

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

In the Matter of the Request of The Empire)
District Electric Company d/b/a Liberty for)
Authority to File Tariffs Increasing) Case No. ER-2021-0312
Rates for Electric Service Provided to)
Customers in its Missouri Service Area)

MOTION FOR PROTECTIVE ORDER

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

1. Pursuant to the Notice of Intended Case Filing submitted March 26, 2021, an Empire general rate case filing is forthcoming. Issues the Commission will be asked to consider and decide in the general rate case are those that normally arise in general rate case proceedings for an electric utility with a fuel adjustment clause.

2. Portions of the general rate case filing will be designated as Confidential in accordance with Commission Rule 20 CSR 4240-2.135(2)(A). Commission Rule 2.135(6) provides that “Confidential” information shall be disclosed to attorneys of record for a party, to employees of a party who are working as subject matter experts for the party’s counsel, to employees of a party who intend to file testimony in the case, and to designated outside experts of a party.

3. There is also a need for portions of the general rate case 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).

4. 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.”

5. Due to the nature of certain material regarding commodity prices, fuel procurement, generation costs, and planned purchases, as well as competitively sensitive and confidential information regarding wholesale electric market participants, the “confidential” designation under Commission Rule 20 CSR 4240-2.135 may not provide adequate protection. To prevent harm to Empire and prevent the creation of a competitive advantage for parties to this proceeding over Empire and non-party competitors, Empire requests a protective order as follows:

a. Materials and information divulged by Empire or other parties 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 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.

WHEREFORE, Empire requests an order of the Commission, pursuant to Commission Rule 20 CSR 4240-2.135(4), granting a protective order regarding Empire’s general rate case

proceeding. Empire requests such other and further relief as is just and proper under the circumstances.

Respectfully submitted,

THE EMPIRE DISTRICT ELECTRIC COMPANY

/s/ Diana C. Carter

Diana C. Carter #50527
Director of Legal Services – Central Region
428 E. Capitol Ave., Suite 303
Jefferson City, Missouri 65101
Joplin Office Phone: (417) 626-5976
Cell Phone: (573) 289-1961
E-Mail: Diana.Carter@LibertyUtilities.com

Sarah B. Knowlton #71361
General Counsel, Liberty Utilities
116 North Main Street
Concord, New Hampshire 03301
Telephone: (603) 724-2123
E-Mail: sarah.knowlton@libertyutilities.com

Dean L. Cooper #36592
BRYDON, SWEARENGEN & ENGLAND, P.C.
312 East Capitol Avenue
P. O. Box 456
Jefferson City, Missouri 65102
Telephone: (573) 635-7166
Email: dcooper@brydonlaw.com

CERTIFICATE OF SERVICE

I hereby certify that the above document was filed in EFIS on this 24th day of May, 2021, and sent by electronic transmission to the Staff of the Commission and the Office of the Public Counsel.

/s/ Diana C. Carter