

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

Central Illinois Light Company)	
d/b/a AmerenCILCO)	
)	
Proposal to implement a competitive)	Docket No. 05-0160
Procurement process by establishing Rider)	
BGS, Rider BGS-L, Rider RTP, Rider)	
RTP-L, Rider D, and Rider MV)	
)	
Central Illinois Public Service Company)	
d/b/a AmerenCIPS)	
)	
Proposal to implement a competitive)	Docket No. 05-0161
Procurement process by establishing Rider)	
BGS, Rider BGS-L, Rider RTP, Rider)	
RTP-L, Rider D and Rider MV)	
)	
Illinois Power Company d/b/a AmerenIP)	
d/b/a AmerenIP)	
)	
Proposal to implement a competitive)	
Procurement process by establishing)	
Rider CPP, Rider PPO-MVM,)	Docket No. 05-0162
Rider TS-CPP, and and revising Rider)	
PPO-MI)	

**JOINT RESPONSE OF THE GOVERNMENT, CONSUMER AND
ENVIRONMENTAL PARTIES TO THE AMEREN COMPANIES’
MOTION FOR ENTRY OF PROTECTIVE ORDER**

Now come the People of the State of Illinois, by and through the Office of the Illinois Attorney General, Lisa Madigan (“the People”), the Citizens Utility Board, by and through its attorneys, and the Environmental Law and Policy Center, by and through its attorneys, (collectively, the “Government, Consumer and Environmental Parties or “GCE Parties”) and file this joint response to the Ameren Companies’ “Motion for Entry of a Protective Order” (“Motion”).

The GCE Parties are in general agreement with the Proposed Protective Order submitted by the Ameren Companies. As a matter of clarification, however, we recommend that the following changes be made to the company's "Order Regarding Protection of Confidential and Confidential & Proprietary Information."

1. Introductory paragraph:

The Public Utilities Act presumes that hearings are open to the public (220 ILCS 5/10-101) and that documents filed with the Commission are open for public inspection (220 ILCS 5/5-109). The Commission's grant of any Protective Order should take this presumption into account. Restrictions on the dissemination of information should be as limited as possible, considering the interests of the public in an open proceeding in addition to the interests of private parties in the protection of sensitive information.

Accordingly the first paragraph should be edited as follows:

To protect against the unregulated use of such information, to ensure an open hearing as provided for by the Illinois Public Utilities Act, and to facilitate disclosure in this case, it is hereby ordered, pursuant to Section 220 ILCS 5/4-404, 5-108, 5-109, 10-101 and Section 200.430 of Title 83 of the Illinois Administrative Code, 83 Ill. Adm. §200.430.

2. Paragraph 1:

The Protective Order should clearly provide that the burden of proof to justify confidentiality designations lies on the Producing Party. The good faith designation described in the first sentence of paragraph 1 must be made by the Producing Party prior to the production of the document, so that challenges can be dealt with efficiently.

The GCE Parties propose that two clarifying sentences be added to the end of paragraph 1:

Parties retain the right to challenge a Producing Party's Confidential or Confidential and Proprietary designation at any time during the proceeding. At all times, the burden of

proof lies with the Producing Party, who must provide the factual and legal basis for such designation immediately upon challenge by any party, any representative of the Commission Staff, the Administrative Law Judge or a Commissioner, pursuant to the terms of this Order and Commission rules.

3. Paragraph 3:

The GCE Parties recognize that the definitions provided in the Protective Order are to be utilized in this proceeding pursuant to the Commission's authority to grant Protective Orders. For purposes of appeal, these definitions may or may not comport with statutory or judicial precedents. In recognition of this fact, the GCE Parties recommend that the following language be added to the end of paragraph 3:

For purposes of the hearings and any appeals, the definitions of "confidential" and "confidential and proprietary" shall be limited to the definitions, standards and protection provided by applicable law.

4. Paragraph 8:

Confidential designations should not be applied in an arbitrary and indiscriminate manner. Large compilations of material produced on CD-ROMs, disks, or other media which, in the aggregate are not designated "confidential" or "confidential and proprietary" but which contain specific information which has been designated "confidential" or "confidential and proprietary" should not have the designation applied to their entire contents. Such designations should be sufficiently specific to identify the designated material without applying the designation to non-confidential or non-proprietary information. Accordingly, the GCE Parties recommend the following change in subparagraph (b):

- (b) the pages containing Confidential information shall be clearly marked and the cover of the testimony or other documents shall indicate that Confidential information is contained within the document inside. In the case of electronic data or documents, such designation shall be made by

indicating that labeling the entire CD-Rom, disk or other media containing electronic data contains confidential information.

5. Paragraph 13:

The burden of proof to justify confidential designations always lies with the party seeking the protection of such designations, otherwise identified in the proposed Protective Order as “the Producing Party.” It is the Producing Party’s burden to seek a determination from the Commission on the propriety of what is otherwise a unilateral designation. In order to reflect that burden, the GCE Parties propose the following modification to the challenge process described in the Commonwealth Edison’s proposed Protective Order.

Paragraph 13 should be edited as follows:

13. If a party does not agree with the Producing Party’s designation of documents and information as “Confidential” or “Confidential & Proprietary”, the party (the “Challenging Party”) shall give the Producing Party reasonable written notice, by e-mail or by U.S. Mail, of the objection. If the Producing Party continues to believe that the Confidential Information designation is appropriate, it shall so inform the Challenging Party within five (5) business days of receipt of the Challenging Party’s objection and shall provide in writing the legal and factual basis for such designation. ~~At such time, the Challenging Party should raise the matter with the Administrative Law Judge in the form of a motion or other appropriate pleading. If the Challenging Party continues to object, the Challenging Party shall communicate the objection, in writing, to the Producing Party. To facilitate a prompt decision by the Administrative Law Judge, the Producing Party, within five (5) business days of receipt of this written objection, must notify the Administrative Law Judge of the Challenging Party’s specific objection and provide a legal and factual basis for the Producing Party’s designation of the material as Confidential or Confidential & Proprietary. The Producing Party’s filing shall include, for each document for which confidential or Confidential & Proprietary treatment is sought, an affidavit setting forth specific legal and factual bases for the requested treatment for each document, as well as any relevant supporting evidence. The Challenging Party may, within five (5) business days, submit a response to the Producing Party’s filing. The Administrative Law Judge will render a decision within ten (10) days. Any document marked “Confidential” or “Confidential & Proprietary” shall be treated as such by all parties during the pendency of any challenge to such designation until the ALJ issues a ruling altering such designation. In response to a motion or other appropriate pleading challenging the confidentiality designation of the Producing Party,~~ ¶The Producing Party shall bear the burden to support its designation.

Conclusion

WHEREFORE, the People of the State of Illinois, the Citizens Utility Board and the Environmental Law and Policy Center respectfully request that should the Commission grant the Ameren Companies' Motion for a Protective Order, it also adopt those modifications as set forth above.

Respectfully submitted,

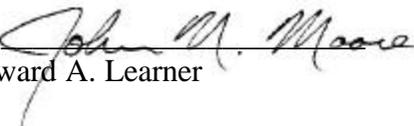
**The People of the State of Illinois, by and
through LISA MADIGAN,
Illinois Attorney General**

By: _____/s/_____

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