

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

In the Matter of the Eighth Prudence Review of Costs)
Subject to the Commission-Approved Fuel Adjustment) Case No. EO-2020-0059
Clause of The Empire District Electric Company)

MOTION FOR PROTECTIVE ORDER

COMES NOW The Empire District Electric Company, a Liberty Utilities company (“Liberty-Empire”), and for its Motion for Protective Order, respectfully states as follows to the Missouri Public Service Commission (“Commission”):

1. On September 4, 2019, the Staff of the Commission (“Staff”) filed its Notice of Start of Eighth Fuel Adjustment Clause Prudence Review, opening this docket. On September 11, 2019, the Commission issued its *Order Directing Notice, Acknowledging Automatic Parties, and Establishing Deadlines for Intervention and Requesting a Hearing* (the “Order”).

2. Certain materials produced in the course of discovery or otherwise in this matter will be designated as Confidential in accordance with Commission Rule 20 CSR 4240-2.135(2)(A). There is also a need for certain materials produced in the course of discovery or otherwise in this matter to be designated as Highly Confidential in accordance with Commission Rule 20 CSR 4240-2.135(4).

3. Missouri Supreme Court Rule 56.01(c) provides that protective orders may be issued “to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense including . . . that a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way.” *See also* In the Matter of the Application of Grain Belt Express Clean Line LLC, Commission File No. EA-2014-0207, 2014 Mo.PSC Lexis 858, Opinion issued September 24, 2014.

4. Due to the nature of certain material regarding commodity prices, competitive strategies, and planned purchases, the “confidential” designation under Commission Rule 2.135 may not provide adequate protection. To prevent harm to Liberty-Empire and prevent the creation of a competitive advantage over Liberty-Empire and non-party competitors, Liberty-Empire requests a protective order as follows:

a. Certain materials and information divulged by Liberty-Empire shall be considered to be “Highly Confidential” if so designated at the time of disclosure. Any such designation shall be made in good faith.

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 or information so designated shall be made only to attorneys and/or to such outside experts/consultants who have executed a Commission Nondisclosure Agreement. No Highly Confidential information shall be provided directly or indirectly to any non-attorney other than to a designated outside expert/consultant who has executed a Commission Nondisclosure Agreement and filed it herein.

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 the 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 Liberty-Empire or destroyed upon the conclusion of the referenced case.

c. If a party disagrees with the “Highly Confidential” designation of any 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.

5. Pursuant to the *Order*, intervention applications were due no later than September 26, 2019. No intervention applications were filed herein, and, as such, Liberty-Empire, Staff,

and the Office of Public Counsel (“OPC”) are the only parties to this proceeding.

6. Since Staff and OPC are subject to RSMo. 386.480, a protective order is not necessary for the protection of Highly Confidential information as to the current parties to this case. It is possible, however, that a late intervention request may be granted. Also, the ability to designate information as Highly Confidential in this case, pursuant to a protective order, will ensure that the information is not improperly used or divulged in another proceeding.

WHEREFORE, Liberty-Empire requests an order of the Commission, pursuant to Commission Rule 20 CSR 4240-2.135(4), granting a protective order as set forth above. Liberty-Empire requests such other and further relief as is just and proper under the circumstances.

Respectfully submitted,

/s/ Diana C. Carter

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CERTIFICATE OF SERVICE

I hereby certify that the above document was filed in EFIS on this 15th day of October, 2019, with notice of the same sent to all counsel of record.

/s/ Diana C. Carter