

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

In the Matter of the Application of The            )  
Empire District Electric Company d/b/a        )  
Liberty to Obtain a Certificate of            )        Case No. EA-2023-0131  
Convenience and Necessity to Enhance        )  
System Resiliency                                )

**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. On February 14, 2023, Liberty filed its Application for a Certificate of Convenience and Necessity to Enhance System Resiliency. As identified by its 2022 Integrated Resource Plan and set forth in the Application, the Company proposes to replace Riverton Units 10 and 11 to enhance the resiliency of the Company’s electric system. This project may require a CCN pursuant to the definitions of “construction” and “asset” in Commission Rule 20 CSR 4240-20.045(1) and 20.045(2)(A).

2. Certain materials produced in the course of discovery or otherwise 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 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).

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 MoPSC Lexis 858, Opinion issued September 24, 2014.

4. Due to the nature of certain material regarding proprietary market information, commodity prices, competitive strategies, and planned purchases, as well as accredited capacity ratings for discrete units and forward resource adequacy positions, the “confidential” designation under Commission Rule 2.135 may not provide adequate protection. To prevent harm to Liberty and prevent the creation of a competitive advantage over Liberty and non-party 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. Any such designation shall be made in good faith.

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

i. Disclosure of materials or information so designated shall be made only to attorneys and/or to such outside experts/consultants who have executed a Commission Nondisclosure Agreement. No Highly Confidential information shall be provided directly or indirectly to any non-attorney other than to a designated outside expert/consultant who has executed a Commission Nondisclosure Agreement and filed it herein.

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 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 15<sup>th</sup> day of March, 2023, with notice of the same sent to all counsel of record.

/s/ Diana C. Carter