

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 29th day of June, 2022.

In the Matter of the Application of Evergy)
Missouri West, Inc. d/b/a Evergy Missouri)
West for a Financing Order Authorizing the)
Financing of Extraordinary Storm Costs)
Through an Issuance of Securitized Utility)
Tariff Bonds)

File No. EF-2022-0155

ORDER ESTABLISHING PROTECTIVE ORDER

Issue Date: June 29, 2022

Effective Date: June 29, 2022

On June 6, 2022, Evergy Missouri West, Inc. d/b/a Evergy Missouri West (Evergy) filed a motion with the Commission asking that the Commission issue an order to protect certain sensitive information from unnecessary disclosure. Evergy states that there is a need for portions of the discovery in this case to be designated as highly confidential in accordance with Commission Rule 20 CSR 4240-2.135(4). Evergy's motion asked that highly confidential information related to Critical Energy Infrastructure Information (CEII) as defined at 18 C.F.R. §§ 388.113(a), (c) and 10 C.F.R §§1004.13(c)(4), and Bulk Electric System Cyber Security Information (BCSI) as implemented by the North American Electric Reliability Corporation be disclosed only to the Staff of the Commission (Staff) and the Office of the Public Council (OPC). On June 14, 2022, Evergy amended its motion for a protective order to allow for disclosure to other parties' counsel of record and outside consultants who sign a non-disclosure agreement.

Evergy states that based on its interactions with its federal regulators, any information designated as CEII or BCSI must be provided added protection above the

level of protection afforded to information designated as confidential or highly confidential under a typical protective order. In support of its position Evergy notes that Staff and OPC have requested access to a post-event report that will include the production of CEII and/or BCSI, such as Evergy's load shed plan, asset identification and locations, and other aspects of Evergy's operations that could be used to attack Evergy's system, disrupt system reliability, cause uncontrolled customer outages, and other additional harm. Evergy asks that information designated as highly confidential be available only to Staff, OPC, and counsel of record and outside consultants who have signed a non-disclosure agreement. Evergy proposes that information it designates as highly confidential be viewed only on its encrypted read-only system. Evergy's requested protective order also seeks to restrict parties from referencing or using CEII and BCSI information in testimony, pleadings, briefs, or at an evidentiary hearing in more than a cursory manner.

The Commission set a deadline of June 22, 2022, for any responses to Evergy's amended motion, and on June 22, 2022, OPC filed its *Response in Opposition to Amended Motion for Protective Order*. OPC's motion states that it does not oppose a protective order that does not restrict its ability to view and to reference any highly confidential information. In support of its motion, OPC states that Evergy's requested order does not explain how testimony and argument about CEII and BCSI would be presented to the Commission. OPC argues that the existing Commission rules concerning confidential information are sufficient to protect CEII and BCSI information. OPC relies on Commission Rule 20 CSR 4240-2.135(9), which states in part: "Any party may use confidential information in prefiled testimony, in a pleading, at hearing, or in a brief if the same level of confidentiality assigned by the disclosing party, or the commission, is

maintained.” Evergy has asserted no privilege nor cited any Federal law that would restrict or prohibit a party’s use of CEII and BCSI information in this proceeding.

On June 27, 2022, Evergy replied to OPC’s objections and provided further explanation of its concerns regarding the release of CEII and BCSI information.

The Commission is concerned with the potential dangers presented by the disclosure of CEII and BCSI information. Therefore, the Commission finds that there is a need to protect sensitive information and the request for a protective order is reasonable. However, the Commission finds the protective order requested by Evergy to be overly restrictive of the parties’ right to use and present information to the Commission. The Commission will not restrict parties’ use of CEII and BCSI information in pleadings, testimony, at hearings, or in briefs, (if designated highly confidential) but will require that authorized viewers of CEII and BCSI information view said information through Evergy’s encrypted document review system, or in-person, so that there are no direct physical or electronic copies of CEII or BCSI information. Therefore, the Commission will grant a protective order sufficient to protect CEII and BCSI information from disclosure, while not unduly limiting the appropriate use of that information.

THE COMMISSION ORDERS THAT:

1. Evergy’s motion for a protective order is granted with modifications.
2. Any CEII or BCSI produced in this case shall be made available only to the Commission, its Staff and OPC, and counsel of record and outside consultants for intervenors who sign a Non-Disclosure Agreement.
 - a. BCSI information is defined as information about the BES Cyber System that could be used to gain unauthorized access or pose a security threat

to the BES Cyber System. BES Cyber System Information does not include individual pieces of information that by themselves do not pose a threat or could not be used to allow unauthorized access to BES Cyber Systems, such as, but not limited to, device names, individual IP addresses without context, ESP names, or policy statements. Examples of BES Cyber System Information may include, but are not limited to, security procedures or security information about BES Cyber Systems, Physical Access Control Systems, and Electronic Access Control or Monitoring Systems that is not publicly available and could be used to allow unauthorized access or unauthorized distribution; collections of network addresses; and network topology of the BES Cyber System.

b. CEII is as defined at 18 C.F.R. §§ 388.113(a), (c) or 10 C.F.R. §§1004.13(c)(4).

3. A party may designate as CEII and BCSI any material that meets the above definitions.

4. Materials and information divulged by Evergy, or other parties, shall be considered "Highly Confidential" if so designated at the time of disclosure. If a party designates material as CEII or BCSI, it shall provide to the party requesting the material a summary of the contents of the document and an explanation of why the material qualifies as CEII or BCSI. If necessary, the party may designate the contents of the document as confidential.

5. When Staff, OPC or counsel of record for intervenors and their outside consultants view CEII and BCSI information in this docket, it will do so as view only

through Evergy's encrypted document review system, or in the alternative, reviewed at Evergy's Jefferson City office.

6. The contents of CEII and BCSI or any other form of information that copies or discloses such materials shall not be disclosed to anyone not allowed to receive that information under this order, and shall be used only in connection with this specific proceeding.

7. Except for Staff and OPC all persons authorized to access highly confidential information in this case shall complete the nondisclosure agreement attached to this order as Exhibit A.

8. Parties presenting testimony, pleadings, other evidence, briefs, or argument about highly confidential CEII and BCSI material shall do so in compliance with Commission Rule 20 CSR 4240-2.135(9).

9. 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

Silvey, Chm., Rupp, Coleman, Holsman, and
Kolkmeier CC., concur.

Clark, Senior Regulatory Law Judge

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

NONDISCLOSURE AGREEMENT
For Case No.: EF-2022-0155
(To Access Highly Confidential Information)

I, _____, have reviewed the Commission's Rule at 20 CSR 4240-2.135
on the _____ day of _____, 20_____.

I have requested review of the highly confidential information produced in Case No.
EF-2022-0155 on behalf of _____.

I hereby certify that:

- (a) Only counsel of record and outside experts retained by a party in this case may
review highly confidential information over Evergy's read-only encrypted document
review system;
- (b) I am an employee of _____ acting as an outside expert
for _____ [state name of intervenor] retained
to provide expert consultation or testimony in this docket;
and
- (c) I have read and agree to abide by the Commission's Rule at 20 CSR 4240-2.135 and
all terms of the Protective Order issued by the Commission in this docket.

Dated on this _____ day of _____, 20_____.

Signature & Title

NONDISCLOSURE AGREEMENT

(To Access Highly Confidential Information)

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Employer

Party

Address

Telephone

E-Mail Address


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 29th day of June, 2022.





Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

June 29, 2022

File/Case No. EF-2022-0155

**Missouri Public Service
Commission**

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

Sincerely,

A handwritten signature in black ink that reads "Morris L. Woodruff". The signature is written in a cursive style with a large, prominent "M" and "W".

**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.