

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 20th of December, 2017.

William L. Gehrs, Jr.,)	
)	
Complainant)	
)	
vs.)	File No. EC-2018-0033
)	
The Empire District Electric Company)	
)	
Respondent.)	

ORDER GRANTING ENFORCEMENT OF DISCOVERY

Issue Date: December 20, 2017

Effective Date: December 20, 2017

William L. Gehrs, Jr., (“Mr. Gehrs”) filed a motion to enforce discovery (“motion”)¹ from The Empire District Electric Company (“Empire District”). Empire District filed a response² and Mr. Gehrs filed a reply.³ The Commission convened a conference at which the parties addressed the motion.⁴

A. Relevance

Empire District objects that the information sought is not relevant as required by law:

Parties may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action [. ⁵]

¹ Electronic Filing Information System (“EFIS”) No. 16 (November 13, 2017) *Correspondence Regarding Request for Clarification*.

² EFIS No. 20 (November 21, 2017) *Response to Discovery Motion*.

³ EFIS No. 24 (December 1, 2017) *Reply to the Empire District Electric Company's Response to Discovery Motion*.

⁴ On December 19, 2017. EFIS No. 19 (November 15, 2017) *Order Setting Conference*.

⁵ Missouri Supreme Court Rule 56.01(a)(1), emphasis added, as incorporated into this action by Commission regulation 4 CSR 240-2.090(1).

“Relevant” means tending to prove or disprove a claim or defense.⁶ At an evidentiary hearing, evidence that is not relevant is subject to objection and inadmissible.⁷ But admissibility, and therefore relevance, is not a condition of discovery:

It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence. [⁸]

Evidence admissible at an evidentiary hearing will show whether Empire District “has failed to uniformly assess multiple customer charge fees to multiunit apartment buildings in the Joplin Missouri area” because that is the violation charged in the complaint.⁹

The information sought includes the following.¹⁰

- The property address for any Joplin customer:
 - Owning a multi-unit property without separate meters, or
 - Who have refused access to determine whether their property is multi-unit; and
- Any communication with any Joplin customer owning a multi-unit property with a single meter.

That information is reasonably calculated to lead to the discovery of evidence admissible to show Empire District’s assessment of multi-unit property fees.

The Commission will overrule that objection.

⁶ *State v. Hill-McAfee*, 522 S.W.3d 343, 348 (Mo. App., E.D. 2017).

⁷ Section 536.070(8), RSMo 2016.

⁸ Missouri Supreme Court Rule 56.01(a)(1); 4 CSR 240-2.090(1).

⁹ Electronic Filing Information System (“EFIS”) No. 1 (July 31, 2017) *Complaint*, paragraph 7.

¹⁰ EFIS No. 24 (December 1, 2017) *Reply to the Empire District Electric Company's Response to Discovery Motion*, page 2, footnote 1.

B. Confidentiality

Empire District also objected that the information sought is subject to the Commission's regulation on confidential information.¹¹ At the conference, Empire District agreed that a certification of compliance with the confidentiality regulation¹² will satisfy that objection:

(7) Any employee of a party or outside expert retained by a party that wishes to review confidential information shall first certify in writing that such expert or employee of a party will comply with the requirements of this rule.

(A) The certification shall include the signatory's full name, permanent address, title or position, date signed, the case number of the case for which the signatory will view the information, and the identity of the party for whom the signatory is acting.

(B) The signed certificate shall be filed in the case.

(C) The party seeking disclosure of the confidential information shall provide a copy of the certificate to the disclosing party before disclosure is made.

Mr. Gehrs agreed to file such a certification. Therefore, the Commission will condition its ruling on the delivery of that certification.

C. Ruling

The Commission will grant the motion.

THE COMMISSION ORDERS THAT:

1. The motion to enforce discovery is granted as follows.

a. William L. Gehrs, Jr. shall deliver to The Empire District Electric Company, and file with the Commission, a certification of compliance as described in the body of this order.

¹¹ 4 CSR 240-2.135(7).

¹² 4 CSR 240-2.135.

b. Upon delivery of the certification of compliance, The Empire District Electric Company shall comply with the discovery as described in the body of this order.

2. This order shall be effective when issued.



BY THE COMMISSION

A handwritten signature in black ink that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

Hall, Chm., Stoll, Kenney, Rupp, and
Coleman, CC., concur.

Daniel Jordan, Senior Regulatory Law Judge

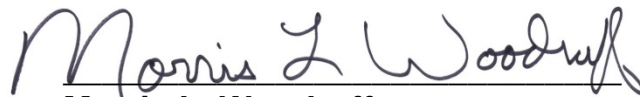
STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission,
at Jefferson City, Missouri, this 20th day of December 2017.




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

December 20, 2017

File/Case No. EC-2018-0033

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Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,



Morris L. Woodruff
Secretary

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.