

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

In the Matter of the 2022 RES Compliance            )  
Report and 2023 RES Compliance Plan of The        )        Case No. \_\_\_\_\_  
Empire District Electric Company d/b/a Liberty    )

**MOTION FOR PROTECTIVE ORDER**

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

1. By April 15, 2023, Liberty will submit its 2022 Renewable Energy Standards (“RES”) Compliance Report and 2023-2025 RES Compliance Plan, pursuant to Commission Rule 20 CSR 4240-20.100(8).

2. Certain information in the RES Report and Plan and that may otherwise be produced 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 information in the RES Report and Plan and that may otherwise be produced 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 provide that trade secrets or other confidential research, development, or commercial information may 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 (September 24, 2014).

4. Due to the nature of certain material regarding renewable energy certificate (“REC”) prices and payment terms, the “confidential” designation under Commission Rule 20 CSR 4240-2.135 does not provide adequate protection. Specifically, certain material contained in and/or

attached to Liberty's RES Report and Plan is subject to contractual agreements providing for the material to not be disclosed except under certain limited circumstances, and Liberty is contractually obligated to treat this material as "highly confidential," as the material could provide an unjust competitive advantage to certain entities and individuals who decide to participate in Liberty's RES docket.

5. Given the foregoing, Liberty requests a protective order pursuant to Commission Rule 20 CSR 4240-2.135(4) and as detailed below:

a. Certain materials and information regarding REC prices and payment terms divulged by Liberty or others in this proceeding 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, disclosure of materials or information so designated shall be made only to attorneys of record and/or to such outside consultants who have executed and filed a standard Commission Nondisclosure Agreement.

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 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.

e. 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.

6. The ability to designate information as Highly Confidential in this case, pursuant to a protective order, will ensure that the information is not accidentally used or divulged in another proceeding without the proper Highly Confidential designation required by the contractual agreements referenced in paragraph 4 above.

WHEREFORE, Liberty 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 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 14<sup>th</sup> day of April, 2023, with a copy sent by electronic mail to the Staff of the Commission and the Office of the Public Counsel.

/s/ Diana C. Carter