

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

In the Matter of The Empire District )  
Electric Company’s Request for Authority )  
to File Tariffs Increasing Rates for Electric ) **File No. ER-2019-0374**  
Service Provided to Customers in its )  
Missouri Service Area )

**ORDER ESTABLISHING PROTECTIVE ORDER**

Issue Date: August 13, 2019

Effective Date: August 13, 2019

On May 29, 2019, The Empire District Electric Company filed a *Notice of Intended Case Filing*, indicating that it intended to file a general rate case prior to October 9, 2019. On August 12, 2019, Empire filed a *Motion for Protective Order*, asking that the Commission issue an order to protect certain sensitive information from unnecessary disclosure. Empire states that due to the nature of certain material regarding commodity prices, fuel procurement, generation costs, and planned purchases, the Commission’s confidential designation may not provide adequate protection. Empire requests a protective order for the purpose of preventing harm to Empire and avoiding the creation of an unfair competitive advantage for parties to this proceeding and non-party competitors.

Empire requests a protective order as follows:

- a. Certain materials and information divulged by Liberty-Empire or other parties 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:
  - i. Disclosure of materials or information so designated shall be made only to attorneys and/or to such outside consultants who have executed a Commission Nondisclosure Agreement. No Highly

Confidential information shall be provided directly or indirectly to any non-attorney individual or employee.

- 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 Empire 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 4 CSR 240-2.090(8). If the party exhausts these dispute resolution procedures, the party may file a motion challenging the designation.

Upon review of the motion, the Commission finds that there is a need to protect sensitive information and the request for a protective order is reasonable. Therefore, the Commission concludes that a protective order should be granted. The specific extra protections afforded to the information designated as highly confidential are described in the body of this order.

**THE COMMISSION ORDERS THAT:**

1. Competitively sensitive information designated by The Empire District Electric Company as highly confidential shall be disclosed only to attorneys of record for all parties, to state agency parties and their employees covered by statutory confidentiality requirements, and to designated outside experts of any non-state agency party.

2. Except for attorneys of record for all parties, and employees of state agencies covered by statutory confidentiality requirements, all persons authorized to access “confidential” information in this case shall complete the nondisclosure agreement attached to this order as Exhibit A.

3. Except for attorneys of record for all parties, and employees of state agencies covered by statutory confidentiality requirements, all persons authorized to access “highly confidential” information in this case shall complete the nondisclosure agreement attached to this order as Exhibit B.

4. This order shall be effective when issued.

**BY THE COMMISSION**



A handwritten signature in cursive script that reads "Morris L. Woodruff".

Morris L. Woodruff  
Secretary

John T. Clark, Regulatory Law Judge,  
by delegation of authority pursuant to  
Section 386.240, RSMo 2016.

Dated at Jefferson City, Missouri,  
on this 13<sup>th</sup> day of August, 2019.

STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

NONDISCLOSURE AGREEMENT  
(To Access Confidential Information)

r, \_\_\_\_\_ have reviewed the Commission's Rule at 4 CSR 240-2.135  
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 employee of  [state name of intevenor]   
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 4 CSR 240-2.135.

Dated 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  
(To Access Highly Confidential  
Information)

I, \_\_\_\_\_ have reviewed the Commission's Rule at 4 CSR 240-  
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 4 CSR 240-2.135 and  
all terms of the Protective Order issued by the Commission in this docket.

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

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

\_\_\_\_\_  
Employer

\_\_\_\_\_  
Party

NONDISCLOSURE AGREEMENT

(To Access Highly Confidential Information)

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Address

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Telephone

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E-Mail Address

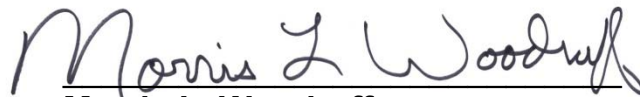
**STATE OF MISSOURI**

**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 13<sup>th</sup> day of August 2019.



  
Morris L. Woodruff  
Secretary



**MISSOURI PUBLIC SERVICE COMMISSION**

**August 13, 2019**

**File/Case No. ER-2019-0374**

**Missouri Public Service  
Commission**

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**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.