

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

In the Matter of Ameren Missouri’s 2024 )  
Integrated Resource Plan Annual Update ) **File No. EO-2025-0123**

**SIERRA CLUB’S MOTION TO COMPEL**

COMES NOW Sierra Club pursuant to Rule 20 CSR 4240-2.090 and moves the Commission to compel Ameren to respond to Sierra Club’s First Set of Data Requests. In support thereof, Sierra Club states as follows:

1. On October 1, 2024, Ameren submitted its Annual Update Summary Report pursuant to Commission rule 20 CSR 4240-22.080(3).
2. On October 1, 2024, the Commission issued its Order Adding Parties, including Sierra Club.
3. On October 11, 2024, Sierra Club served its First Set of Data Requests on Ameren pursuant to 20 CSR 4240-2.090. A true and correct copy of these requests are attached hereto as Exhibit A.
4. On October 21, 2024, Ameren served objections on Sierra Club. A true and correct copy of these objections are attached hereto as Exhibit B.
5. Counsel for Ameren and Sierra Club conferred regarding the data requests and objections as required by 20 CSR 4240-2.090(8)(A), but were not able to resolve the issues raised by Ameren’s objections.
6. Counsel for Ameren and Sierra Club conferred with the administrative law judge assigned to this matter on November 26, 2024 as required by 20 CSR 4240-2.090(8)(B), but were not able to resolve the issues raised by Ameren’s objections.

7. Sierra Club's data requests bear directly upon Sierra Club's ability to provide input and stay informed regarding Ameren's current preferred resource plan, the status of critical uncertain factors, the resolution of deficiencies regarding Ameren's last triennial update, and changing conditions generally. Thus, Sierra Club's data requests are narrowly tailored to serve the purpose of the annual update process set forth in 20 CSR 4240-22.080(3).

8. Ameren objects to Sierra Club's data requests, asserting generally that there is no discovery allowed in an annual update proceeding. Pursuant to 20 CSR 4240-2.090(1) and the Commission's October 1, 2024 Order Adding Parties, it is clear that Sierra Club is an intervenor, stakeholder, and a party to this proceeding. As a party, Sierra Club is entitled to conduct discovery in this proceeding, including through the use of data requests.

9. The Commission's Order in the Empire District Electric Company's 2013 IRP proceeding is directly on point, and supports Sierra Club's position. See, EO-2013-0547, Docket No. 27, copy attached hereto and labeled Exhibit C. In this Order, the Commission overruled Empire's objections to data requests served upon it by an intervenor. The Commission found that even though an IRP proceeding is a noncontested case under Mo. Rev. Stat. § 536.010(2), as there is no legal requirement to hold a hearing, because Commission rules designate an intervenor as a party, the intervenor is entitled to issue data requests and receive responses thereto. It follows that intervenors should similarly be entitled to conduct discovery in annual update proceedings. Accordingly, Ameren should be required to respond to Sierra Club's data requests in this case.

10. Ameren asserts that discovery should nevertheless be prohibited in annual update proceedings because the annual update schedule does not allow enough time for discovery. It is difficult to see how this argument holds water. Commission rules relating to annual update

proceedings require the utility to open the matter by submitting a report, to host a workshop no fewer than 20 days after the report is submitted, and to prepare a follow-up summary report within 10 days after the workshop. Stakeholders are then permitted 30 days to file comments regarding the annual update report and the summary report. See, 20 CSR 4240-22.080(3). All told, this timeline contemplates a proceeding lasting at least 60 days. In contrast, the Commission regulations regarding data requests mandate that responses shall be provided within 20 days of receipt – undisputedly well within the timeline contemplated for annual update proceedings. In fact, in other annual update proceedings involving the utility Evergy, discovery was propounded by multiple stakeholders and answered by the utility without any negative impacts on the proceeding schedule. See, e.g. EO-2023-0212 and EO-2023-0213.

11. Ameren also asserts that it need not respond to Sierra Club’s data requests in this case because similar requests were or could have been propounded in other Commission proceedings. This argument neglects to protect the stakeholder who might chose to only participate in an annual update proceeding. It also ignores the impact of confidentiality rules, which make it very difficult for parties to utilize documents produced through the discovery process across different dockets.

12. Ameren also asserts specific objections to one of Sierra Club’s data requests on the grounds that it is premature. Request No. 1.6 seeks information about the company’s compliance with new EPA regulations. Ameren asserts that this request is premature, citing the Joint Filing and agreement in the most recent triennial resource plan proceeding. Specifically, Ameren asserts that in the Joint Filing, Ameren and other stakeholders agreed it need not provide information requested by Request No. 1.6 until it updates or changes its preferred resource plan. This is simply not what the parties agreed. On p. 6 of Exhibit A to the Joint Filing, Ameren

agreed to “include compliance with new EPA regulations in any update to its preferred resource plan.” See, EA-2024-0020, Docket No. 67. On p. 5 of Exhibit A to the Joint Filing, in resolution of another stakeholder’s deficiencies, Ameren agreed to “include analysis of its compliance with new and updated EPA regulations in its next preferred resource plan filing, whether that occurs via an Annual Update or Change in Preferred Resource Plan.” Id. Sierra Club asserts that this annual update proceeding is the update contemplated by the Joint Filing agreement of the parties, and that it is entitled to the information requested by Request No. 1.6.

13. Missouri Courts have long held that the purpose of discovery is to eliminate concealment and surprise, and to provide parties with “access to proper information, through which to develop their contentions and to present their sides of the issues”. State ex rel. Woytus v. Ryan, 776 S.W.2d 389, 391 (Mo. banc 1989). As such, the Court has described the benefits of discovery as follows: “liberal discovery aids in the ascertainment of truth, early disclosure promotes early settlement, surprise is eliminated, issues are narrowed, trial preparation is facilitated, and ‘relevant’ information is obtained.” State ex rel. State v. Riley, 992 S.W.2d 195, 197 (Mo. banc 1999). Allowing discovery to proceed in this matter will further such important purposes.

WHEREFORE, Sierra Club requests that the Commission overrule Ameren’s objections and direct Ameren to respond to Sierra Club’s First Set of Data Requests to Ameren.

Respectfully Submitted,

*/s/ Sarah Rubenstein*

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*Counsel for Sierra Club*

Dated December 4, 2024

**CERTIFICATE OF SERVICE**

I hereby certify that on this 4<sup>th</sup> day of December, 2024, a true and correct copy of the foregoing pleading was filed on EFIS and sent by email to all parties of record.

*/s/ Sarah Rubenstein*

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Sarah Rubenstein