

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

In the Matter of the Application of Co-Mo)
Electric Cooperative for Approval of)
Designated Service Boundaries Within)
Portions of Cooper County, Missouri) **File No.: EO-2022-0190**

**STAFF’S RESPONSE TO CO-MO’S MOTION FOR PROTECTIVE ORDER AND
MOTION FOR EXPEDITED TREATMENT**

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”), by and through undersigned counsel, and makes the following response to Co-Mo’s Reply to Ameren Missouri’s Response to Co-Mo’s Motion for Protective Order:

1. Co-Mo Cooperative (“Co-Mo”) filed a motion for protective order on February 16, 2022.¹ On February 25, Union Electric Company d/b/a Ameren Missouri (“Ameren Missouri”) filed its response to Co-Mo’s motion for protective order. On March 7, Co-Mo filed its reply to Ameren Missouri’s response to its motion for protective order. On March 8, the Commission issued an order setting March 11 as the deadline to respond to Co-Mo’s reply.

2. It is Staff’s policy to look for possible solutions to problems and not just for (speculatively) possible problems in solutions.

3. The Staff does not oppose Co-Mo’s Motion for Protective Order so long as the Commission issues the order expressly without prejudice to the Commission or any party’s seeking timely relief therefrom for good cause shown, as provided in Commission Rule 20 CSR 4240-20.135(11).

¹ All date references shall be to 2022 unless otherwise indicated.

4. In addition, Staff advises the Commission that contrary to the provisions of Commission Rule 20 CSR 4240-20.135(4) and (10), Co-Mo has not provided to the Commission a “Highly Confidential” version of its **Appendix H**, but instead has filed an empty document with the statement “Schedule JS-01 is Highly Confidential In Its Entirety,”² and stated that Co-Mo “will file after the Commission issues its Protective Order.” Commission Rule 20 CSR 4240-2.135(4)(A) provides in relevant part that, “[w]hile such a motion [for a protective order] is pending, *the disclosing party requesting greater protection will be afforded the protection sought.*” (emphasis added). 20 CSR 4240-2.135(4)(B) further provides that, “[a]ny document that contains such information shall bear the designation ‘Highly Confidential,’ rather than ‘Confidential,’ but shall otherwise follow the formatting delineated in section (10) of this rule.”

5. In the interest of ensuring the Commission has the information it needs to rule on Co-Mo’s motion for protective order, and in the interest of ensuring the timely progress and resolution of this case, Staff notes that Co-Mo cites no justification, under Commission Rule or otherwise, for withholding its **Appendix H** from the Commission. Moreover, Co-Mo’s reply states that it proposes to release highly confidential material in this case only to legal counsel and outside experts, but it is Staff’s understanding that Co-Mo has not provided a highly confidential copy of its **Appendix H** to legal counsel for all parties in this case.³

6. Consequently, Staff recommends, consistent with 20 CSR 4240-2.135, that prior to ruling on Co-Mo’s motion for protective order, the Commission issue an interim order: 1) requiring Co-Mo to file a highly confidential version of its **Appendix H** with the

² EFIS Document Number 27 (filed Mar. 7, 2022).

³ Co-Mo has provided a High Confidential version of **Appendix H** to Staff itself in this proceeding.

Commission; 2) requiring Co-Mo to provide a highly confidential version of its **Appendix H** to legal counsel for all parties in this case; and 3) requiring all parties to treat **Appendix H** as Highly Confidential and consistent with all protections sought by Co-Mo in its Motion for Protective Order, as required by 20 CSR 4240-2.135(4)(A).

7. Finally, Staff recommends the Commission not address Co-Mo's argument that Co-Mo is not subject to Missouri's Sunshine Law, at paragraph 3 of Co-Mo's Reply. First, the Commission likely does not have statutory authority to implement, enforce, or construe Missouri's Sunshine Law as it may or may not apply to Co-Mo. Second, any Sunshine Law analysis is largely irrelevant, with the sole exception that if Co-Mo were required to produce, pursuant to a Sunshine Law request, any information otherwise marked as "highly confidential," then the Commission or any party could raise that argument in the future in order to challenge a "highly confidential" designation.

WHEREFORE, Staff respectfully prays that the Commission issue such orders with respect to Co-Mo's Motion for Protective Order as are without prejudice as described in the premises; to issue an order in the interim immediately requiring Co-Mo to file a highly confidential version of its **Appendix H** to the Commission, requiring Co-Mo to provide a highly confidential version of its **Appendix H** to legal counsel for all parties in this case; and requiring all parties to treat **Appendix H** as Highly Confidential consistent with Co-'Mo's motion for protective order; and for such other and further relief as the Commission deems just and appropriate.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

The undersigned by his signature below certifies that the foregoing pleading was served upon all counsel of record on this 9th day of March, 2022, by electronic filing in EFIS, electronic mail, hand-delivery, or U.S. postage prepaid.

/s/ Paul T. Graham