

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

In the Matter of the Application of The)
Empire District Electric Company for) File No. EO-2018-0092
Approval of Its Customer Savings Plan.)

MOTION FOR PROTECTIVE ORDER
AND, IF NECESSARY, MOTION TO STAY INTERVENTION

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. In this regard, Empire respectfully states as follows to the Missouri Public Service Commission (“Commission”):

1. Dogwood Energy, LLC (“Dogwood”) moved to intervene in this proceeding and, pursuant to the *Order Granting Dogwood Energy, LLC’s Application to Intervene* and the *Notice of Correction*, both issued on November 29, 2017, Dogwood will be granted intervention effective December 9, 2017.

2. Empire requests the grant of this motion and the issuance of a protective order prior to December 9, 2017 (the effective date of Dogwood’s intervention). In the event a protective order cannot be granted prior to December 9, 2017, Empire requests a stay of the *Order Granting Dogwood Energy, LLC’s Application to Intervene* pending entry of a protective order.

3. Prior to the filing of this motion, counsel for Empire consulted with counsel for Dogwood and proposed a joint motion for protective order, but Empire and Dogwood have not been able to agree on the terms for the protective order.

4. Competitively sensitive information and confidential information regarding potential competitors of Dogwood’s in wholesale electric markets will be filed and/or produced

in the course of discovery or otherwise in this matter. Due to the nature of Dogwood's business, the "Confidential" designation under Commission Rule 4 CSR 240-2.135 will not provide adequate protection, as it would require Empire to produce this competitively-sensitive information and confidential information regarding Dogwood's competitors to both Dogwood's employees and its representatives (counsel and consultants). Empire is amenable to producing market information to Dogwood's counsel and its outside consultants who execute a Commission nondisclosure agreement on a "Highly Confidential" basis, but not to Dogwood's employees.

5. 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.

6. To prevent harm to Empire and prevent the creation of a competitive advantage for Dogwood 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 Dogwood’s attorneys, and to such outside consultants of Dogwood who have executed a Commission Nondisclosure Agreement. No “Highly Confidential” information shall be provided directly or indirectly to any Dogwood employee.

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” in the possession of Dogwood, 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 Dogwood disagrees with the “Highly Confidential” designation of any information, Dogwood shall follow the informal discovery dispute resolution procedures set forth in Commission Rule 4 CSR 240-2.090(8). If Dogwood exhausts these dispute resolution procedures, Dogwood may file a motion challenging the designation.

WHEREFORE, Empire, pursuant to Commission Rule 4 CSR 240-2.135(4), respectfully requests the issuance of a protective order herein and, if necessary, a stay of Dogwood’s intervention in this matter pending entry of a protective order. Empire requests such other and further relief as is just and proper under the circumstances.

/s/ Diana C. Carter
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CERTIFICATE OF SERVICE

I hereby certify that the above and foregoing document was filed in EFIS on this 4th day of December, 2017, with notice of the same being sent to all counsel of record.

/s/ Diana C. Carter