____, 20__.

Signature & Title

Employer

Party

Address

Telephone

E-Mail Address

NONDISCLOSURE AGREEMENT
For Case No.: EO-2024-0020
(To Access Highly Confidential Information)

I, _____, have reviewed the Commission's Rule at 20 CSR 4240-2.135 on the _____ day of _____, 20__.

I have requested review of the highly confidential information produced in Case No. EA- 2023-0286 on behalf of _____.

I hereby certify that:

- (a) Only an outside expert retained by a party in this case may receive highly confidential information;
- (b) I am an employee of _____ acting as an outside expert for [state name of intervenor] _____ retained to provide expert consultation or testimony in this docket; and
- (c) I have read and agree to abide by the Commission's Rule at 20 CSR 4240-2.135 and all terms of the Protective Order issued by the Commission in this docket.

Dated this _____ day of _____, 20_____.

Signature & Title

Employer

Party

Address

Telephone

E-Mail Address