BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of Union Electric Company)	
d/b/a Ameren Missouri's 4 th Filing to)	
Implement Regulatory Changes in Furtherance)	File No. EO-2023-0136
of Energy Efficiency as Allowed by MEEIA.)	
)	

MOTION FOR PROTECTIVE ORDER

COMES NOW Union Electric Company d/b/a Ameren Missouri ("Company" or "Ameren Missouri"), and pursuant to 20 CSR 4240-2.135(4) requests issuance by the Missouri Public Service Commission ("Commission") of a protective order as outlined herein, and requests expedited treatment of its motion. In support of its request, Ameren Missouri states as follows:

Request for Protective Order

- 1. Under 20 CSR 4240-2.135(6), absent a specific order issued under 20 CSR 4240-2.135(4), information defined as "Confidential" by 20 CSR 4240-2.135(2)(A) is available to the attorneys of record for a party in the Commission case at issue, persons designated by a party as an outside expert in that case, *and* to employees of a party if those employees are working as subject-matter experts for the attorneys or intend to file testimony, upon a filing by such an employee of the certification required by 20 CSR 4240-2.135(7).
- 2. For reasons similar to those recognized by the Commission in other cases where commercially-sensitive information regarding generation costs was at issue, there is information in Appendix C² filed in this docket (and there may be other such information that will be the subject of discovery requests) that should not be available to employees of any non-state

¹ File No. EA-2016-0358 (Grain Belt Express); EO-2018-0092 (Empire Customer Savings Plan); EA-2018-0202 and EA-2019-0021 (Ameren Missouri's Certificates of Convenience and Necessity ("CCN") applications for the High Prairie and Brickyard Hills wind facilities); EA-2022-0245 (Ameren Missouri's CCN application for the Boomtown solar facility); and EA-2023-0286 (Ameren Missouri's pending application for CCNs for four solar generation facilities).

² This information was also included the Company's triennial Integrated Resource Plan ("IRP") in File No. EO-2024-0020 and the Commission issued a Protective Order and Order Granting Expedited Treatment on November 30, 2023.

agency entities not covered by statutory confidentiality requirements who may be parties to this case. ³ 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 designated Appendix C as a Highly Confidential.

- 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: avoided cost information in Appendix C, in any related workpapers, and any such resource cost information that may later be sought via discovery. The information for which Highly Confidential treatment is sought cannot be found in any other public document.
- 5. <u>Potential harm</u>: Highly Confidential protection for these materials is needed for several reasons. Specifically, the information used in Appendix C is also used in the Company's Integrated Resource Plan (IRP) and designated as highly confidential. The Company continues to engage in negotiations with developers for additional generation resources needed as described in the Company's IRP. The Company may, in the near-term or later, engage in such

³ 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.

⁴ For purposes of this Motion, "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 proposal responses and information showing resource cost components like bids or pricing for equipment, materials, and labor.

discussions for generation needed for other purposes. ⁵ 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. Additionally, the interests of the developers, equipment suppliers, and other suppliers whose pricing informed cost information in this docket and the IRP docket 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.
- 7. 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 secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way ..."
- 8. 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 where avoided costs are provided. 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

⁵ 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

party, allowing all parties to the IRP docket the ability to fully participate in the docket.

- 9. 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.
- 10. Attached to this motion is the disclosure form the Commission directed to be used in File No. EO-2024-0020, 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.
- 11. 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***.

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

- a. Designating as Highly Confidential resource cost information⁶ in Appendix
 C, in any related workpapers, and any such resource cost information that
 may later be sought via discovery;
- b. Directing that any cost information in Appendix C should not be shared with any employees of a non-state party, or if it has 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/ Jennifer S. Moore

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Attorneys for Union Electric Company d/b/a Ameren Missouri

⁶ As earlier defined.

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 25th day of January, 2024.

/s/ Jenifer S. Moore
Jennifer S. Moore

NONDISCLOSURE AGREEMENT

For Case No.: EO-2023-0136

(To Access Confidential Information)

	I,	, have re	eviewed the Com	mission's Rul	e at 20 CSR 4240)-2.135 on the
	_ day	of, 2024				
	I hav	ve requested review of	of the confidentia	ıl information	produced in Cas	e No. EO-2023-
0136	on be	ehalf of	·			
	I her	reby certify that:				
	(a)	Only employees of	f a party that are	acting as an	expert for that pa	rty or that
	have	e been retained for the	his case as an or	utside expert	for that party ma	ay receive
	conf	fidential information;				
	(b)	An employee is a p	person in the servi	ice of his or h	er employer who	se services
	are c	controllable by the en	nployer.			
	(c)	I am employee of	[state name of in	ntervenor] ac	ting as its expert	and/or its
	emp	loyee who intends to	file testimony in	this docket, o	or I am an outside	expert for
	[state	te name of intervenor	r] retained to pro	vide expert c	onsultation or tes	stimony in
	this	docket; and				
	(d)	I have read and ag	ree to abide by t	he Commissi	on's Rule at 20 C	CSR 4240-
	2.13	5.				
	Date	ed this	day of		, 2024.	

Signature & Title	
Employer	
Party	
Address	
Telephone	
E-Mail Address	

NONDISCLOSURE AGREEMENT

For Case No.: EO-2023-0136

(To Access Highly Confidential Information)

Ι,	, hav	e reviewed the C	Commission's	Rule at 20 CSR	4240-2.135 on the
day of	, 20	24.			
I have	requested review	w of the highly co	onfidential inf	ormation produ	ced in Case No.
EO-2023-013	6 on behalf of		·		
I here	eby certify that:				
(a) O	only an outside ex	xpert retained by	a party in this	s case may rece	ive highly
co	onfidential inforr	nation;			
(b) I	am an employee	of			_acting as an
O	utside expert for [state name of inter	rvenor]		_retained to provide
ex	xpert consultation	or testimony in the	is docket; and		
(c) I	have read and ag	ree to abide by tl	ne Commissio	n's Rule at 20 C	SR 4240-2.135
aı	nd all terms of th	e Protective Ord	er issued by tl	ne Commission	in this docket.
Dated	d this	day of		, 2024.	

Signature & Title	
Employer	
Party	
Address	
Telephone	
E-Mail Address	