

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

In the Matter of the Application of The)
Empire District Electric Company for a)
Certificate of Convenience and Necessity) File No. EA-2019-0118
Related to Wind Generation Facilities in)
Kansas.)

MOTION FOR PROTECTIVE ORDER

COMES NOW The Empire District Electric Company (“Empire”) and, pursuant to Commission Rule 4 CSR 240-2.135(4), requests the issuance of a protective order herein prior to the grant of any applications to intervene. In this regard, Empire respectfully states as follows to the Missouri Public Service Commission (“Commission”):

1. 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.

2. Competitively sensitive information and confidential information regarding wholesale electric market participants will be filed and/or produced in the course of discovery or otherwise in this matter. Due to the nature of this information, the “Confidential” designation under Rule 2.135 will not provide adequate protection, as the “Confidential” designation would require Empire to produce this competitively-sensitive and confidential information to employees of a party who are working as subject-matter experts for the party’s counsel and to employees of a party who intend to file testimony in the case. Empire is amenable to producing this information to each party’s counsel and outside consultants who execute a Commission nondisclosure agreement on a “Highly Confidential” basis, but not to employees of parties other

than Commission Staff (“Staff”), the Office of the Public Counsel (“OPC”), and the Missouri Division of Energy (“DE”).

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. As a market participant in the Southwest Power Pool (“SPP”) Integrated Marketplace, Empire takes its obligations seriously to protect against the improper disclosure of competitively sensitive market information, in order to protect the integrity of the wholesale marketplace and to meet its obligations under SPP’s Market Protocols.

4. To prevent harm to Empire and prevent the creation of a competitive advantage for parties to this proceeding over non-party competitors, Empire requests a protective order as follows:

a. Non-public information about wholesale electric markets and non-public information relating to Empire’s Request for Proposal issued as part of its Customer Savings Plan, including responses and related information, shall be designated “Highly Confidential” at the time of its disclosure.

b. Disclosure of materials or information designated “Highly Confidential” shall be made only to Staff, OPC, DE, counsel of record for each other party, and to outside

consultants of each other party who have executed a Commission nondisclosure agreement. No “Highly Confidential” information shall be provided directly or indirectly to any employee of a party (other than Staff, OPC, and DE).

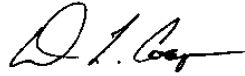
c. Persons afforded access to materials or information designated “Highly Confidential” shall neither use nor disclose such materials or information for purposes of business or competition or any other purpose other than in regard to the case referenced above, and shall keep the materials and information secure and confidential and in accordance with the purposes and intent of the protective order.

d. All material and information designated as “Highly Confidential,” as well as any notes pertaining to such information, shall be returned to Empire or destroyed upon the conclusion of the referenced case, with certification of same to Empire.

e. If any party disagrees with the “Highly Confidential” designation of any information, that party shall follow the informal discovery dispute resolution procedures set forth in Commission Rule 4 CSR 240-2.090(8). If these dispute resolution procedures are exhausted without resolution, the party may file a motion challenging the designation.

5. Empire requests the grant of this motion and the issuance of a protective order prior to the effective date of any orders granting intervention in this matter.

WHEREFORE, Empire, pursuant to Commission Rule 4 CSR 240-2.135(4), respectfully requests the issuance of a protective order herein. Empire requests such other and further relief as is just and proper under the circumstances.



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

**ATTORNEYS FOR THE EMPIRE DISTRICT
ELECTRIC COMPANY**

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was sent by electronic mail or by U.S. Mail, postage prepaid, on November 18, 2018, to the following:

Office of the General Counsel Governor Office Building staffcounsel@psc.mo.gov	Office of the Public Counsel Governor Office Building opc@ded.mo.gov
---	--

