

**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. EA-2024-0212
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 below, 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,¹ there is information in the Company's direct case filing, and that might, or will, be the subject of discovery requests, that should not be available to employees of any non-state agency entities not covered by

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).

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).

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: Information that should be designated as Highly Confidential includes the negotiated terms and conditions of the Engineering, Procurement and Construction ("EPC") Agreement attached as Schedule SDW-2 to Mr. Wibbenmyer's Direct Testimony and the scope of work under the EPC is attached to the Application as Schedule D; cost and pricing information reflected in Mr. Wibbenmeyer's Direct Testimony; the Procurement Plan in Schedule D; the terms and conditions of agreements (and documents reflecting such terms and conditions) with entities who will construct the solar and transmission-related assets covered by the EPC Agreement (the "Supplier Terms") in Schedule F and responses (and documents reflecting responses) to the Company's solar generation Request for Proposal ("RFP"). To the extent such information is contained in the Company's direct case filing, it has been designated as Highly Confidential in accordance with 20 CSR 4240-2.135(4)(B). If additional information falling within these categories is to be produced in discovery or in later-filed testimony, or other evidence to be

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.

presented in this case, it will likewise be designated as Highly Confidential. 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 other solar developers for additional utility scale solar generation resources needed as described in the Company's recent Integrated Resource Plan in File No. EO-2024-0020. The Company may, in the near-term or later, engage in such discussions for solar 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 the pricing, terms, and conditions negotiated for the project that is the subject of this application 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 such potential solar 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 solar developers, solar panel suppliers and other suppliers themselves 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 RFP (as is typical of RFP's of this type) 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 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 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 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.

Attached to this motion is the disclosure form the Commission directed to be used in File No. EA-2024-0212, 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 information³ in the Application, Schedules D and F, Direct Testimony of Scott J. Wibbenmeyer, any related workpapers, and any such resource cost information that may later be sought via discovery;
- b. Directing that any cost information 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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³ 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 24th day of May, 2024.

/s/ Jenifer S. Moore
Jennifer S. Moore

NONDISCLOSURE AGREEMENT
For Case No.: EA-2024-0212
(To Access Confidential Information)

I, _____, have reviewed the Commission's Rule at 20 CSR 4240-2.135 on the _____ day of ____, 2024.

I have requested review of the confidential information produced in Case No. EA-2024-0212 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 _____, 2024.

Signature & Title

Employer

Party

Address

Telephone

E-Mail Address

NONDISCLOSURE AGREEMENT
For Case No.: EA-2024-0212
(To Access Highly Confidential Information)

I, _____, have reviewed the Commission's Rule at 20 CSR 4240-2.135 on the _____ day of _____, 2024.

I have requested review of the highly confidential information produced in Case No. EA-2024-0212 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 _____, 2024.

Signature & Title

Employer

Party

Address

Telephone

E-Mail Address