

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

In the Matter of Union Electric Company)	
d/b/a Ameren Missouri's Permission and)	
Approval and a Certificate of Public)	
Convenience and Necessity Authorizing it to)	File No. EA-2014-0136
Construct, Install, Own, Operate, Maintain and)	
Otherwise Control and Manage Solar)	
Generation Facilities in O'Fallon, Missouri)	

**MOTION TO COMPEL AND
MOTION FOR EXPEDITED TREATMENT**

Under authority of, and in accordance with, 4 CSR 240-2.080 and 4 CSR 240-2.090, and for good cause shown, Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri" or "the Company"), through its undersigned attorneys, hereby moves the Missouri Public Service Commission ("Commission") for an order compelling Earth Island Institute d/b/a Renew Missouri ("Renew Missouri") to fully and completely respond to Ameren Missouri data request DR-009, which the Company served on Renew Missouri on March 27, 2014. In addition, because obtaining the information sought in the data requests at issue in this motion is crucial to Ameren Missouri being able to prepare for and participate in a hearing scheduled for Friday, April 4, 2014, the Company further moves for expedited consideration of its motion to compel.

In support of its motions, Ameren Missouri states:

1. Ameren Missouri DR-009 asks Renew Missouri to "provide any and all written communications, including but not limited to e-mails, letters received from officers, members of the governing body and/or members of MOSEIA regarding Ameren Missouri's Solar Certificate Application."

2. In its March 31, 2014, response, a copy of which is attached to this motion as Exhibit A, Renew Missouri objected to the Company's data request on grounds that (i) Ameren Missouri failed to establish the relevance of the requested information, and (ii) DR-009 requests information regarding

communications with individuals who is not a party to the current case. Neither of the grounds Renew Missouri relies on for its objection is valid.

3. The Commission rule governing discovery, 4 CSR 240-2.090, states in subsection (1) that “[d]iscovery may be obtained by the same means and under the same conditions as in civil actions in the circuit court.” Rule 56.01(b)(1), MRCP, which governs the general scope of discovery in civil cases states, in relevant part:

Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including . . . documents or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

4. The applicable standard for determining whether or not Renew Missouri should be compelled to respond to Ameren Missouri DR-009 is not, as Renew Missouri asserts in its objection, whether the information is itself relevant or whether the person or persons from whom information is sought are parties to the proceeding. Rule 56.01(b)(1) clearly states that as long as the information requested is “reasonably calculated to lead to the discovery of admissible evidence” and relates to a claim or defense of any party, the request is proper and the information must be produced.

5. Through DR-009, Ameren Missouri seeks to determine what communications Renew Missouri has had with MOSEIA – the Missouri Solar Energy Association – regarding the current case. According to its website, MOSEIA is a solar industry trade association that “represents solar industry stakeholders supporting policy issues focused on solar job creation and sustainable economic growth in Missouri.” Because MOSEIA is a leader in Missouri’s solar energy industry and its mission is to promote the growth of solar energy in this state, Ameren Missouri wants to determine if MOSEIA has expressed any views regarding Renew Missouri’s challenge to the Company’s application in this case. If communications exist expressing MOSEIA’s position on either Ameren Missouri’s application or Renew Missouri’s challenge, that information may itself be relevant. Alternatively, that information may lead to the discovery of relevant information because the Company may be able to use communications from

MOSEIA to cross examine Renew Missouri's witness. Under either scenario, the information Ameren Missouri seeks is discoverable under applicable principles of law.

6. Renew Missouri's alternate ground for its objections – that information requested from individuals who are not parties to the case cannot be relevant – is completely without merit. It is axiomatic that non-parties have and can provide information that is itself relevant or that will lead to the discovery of such information. As explained in the preceding paragraph, the communications Ameren Missouri seeks in DR-009 could disclose whether MOSEIA supports or opposes the positions Renew Missouri has taken in this case. Such information is unquestionably relevant – if for no other purpose than impeachment of Renew Missouri's witness – and the fact that MOSEIA is not a party does not affect the potential relevance of that information in any way.

7. The evidentiary hearing in this case is scheduled for Friday, April 4, 2014, and the interval between the filing date of this motion and the hearing is extremely short. Moreover, because the discovery conference, which the Commission's rules require as prerequisite to a motion to compel, was completed just a few hours before these motions are being filed, the need to expedite the consideration of Ameren Missouri's motion to compel was not caused by the Company's neglect or by its failure to timely press its claim for the discovery response to which it is entitled. Good cause therefore exists for the Commission to expedite its consideration and decision of Ameren Missouri's motion to compel. Accordingly, the Company requests the Commission to (i) require Renew Missouri to respond to these motions no later than 12:00 p.m., CDT, on Wednesday, April 2, 2014, and (ii) render a decision on the motions no later than 5:00 p.m., that same date. If the Commission grants the Company's motions, the order should require Renew Missouri to fully respond to Ameren Missouri DR-009 no later than 12:00 p.m., CDT, on Thursday, April 3, 2014, and should caution Renew Missouri that failure to provide the required response could result in Renew Missouri being denied the right to present evidence at, and otherwise participate in, the April 4th evidentiary hearing.

WHEREFORE, for all the reasons stated above, Ameren Missouri asks the Commission to grant the Company's motion to compel and motion for expedited treatment; to issue an order requiring

Renew Missouri to provide full and complete responses to Ameren Missouri DR-009 in accordance with the schedule, and subject to the conditions, described in the preceding paragraph; and to further grant the Company such other relief as the Commission deems appropriate.

Respectfully submitted,

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**ATTORNEYS FOR
UNION ELECTRIC COMPANY, d/b/a
AMEREN MISSOURI**

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served via e-mail, on all parties of record on the 1st day of April, 2014.

/s/L. Russell Mitten

AMEREN MISSOURI DR-009

Data Request
From Union Electric Company d/b/a Ameren Missouri
Case No. EA-2014-0136

Requested By: Wendy Tatro
Date of Request: March 27, 2014

Please provide any and all written communications, including but not limited to e-mails or letters, received from officers, members of the governing body and/or members of MOSEIA regarding Ameren Missouri's Solar Certificate Application.

Response:

Renew Missouri objects to the above data request on the grounds that the requesting party has not met its burden of establishing the relevance of the requested information.

Missouri Supreme Court Rule 56.01(b) establishes the basic scope of discovery for Missouri courts, including proceedings before the Commission (see 4 CSR 240-2.090(1)). According to Rule 56.01(b)(1), "[p]arties may obtain discovery regarding any matter, not privileged, that is *relevant to the subject matter involved in the pending action.... The party seeking discovery has the burden of establishing relevance.*" (emphasis added).

The Company's above data request asks for information regarding contact or exchanges of correspondence or documents with individuals who are neither parties to this case nor employees or representative of any party to this case. The Company has not demonstrated why such communications or exchanges with non-parties would be relevant to any issue involved in Case No. EA-2014-0136.

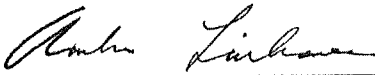
Accordingly, Renew Missouri objects to the above data requests on the grounds that the Company has not met its burden under Rule 56.01(b)(1) to establish relevance.

The person whose name appears below certifies, based on his or her knowledge, information, or belief, that the information and materials provided to Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri") in response to the above Data Request are accurate and complete and contain no material misrepresentations or omissions. The respondent further agrees to immediately inform Ameren Missouri if, during the pendency of Case No. EA-2014-0136, any information is discovered that would materially affect the accuracy or completeness of the information and materials provided in this response.

As used in this Data Request, the term "document(s)" includes publications (in any format), workpapers, letters, memoranda, e-mail messages, notes, reports, analyses, test results, studies or data recordings, transcriptions, and printed, typed or written materials of every kind. The person or entity identified in the "Requested From" block above includes all employees, contractors, agents, and others who are employed by or acting on behalf of the person, entity, organization, group or governmental unit associated with that person or entity. When used with respect to a natural person, the word "identify" means you are required to state his or her full name, address, current employer, and job title.

If the information necessary to completely respond to this request is voluminous, the respondent should (1) identify the relevant documents, materials, and information and their respective location, and (2) contact the requestor and make arrangements to have the documents and materials available for inspection at a mutually agreeable location. Where identification of voluminous documents is required, briefly describe each document and provide the following information, as applicable: name or title, author, recipient, addresses, date written or published, and the name and address of the person(s) having possession of the document.

If any information requested by this Data Request is subject to a claim of privilege, you should include with your response a privilege log that (1) generally identifies the responsive information, including all persons and entities that have access to or copies of that information, and (2) states the basis for the claim of privilege.

Response Provided By: 

Date: March 31, 2014