

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

In the Matter of the Petition of The Empire )  
District Electric Company d/b/a Liberty to )  
Obtain a Financing Order that Authorizes ) **File No. EO-2022-0040**  
the Issuance of Securitized Utility Tariff )  
Bonds for Qualified Extraordinary Costs )

**ORDER ESTABLISHING PROTECTIVE ORDER**

Issue Date: February 28, 2022

Effective Date: February 28, 2022

The Empire District Electric Company d/b/a Liberty has filed a petition seeking authority to issue securitized utility tariff bonds. Liberty filed a motion on February 11, 2022, asking the Commission to issue a protective order to establish procedures for controlling the flow of highly confidential information among the parties.

The motion explains that certain material regarding commodity prices, fuel procurement, generation costs, and and planned purchases, as well as competitively sensitive and confidential information regarding wholesale electric market participants will not be adequately protected by the “confidential” designation under Commission Rule 20 CSR 4240-2.135. As permitted by the rule, Liberty requests a protective order to increase the level of protection for that particularly sensitive information.

On February 15, 2022, the Office of the Public Counsel filed a response to Liberty’s motion for protective order. Public Counsel does not oppose the motion, but asks the Commission to remind Liberty of the public’s interest in being able to see the basis for the Commission’s decision and of Liberty’s obligation to comply with the requirements of the Commission’s rule regarding the handling of confidential information, 20 CSR 4240-2.135.

The Commission shares Public Counsel's concerns, and will remind Liberty that the issuance of a protective order does not limit its obligation to comply with the requirements of the Commission's rules.

The Commission will grant the motion, including some of the modifications proposed by Public Counsel.

**THE COMMISSION ORDERS THAT:**

1. The following Protective Order is established:
  - a. Materials and information divulged by Liberty, or other parties, shall be considered "Highly Confidential" if so designated at the time of disclosure.
  - b. In designating material as Highly Confidential, the proponent of such classification shall identify into which of the following categories the information falls:
    - i. Commodity prices;
    - ii. Fuel procurements;
    - iii. Generation costs;
    - iv. Planned purchases; or
    - v. Competitively sensitive and confidential information regarding wholesale electric market participants.

Further, the proponent of classification shall explain why a public or confidential classification of the information would create a competitive advantage for parties to this proceeding over Liberty and non-party competitors.

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

- i. Disclosure of materials and information so designated shall be made only to attorneys and/or such outside consultants who have executed a Commission Non-Disclosure Agreement. No Highly Confidential information shall be provided directly or indirectly to any non-attorney party employee or other individual.
- 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 this 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 the designating party or destroyed upon conclusion of the referenced case.

d. 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.

2. Nondisclosure forms for use in accessing confidential information in these cases are attached to this order as Exhibit A (for access to “Confidential” information) and Exhibit B (for access to “Highly Confidential” information).

3. This order shall be effective when issued.



**BY THE COMMISSION**

A handwritten signature in black ink that reads "Morris L. Woodruff". The signature is written in a cursive, flowing style.

Morris L. Woodruff  
Secretary

Morris L. Woodruff, Chief Regulatory  
Law Judge, by delegation of authority  
pursuant to Section 386.240, RSMo 2016.

Dated at Jefferson City, Missouri,  
on this 28<sup>th</sup> day of February, 2022.

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

**NONDISCLOSURE AGREEMENT**

For Case No.: \_\_\_\_\_  
(To Access 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 confidential information produced in Case No. \_\_\_\_\_  
on behalf of \_\_\_\_\_.

I hereby certify that:

- (a) Only employees of a party that are acting as an expert for that party or that have been retained for this case as an outside expert for that party may receive confidential information;
- (b) An employee is a person in the service of his or her employer whose services are controllable by the employer;
- (c) I am an employee of \_\_\_\_\_ [state name of intervenor] acting as its expert and/or its employee who intends to file testimony in this docket, or I am an outside expert for \_\_\_\_\_ [state name of intervenor] retained to provide expert consultation or testimony in this docket;  
and
- (d) I have read and agree to abide by the Commission's Rule at 20 CSR 4240-2.135.

Dated on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Signature & Title

NONDISCLOSURE AGREEMENT

(To Access Confidential Information)

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Employer

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Party

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Address

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Telephone

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E-Mail Address

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

**NONDISCLOSURE AGREEMENT**

For Case No.: \_\_\_\_\_  
(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.  
\_\_\_\_\_ on behalf of \_\_\_\_\_.

I hereby certify that:

- (a) Only an outside expert retained by a party in this case may receive highly confidential information;
- (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)

Page 2

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Employer

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Address

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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 28<sup>th</sup> day of February, 2022.**



  
\_\_\_\_\_  
**Morris L. Woodruff**  
**Secretary**

**MISSOURI PUBLIC SERVICE COMMISSION**

**February 28, 2022**

**File/Case No. EO-2022-0040**

**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,**



**Morris L. Woodruff  
Secretary**

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