

**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 Certificates of Public Convenience	)	
and Necessity Authorizing it to Construct a New	)	File No. EA-2025-0238
Generation Facility and Battery Energy Storage	)	
System Facility.	)	

**AMENDED 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,<sup>1</sup> there is certain information in the Company's direct case filing, and information that may,

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<sup>1</sup> 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); and EA-2023-0286 (Ameren Missouri's CCN application for four solar generation facilities); EA-2024-0237 (Ameren Missouri's CCN application for the Castle Bluff simple cycle natural gas generation facility).

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 parties to this case.<sup>2</sup> 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) responses to these various bid specifications and Requests for Proposals ("RFPs") and Company analyses of these responses, including consideration by the Board of Directors; (B) any agreements (and documents reflecting the terms of such agreements), entered into by the Company with an EPC contractor and with entities that will design, construct, or maintain components of the Projects; (C) any testimony regarding the specific terms and conditions and various cost and pricing information related to the EPC contracts and to various cost and pricing information; (D) the terms and conditions of agreements (and documents reflecting such terms and conditions) with entities that will construct components of each Project covered 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

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<sup>2</sup> 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.

20 CSR 4240-2.135(4)(B); (E) confidential information relating to the industrial customer operations, including customer specific data, customer pricing, supply costs, business relationships, market data, other proprietary data and protected trade secrets; and (F) information relating to confidential contracts entered into relating to industrial customers. 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 each of the Projects. 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 Projects that are 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 component suppliers for the Projects 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. Further, the industrial customer market is an extremely competitive forum where information regarding customer pricing, supply costs, business relationships, market data, and other proprietary data are closely guarded trade secrets. This information, as well as terms and

details relating to business contracts and other information relating to industrial customer infrastructure are sensitive information that impact industrial customers' competitive advantage with respect to its competitors and with parties with whom it negotiates. Communications and negotiations with respect to site selection and contract negotiations are generally subject to nondisclosure agreements. Many industrial customer contracts also contain confidentiality provisions.

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 solar generation negotiations or to counterparties of other industrial customer 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.

10. Based on the reasons similar to those given herein, the Commission has previously issued a protective order on the terms requested in prior Company generation CCN requests, including the Company's Boomtown solar facility CCN case, File No. EA-2022-0245, and in the Company's Castle Bluff CTG facility CCN case, File No. EA-2024-0237.

11. Attached to this motion is the disclosure form the Commission directed to be used in File Nos. EA-2022-0245 and EA-2024-0237, modified to reference the file number for this filing. 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 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 11th day of August 2025.

*/s/ James Lowery*

James Lowery

**NONDISCLOSURE AGREEMENT**

**For Case No.: EA-2025-0238**

(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-2025-0238 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\_\_.



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Signature and Title

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Employer

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Party

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Address

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Telephone

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E-Mail Address

**NONDISCLOSURE AGREEMENT**  
**For Case No.: EA-2025-0238**  
(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-2025-0238 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\_\_.

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Signature and Title

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Employer

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Party

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Address

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Telephone

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E-Mail Address