

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 16th day of March, 2022.

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**

ORDER GRANTING MOTION FOR PROTECTIVE ORDER

Issue Date: March 16, 2022

Effective Date: March 16, 2022

On January 18, 2022, Co-Mo Electric Cooperative (Co-Mo) filed an application (Application) for approval of designated service boundaries within portions of Cooper County, Missouri, to allow Co-Mo to serve a new development to be annexed into the City of Boonville. On January 20, 2022, the Commission issued its order joining Union Electric Company d/b/a Ameren Missouri (Ameren Missouri) as a party. On February 16, 2022, Co-Mo filed its *Motion for Protective Order* seeking an order protecting a feasibility study that contains certain financial and business information it is required to file with its Application. On February 25, Ameren Missouri filed its response to Co-Mo's motion for protective order. On March 7, 2022, Co-Mo filed its *Reply to Ameren Missouri's Response to Co-Mo's Motion for Protective Order*. On March 9, 2022, Staff filed *Staff's Response to Co-Mo's Motion for Protective Order and Motion for Expedited Treatment*. On March 10, Co-Mo filed its *Notice of Temporary Agreement of Parties Regarding COMO's Motion for Protective Order Relating to Schedule AB-07 to the Direct Testimony of Aaron Bradshaw*. That notice states that an interim agreement between the parties has been made to deliver highly confidential materials to outside counsel on the condition that it not be

shared with anyone, including in-house counsel for Ameren Missouri pending the Commission's ruling on Co-Mo's Motion for Protective Order. On March 11, Co-Mo filed its Notice that the subject information had been delivered and filed in the EFIS system. On March 11, 2022, Ameren Missouri filed its response to Co-Mo's motion for protective order.

In its *Motion for Protective Order*, Co-Mo explains that the information it seeks to protect contains private and confidential financial and business information, and therefore constitutes highly confidential information entitled to protection from disclosure under 20 CSR 4240-2.135. In its *Reply to Ameren Missouri's Response to Co-Mo's Motion for Protective Order*, Co-Mo further explains that Co-Mo and Ameren Missouri engage in competition beyond the scope of the present case. As a result, disclosure of the information contained in its feasibility study may place Co-Mo at a competitive disadvantage if disclosed beyond what is necessary for legal counsel to prepare pleadings and arguments in this case. As permitted by the rule, Co-Mo requests a protective order to increase the level of protection for that particularly sensitive information.

In its response, Ameren Missouri expresses concern that the protective order Co-Mo seeks may deprive Ameren Missouri of any meaningful ability to contest Co-Mo's perspective and evidence on the factors that must be considered by the Commission to render a final decision in this matter. It argues that the proposed protective order will deprive or impede it from providing evidence respecting essential factors necessary for proper representation.

The Commission agrees with Co-Mo. Allowing Ameren Missouri access to competitively sensitive information to be viewed by employees who might be in a position to use that information to the benefit of Ameren Missouri may be detrimental to the disclosing party. The signing of a confidentiality agreement will not permit even the most conscientious employee to “unsee” highly confidential information when later doing their job in competition with the disclosing party, and would not provide sufficient protection for highly confidential information.

The Commission will enter the protective order requested by Co-Mo, but Ameren Missouri will have a remedy if it believes Co-Mo has inappropriately designated information as highly confidential, or if it believes that specific employees should be allowed to view the highly confidential information. The order will allow Ameren Missouri, or any other party, to bring those concerns to the Commission for resolution.

THE COMMISSION ORDERS THAT:

1. Co-Mo’s Motion for Protective Order is granted.
2. The following Protective Order is established:
 - a. Materials and information divulged by Co-Mo, or other parties, shall be considered to be “Highly Confidential” if so designated at the time of disclosure.
 - b. With regard to entities and individuals other than the Staff of the Commission and the Office of the Public Counsel:
 - i. Disclosure of materials and information so designated shall be made only to outside attorneys and/or such outside consultants who have executed a Commission Non-Disclosure Agreement.

No Highly Confidential information shall be provided directly or indirectly to any party employee or other individual.

- ii. Persons afforded access to materials or information designated “Highly Confidential” shall neither use nor disclose such materials or information for purposes of business or competition or any other purpose other than in regard to the case referenced above and shall keep the materials and information secure and confidential and in accordance with the purposes and intent of this protective order.
- iii. All material and information designated as “Highly Confidential” in the possession of any entity or person, as well as any notes pertaining to such information, shall be returned to the designating party or destroyed upon conclusion of the referenced case.

c. If a party disagrees with the “Highly Confidential” designation of any information, or if a party believes that one or more of its employees should be allowed to view the highly confidential information, the party shall follow the informal discovery dispute resolution procedures set forth in Commission Rule 20 CSR 4240-2.090(8). If the party exhausts these dispute resolution procedures, the party may file a motion challenging the designation.

3. A nondisclosure form for use in accessing highly confidential information in this case is attached to this order as Exhibit A.

4. This order shall be effective when issued.



BY THE COMMISSION

A handwritten signature in black ink that reads "Morris L. Woodruff". The signature is written in a cursive, flowing style.

Morris Woodruff
Secretary

Silvey, Chm., Rupp, Coleman, Holsman, and
Kolkmeier CC., concur.

Keeling, Regulatory Law Judge

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

NONDISCLOSURE AGREEMENT

For Case No.: _____
(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.
_____ 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 on this _____ day of _____, 20_____.

Signature & Title

NONDISCLOSURE AGREEMENT

(To Access Highly Confidential Information)

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Employer

Party

Address

Telephone

E-Mail Address


STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 16th day of March, 2022.




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

March 16, 2022

File/Case No. EO-2022-0190

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Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,



Morris L. Woodruff
Secretary

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.