

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service  
Commission held at its office in  
Jefferson City on the 13<sup>th</sup> day of  
January, 2016.

In the Matter of the Application of Ameren Transmission )  
Company of Illinois for Other Relief or, in the Alternative, )  
a Certificate of Public Convenience and Necessity )  
Authorizing it to Construct, Install, Own, Operate, )  
Maintain and Otherwise Control and Manage a ) **File No. EA-2015-0146**  
345,000-volt Electric Transmission Line from Palmyra, )  
Missouri, to the Iowa Border and Associated Substation )  
Near Kirksville, Missouri. )

**ORDER REGARDING MOTION TO COMPEL**

Issue Date: January 13, 2016

Effective Date: January 13, 2016

**Background**

On January 7, 2016, Neighbors United Against Ameren’s Power Line (“Neighbors United”) filed a Motion to Compel Midcontinent Independent System Operator, Inc. (“MISO”) to respond to discovery requests.<sup>1</sup> In its motion, Neighbors United argues that the Commission should compel MISO to submit answers to Data Requests 2-8, 2-9 and 2-10.

MISO objects. MISO states that Neighbors United seeks information that is beyond the scope permitted by the Commission’s December 9, 2015 order. In particular, MISO states that Neighbors United wants discovery that is not directed toward new information contained in surrebuttal testimony only.

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<sup>1</sup> On the same day, Neighbors United also filed a motion to compel against ATXI. The Commission will rule on that motion in a subsequent order.

Litigants before the Commission may obtain discovery under the same conditions as in civil actions in the circuit court.<sup>2</sup> At circuit court, and, thus, at the Commission, parties may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action. 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.<sup>3</sup>

The Commission can make any order which justice requires to protect a party from annoyance, embarrassment, oppression, or undue burden or expense.<sup>4</sup> The method of discovery at issue is data requests, which are informal requests for documents or information.<sup>5</sup> Data requests are similar in nature to interrogatories and requests to produce documents. As such, the Commission can sanction a party failing to answer data requests by such means as: refusing to allow the disobedient party to support or oppose claims, prohibiting the disobedient party from introducing designated matters in evidence, striking pleadings, or rendering a judgment against the disobedient party.<sup>6</sup>

### **Discussion**

Having considered the arguments of both parties for each Data Request at issue, the Commission finds as follows:

#### **Data Request 2-8**

MO PSC witness Stahlman states in his rebuttal testimony (p. 4, lines 7-9): “Staff’s review of the MTEP14 MVP Triennial Review was unable to locate the cost-benefit ratio of specific projects; it appears that the study was performed on the entire portfolio.” (a) Does MISO

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<sup>2</sup> Commission Rule 4 CSR 240-2.090(1).

<sup>3</sup> Missouri Rule of Civil Procedure 56.01(b).

<sup>4</sup> Missouri Rule of Civil Procedure 56.01(c).

<sup>5</sup> Commission Rule 4 CSR 240-2.090(2)(A).

<sup>6</sup> Missouri Rule of Civil Procedure 61.01(b), (d).

agree that the cost-benefit ratios presented in the MTEP11 MVP study and the MTEP14 MVP Triennial Review, including those for Missouri, are based on the entire MVP portfolio and do not represent the cost-benefit ratio of specific projects like the Mark Twain line? Please explain. If no, please state so.”

#### **Data Request 2-9**

Please explain whether MISO agrees that no cost-benefit ratio analysis was done by MISO as part of the MVP process that evaluates the cost-benefit ratio of the MVP portfolio with and without the Mark Twain line? If MISO disagrees, please state so.

#### **Data Request 2-10**

“Please explain: (a) what Missouri projects are included in the Missouri benefit to cost ratios of 2.0 to 2.9 in the MTEP 2011 and 2.3 to 3.3 in the Triennial Review; and (b) how both Missouri cost ratios were calculated and include any supporting documentation.”

All of these DRs relate to information that is not new information contained in surrebuttal testimony. The benefit/cost ratios referenced in the DRs were all referenced in testimony filed by an ATXI witness on May 29, 2015.<sup>7</sup>

Furthermore, the Commission notes that Neighbors United did not alert MISO of its intent to file a motion to compel until January 7, 2016, the last day such motions could be filed.<sup>8</sup> MISO objected to the DRs on December 28, 2015. Neighbors United waited for ten days<sup>9</sup> and then, on the last day it could file a motion to compel, finally contacted MISO. Such a delay arguably violates the spirit, if not the letter, of Commission Rule 4 CSR 240-2.090(A). That rule requires counsel for the moving party to confer or attempt to confer in good faith with opposing counsel before filing a motion.

For those reasons, the Commission will deny the motion to compel.

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<sup>7</sup> Direct Testimony of Dennis D. Kramer, pp. 5ff.

<sup>8</sup> Order Regarding Motion for Reconsideration (December 9, 2015).

<sup>9</sup> From December 28, 2015 to January 7, 2016.

**THE COMMISSION ORDERS THAT:**

1. The Motion to Compel filed by Neighbors United Against Ameren's Power Line against Midcontinent Independent System Operator, Inc., is denied.
2. This order shall be effective on January 13, 2016.

**BY THE COMMISSION**



A handwritten signature in cursive script that reads "Morris L. Woodruff".

Morris L. Woodruff  
Secretary

Hall, Chm., Stoll, Kenney,  
Rupp, and Coleman, CC., concur.

Pridgin, Deputy Chief Regulatory Law Judge