

In the Matter of the 2021 Annual Update of)
The Empire District Electric Company d/b/a Liberty) Case No. EO-2021-_____
Pursuant to Commission Rule 20 CSR 4240-22.080(3))

COMES NOW The Empire District Electric Company (“Liberty”), by and through counsel, and for its Pleading to Establish File Number and Motion for Protective Order, respectfully states as follows to the Missouri Public Service Commission (“Commission”):

2. Liberty's documents of incorporation from Kansas and certificate of authority from Missouri were previously filed with the Commission in Case No. EF-94-39. These documents are incorporated by reference and made a part hereof for all purposes. Liberty has no overdue Commission annual reports or assessment fees. There is no pending action or final unsatisfied judgment or decision against the Company from any state or federal agency or court which involves customer service or rates, which action, judgment or decision has occurred within three years of the date of this filing.

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utility shall host an annual update workshop with the stakeholder group” and “prepare an annual update report with both a public version and a highly-confidential version to document the information presented at the annual update workshop and shall file the annual update reports with the commission no less than twenty (20) days prior to the annual update workshop.”

4. Pursuant to Commission Rule 20 CSR 4240-22.080(3), Liberty plans to submit its 2021 Integrated Resource Plan (“IRP”) Annual Update Report in March of 2021 and hold its IRP annual update workshop in April of 2021. The specific date for the workshop has not yet been determined. The purpose of the IRP Annual Update is to ensure that members of the Missouri stakeholder group have the opportunity to provide input and stay informed regarding the changing conditions since the last triennial IRP filed in June of 2019 (Case No. EO-2019-0049) and the last IRP Annual Update filed in March of 2020 (Case No. EO-2020-0284).

5. Portions of the IRP filing, as well as other materials produced in the course of discovery or otherwise in this matter, may be designated as Confidential in accordance with Commission Rule 20 CSR 4240-2.135(2)(A). There is also a need for portions of the IRP filing, and possibly other 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).

6. This request for a protective order is being submitted at this time, prior to the filing of the IRP, so that the filing may be made with the “Highly Confidential” designation in EFIS.

7. 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.

8. Due to the nature of certain material regarding commodity prices and planned purchases, the “confidential” designation under Commission Rule 4 CSR 240-2.135 may not provide adequate protection. To prevent harm to Liberty and prevent the creation of a competitive advantage for those participating in this IRP process over Liberty and non-participating competitors, Liberty requests a protective order as follows:

a. Certain materials and information divulged by Liberty shall be considered to be “Highly Confidential” if so designated at the time of disclosure.

b. With regard to entities and individuals other than the Staff of the Commission, the Office of the Public Counsel, and the Missouri Division of Energy:

i. Disclosure of materials or information so designated shall be made only to attorneys and/or to such outside consultants who have executed a Commission Nondisclosure Agreement. No Highly Confidential information shall be provided directly or indirectly to any non-attorney individual or employee.

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 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.

WHEREFORE, Liberty requests an order of the Commission, pursuant to Commission Rule 20 CSR 4240-2.135(4), granting a protective order regarding Empire’s IRP submissions.

Liberty 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 March, 2021, with notification of the same being sent to all counsel of record, and further certify that the above document was sent by electronic transmission to the Staff of the Commission and the Office of the Public Counsel.

/s/ Diana C. Carter