

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

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|-------------------------------------|---|-----------------------|
| City of Fulton, Hannibal Board of |) | |
| Public Works, Kirkwood Electric, |) | |
| City of Marceline and City of |) | |
| New Madrid, Complainants, |) | |
| |) | |
| v. |) | Case No. EC-2026-0156 |
| |) | |
| Union Electric Company d/b/a Ameren |) | |
| Missouri, |) | |
| |) | |
| Respondent. |) | |

COMPLAINANTS’ MOTION TO STAY DISCOVERY¹

Union Electric Company d/b/a Ameren Missouri (“Ameren”) has served Data Requests (“DRs”) on the City of Fulton, Hannibal Board of Public Works, Kirkwood Electric, City of Marceline and City of New Madrid (collectively “Complainants”) in violation of 20 CSR 4240-2.117(D), Missouri Rule of Civil Procedure 74.04 and Missouri case law. Specifically, Complainants’ *Motion for Determination on the Pleadings or, in the Alternative, Summary Determination, Statements of Undisputed Material Facts and Memorandum in Support* (“Determination Motion”) has been pending since March 12, 2026, and Ameren’s response in opposition is due April 12, 2026. But, on March 19th, Ameren served its First Set of Data Requests on each of the five (5) Complainants, and there is no dispute that none of Ameren’s

¹ Pursuant to 20 CSR 4240-2.090(8)(A), counsel for Complainants and Ameren conferred on March 24, 2026 to discuss the law and facts cited herein and attempt to resolve this dispute. That attempt failed. Subsequent to Complainants’ March 25th request for the 20 CSR 4240-2.090(8)(B) conference with the Regulatory Law Judge, the parties were granted permission to expeditiously file opposition and reply briefs on this dispute in advance of that conference which is expected to occur during the week of March 30, 2026.

DRs are even related to the Determination Motion, much less “necessary to permit [Ameren’s] response to the motion for summary determination.” 20 CSR 4240-2.117(1)(D).²

The Commission’s Rule prohibits Ameren from serving the DRs at issue at this time:

If Ameren had needed the DRs at issue to make its response in opposition to the Complainants’ pending Determination Motion, Ameren was required to show “good cause” and limit its discovery efforts to such “as is necessary to permit a response to the motion for summary determination.” 20 CSR 4240-2.117(D). However, Ameren has not claimed that the DRs at issue are at all “necessary to permit” its response in opposition to the Determination Motion. The parties’ discussions never addressed any of the “undisputed material facts” admitted by Ameren as set forth in the Determination Motion; rather, it seems Ameren hopes that its DRs will “reveal additional disputed facts.” Exhibit F.

The Missouri Rules of Civil Procedure and Missouri case law prohibit Ameren from serving the DRs at issue at this time:

Although Missouri’s Rule 74.04 regarding opposition to motions for summary judgment was amended in 2003, it has consistently required the party defending a motion for summary judgment to “show good cause” justifying “the additional discovery needed in order to respond to the motion for summary judgment.” *Acoma Dev. LLC v. Com. Tower Place*, 725 S.W.3d 610, 616 n. 5 (Mo. App. W.D. 2025). Indeed, “Rule 74.04(f) contemplates that the opponent to the

² Because the parties and the Regulatory Law Judge were not able to confer prior to March 29th when the Complainants’ objections to the DRs at issue would ordinarily be due pursuant to 20 CSR 4240-2.090(2)(D), Complainants this date served their objections, attach their objections hereto as Exhibits A – E, and expressly preserve, without waiver, all applicable objections and/or related rights.

motion for summary judgment must call the court’s attention to the uncompleted discovery and show by affidavit why it is material and important for the discovery to be completed.” *Id.* at 617; citing *Adams v. City of Manchester*, 242 S.W.3d 418, 427 (Mo. App. E.D. 2007); quoting *State ex rel. Conway v. Villa*, 847 S.W.2d 881, 886 (Mo. App. E.D. 1993). Moreover, “Rule 74.04(f) contemplates an affidavit that explains why uncompleted discovery is ‘material.’” *Acoma Dev. LLC*, 725 S.W.3d at 618; citing *Adams*, 242 S.W.3d at 427; quoting *State ex rel. Conway*, 847 S.W.2d at 886. The Determination Motion sets forth the “material” undisputed facts which, for purposes of summary determination, “depend on the claim or defense *upon which the motion stands...*” *Emma J. McFarlin and Rebecca Shepherd, Complainants v. Kansas City Power & Light Company, Respondents*, No. EC-2013-0024, 2013 Mo. PSC LEXIS 417 at *3 (April 25, 2013) (emphasis added).

Given the thirty-two (32) material facts *upon which the Determination Motion stands*, all of which are rendered undisputed by Ameren’s admissions and by operation of law, there is no good cause that Ameren could show – even at this late date – for the DRs at issue to be served at this time.

The Public Interest prohibits Ameren from serving the DRs at issue at this time:

The prudent discovery limitations within 20 CSR 4240-2.117(1)(D), Rule 74.04 and the case law cited herein prohibit a party defending a Determination Motion from engaging in frivolous and irrelevant discovery which harms the Public Interest by delaying resolution of certain issues or the entire case, and exacerbating the expenditure of time and resources already devoted to commencing litigation that could not be resolved through negotiation. Such “protracting” of litigation through delay and wasted time and resources is an affront to the public

interest and welfare. *R&S Home Builders, Inc. and Carol and Arvell Allman, Complainants v. KCP&L Greater Missouri Operations Company, Respondent*, No. EC-2014-0343, 2015 Mo. PSC LEXIS 239 at *30-31 (April 18, 2015); *Patricia Schuba and Dean Todd, Complainants v. Union Electric Company d/b/a Ameren Missouri, Respondent*, No. EC-2014-0342, 2015 Mo. PSC LEXIS 238 at *22 (April 18, 2015). No doubt with the Public Interest in mind, Missouri Rule of Civil Procedure 74.04(g) addresses a party's effort to delay resolution of a summary judgment motion through "bad faith or solely for the purpose of delay" by authorizing a finding of "contempt" and the award of the moving party's "reasonable expenses ... including reasonable attorney's fees."

Given that there is not yet a procedural scheduling order in this case, Ameren is under no deadline to now serve DRs that are irrelevant to resolution of the Determination Motion. Resolution of the Determination Motion will inform and benefit the Commission, the parties and the Public Interest of the issues – if any – that remain to be addressed by further discovery and/or proceedings before the Commission. Consequently, the Determination Motion should now be fully and expeditiously briefed and presented to the Commission for expeditious ruling.

WHEREFORE, the Complainants City of Fulton, Hannibal Board of Public Works, Kirkwood Electric, City of Marceline and City of New Madrid respectfully request the Commission to issue its order staying Ameren's DRs at issue herein until such time after the resolution of the Determination Motion and upon good cause shown by Ameren's affidavit, and for such other relief and remedy the Commission deems appropriate.

Respectfully submitted,

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the City of Marceline and the City of New
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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing “Complainants’ Motion to Stay Discovery” has been served within the EFIS system on all parties on the official service list for this matter on this 27th day of March 2026.

/s/ Peggy A. Whipple
Peggy A. Whipple