

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

In the Matter of the Application of Union Electric)
Company, d/b/a Ameren Missouri, for Permission and)
Approval and Certificate of Public Convenience and) File No. EA-2024-0237
Necessity Authorizing it to Construct a Simple Cycle)
Natural Gas Generation Facility.)

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(3) requests issuance by the Missouri Public Service Commission ("Commission") of a protective order as outlined herein. In support of its request, Ameren Missouri states as follows:

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 related to the construction of generation facilities was at issue,¹ there is certain information in the Company's direct case filing, and information that may, or likely will, be the subject of discovery requests that should not be available to employees of any non-state agency entities not covered by statutory confidentiality requirements who may become

¹ File Nos. 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 CCN application for four solar generation facilities).

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: (A) bid specifications for components of the Castle Bluff Project (attached as Schedule CS-D1 to the Direct Testimony of Company witness Christopher Stumpf); (B) information regarding prospective data center customers as designated in the Direct Testimony of Company witness Matthew Michels; (C) bid specifications for Engineering, Procurement, and Construction contract ("EPC") for the Castle Bluff Project provided in response to Data Request 8503; (D) responses to these various bid specifications and Requests for Proposals ("RFPs") and Company analyses of these specifications, including consideration by the Board of Directors; (E) any agreements entered into by the Company with an EPC contractor and with entities that will design, construct, or maintain Project components; (F) any testimony regarding the specific terms and conditions and various cost and pricing information related to the EPC contract and to various cost and pricing information; and (G) the terms and conditions of agreements (and documents reflecting such terms and conditions) with entities that will construct Project components covered

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.

by the Agreements (the "Supplier Terms"). 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 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 the various contractors for construction of the Project. The Company and each contractor and supplier, 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 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 interests of the Project component suppliers 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 of this type) 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 solar 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.

9. Based on the reasons similar to those given herein, the Commission has previously issued a protective order on the terms requested in several prior generation CCN cases, including in the Company's Boomtown solar facility CCN case, File No. EA-2022-0245 and its most recent solar generation CCN case, File No. EA-2023-0286.

10. Attached to this motion is the disclosure form the Commission directed to be used in File No. EA-2022-0245. 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 is filing both "confidential" and "Highly Confidential" information, Ameren Missouri has utilized three asterisks to denote "Highly Confidential" information, as follows: *****highly confidential information*****.

WHEREFORE, Ameren Missouri respectfully requests that the Commission issue the protective order requested herein and direct use of the Non-Disclosure Agreement forms marked as Exhibits A and B hereto.

Respectfully submitted,

/s/ James B. Lowery

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**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 the Staff of the Missouri Public Service Commission and the Office of the Public Counsel via electronic mail (e-mail) on this 8th day of July 2024.

/s/ James Lowery
James Lowery

NONDISCLOSURE AGREEMENT

For Case No.: EA-2024-0237

(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.: EA-2024-0237
(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