

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

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

MOTION FOR PROTECTIVE ORDER

COMES NOW Evergy Missouri West, Inc. d/b/a Evergy Missouri West (“EMW” or “Company”), by and through counsel, and for its Motion for Protective Order, respectfully states as follows to the Missouri Public Service Commission (“Commission”):

1. On March 11, 2022, EMW filed this case before the Commission requesting an order authorizing the financing of extraordinary storm costs through an issuance of securitized utility tariff bonds (“securitization case”). Discovery has commenced in this case. It is apparent from the data requests proffered by various parties that certain Highly Confidential materials are being requested.

2. Portions of the discovery related to the securitization case filings have been designated as Confidential in accordance with Commission Rule 20 CSR 4240-2.135(2)(A). There is also a need for portions of the discovery in the case 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.”

4. Recently, Staff has issued Data Requests to EMW regarding, among other things, a highly confidential post-event analysis (DR No. 0046) which contains the operational and

financial impacts to EMW from the 2021 Winter Weather Event. DR No. 0046 seeks access to a report that is specific to EMW’s assets, emergency plans, protective measures, and a multitude of other specifics about EMW’s operations that are also regulated by the Federal Energy Regulatory Commission (“FERC”), FERC’s authorized reliability entity – the North American Electric Reliability Corporation (“NERC”) – and the Department of Energy (“DOE”).

5. In recent years FERC, NERC, DOE, and the industry in general have developed a heightened awareness regarding the physical and cyber security of the Bulk Electric System (“BES”) due to foreign and domestic threats to the BES and the utilities operating the system.

6. As a result of the heightened risk and threat to the BES, FERC and NERC have developed categories of highly sensitive information that must be protected not only in who is able to view certain information but also who actually has custody of such information.¹ As a result, utilities such as EMW have designated certain sensitive information and developed processes with NERC regulators wherein the designated information is only provided in a “view-only” manner through an encrypted system such that EMW never relinquishes custody of the actual data.

7. EMW has participated in nationwide industry discussions and development of policy and processes to ensure the custodial protection of sensitive information and means to allow regulators to view necessary information without an actual exchange of custody of the actual data to ensure the location of the sensitive information only resides on EMW’s protected network or physical files.

8. Two of the sensitive information designations discussed by the industry and its regulators are Critical Energy Infrastructure Information (“CEII”) as defined at 18 C.F.R. §§ 388.113(a), (c) or 10 C.F.R §§1004.13(c)(4), and Bulk Electric System Cyber Security

¹ While discussions continue amongst the energy industry and its federal regulators, an initial white paper from FERC/NERC Joint Staff indicating the heightened protection of sensitive information can be found at: <https://www.ferc.gov/media/second-joint-staff-white-paper-notices-penalty-pertaining-violations-critical-infrastructure>.

Information (“BCSI”) as implemented per NERC regulations². Staff and OPC have requested access to a post-event report which will include the production of CEII and/or BCSI, such as EMW’s load shed plan, asset identification and locations, and a multitude of other aspects of EMW’s operations that could be used by nefarious actors to attack EMW’s system, disrupt system reliability, cause uncontrolled customer outages, and do other harm.

9. Based on EMW’s interactions with its federal regulators, EMW has determined that 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 the typical Protective Order issued in other cases. As such, EMW proposes that the issuance of the Protective Order include CEII and BCSI and limit the viewing of such information to only Staff, Office of the Public Counsel, and the Commission through an encrypted “view-only” document review system that EMW uses with its NERC regulators.

10. As intervenors may wish to ensure any such designation is appropriate, EMW proposes that if a party designates material as CEII or BCSI, it will 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 summary of the contents of the document as confidential per the procedures outlined in this Protective Order. Any challenges to such designations would be heard by the Commission and ruled upon without any loss of legal or procedural rights to any party. On May 5, 2021, the Kansas Corporation Commission (“KCC”)

² Bulk Electric System Cyber Security Information (BCSI): 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.

recently issued its *Order On Evergy's Motion To Amend Protective Order in Re Investigation into Evergy Kansas Metro and Evergy Kansas Central Regarding the February 2021 Winter Weather Events, as Contemplated by Docket No. 21-GIMX-303-MIS*, KCC Docket No. 21-EKME-329-GIE (May 5, 2021) which adopted similar protections for CEII and BCSI.

11. Attached is a proposed Order Granting Protective Order which includes provisions for the confidential treatment of CEII and BCSI as requested herein.

WHEREFORE, EMW requests an order of the Commission, pursuant to Commission Rule 20 CSR 4240-2.135(4), granting a protective order regarding EMW's securitization case filings, as described herein. Specifically, EMW requests that the Commission issue a Protective Order that provides that certain information (i.e. CEII and BCSI) be available only to Staff and Public Counsel on the following basis:

a. Any CEII or BCSI produced in this case shall be made available only to the Commission, its Staff and Public Counsel;

b. The contents of CEII and BCSI or any other form of information that copies or discloses such materials shall not be disclosed to anyone, including other intervenors in the docket, and shall be used only in connection with this specific proceeding;

c. When Staff and/or Public Counsel view CEII and BCSI information in this docket, it will do so as view-only through Evergy's encrypted document review system;

d. If Staff and/or Public Counsel need to reference its review of CEII or BCSI in its report, testimony, and recommendations filed in the case, it will reference the material by name only in the written filing and provide any necessary description of the details of the CEII or BCSI verbally to the Commission in a closed session;

e. Staff and Public Counsel will not include any details regarding CEII or BCSI in writing in any filing made in the case; and

A proposed Protective Order is attached hereto as **Exhibit A**.

Respectfully submitted,

/s/ Roger W. Steiner

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CERTIFICATE OF SERVICE

I hereby certify that the above document was filed in EFIS on this 6th day of June 2022, with notification of the same being sent to all counsel of record.

/s/ Roger W. Steiner

Roger W. Steiner

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ORDER ESTABLISHING PROTECTIVE ORDER

Issue Date:

Effective Date:

Evergy Missouri West, Inc. d/b/a Evergy Missouri West (“EMW”) has filed a petition seeking authority to issue securitized utility tariff bonds. EMW filed a motion on _____, 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 for protective order explains that certain responses to Staff’s data requests may include information that would be defined as Critical Energy Infrastructure Information (“CEII”), per 18 C.F.R. § 388.113.(a), (c) or 10 C.F.R. § 1004.13 (c)(4), and Bulk Electric System Cyber Security Information (“BCSI”), as implemented by North American Electric Reliability Corporations (“NERC”) regulations. EMW requests an added level of protection by limiting the review of such information to only Staff, Office of the Public Counsel (“Public Counsel”) and the Commission through an encrypted document system. EMW further proposes that in the event the party requesting the information wishes to ensure the designation is appropriate, EMW, upon request, will provide a summary of the contents of the document and an explanation of why the material qualifies

as CEII or BCSI. EMW states that this material will not be adequately protected by the “confidential” designation under Commission Rule 20 CSR 4240-2.135.

EMW also stated that in recent years FERC, NERC, DOE, and the industry in general have developed a heightened awareness regarding the physical and cyber security of the Bulk Electric System (“BES”) due to foreign and domestic threats to the BES and the utilities operating the system. EMW has participated in nationwide industry discussions and development of policy and processes to ensure the custodial protection of sensitive information and means to allow regulators to view necessary information without an actual exchange of custody of the actual data to ensure the location of the sensitive information only resides on EMW’s protected network or physical files.

EMW requested a higher level of protection for sensitive information designated by the industry entities as Critical Energy Infrastructure Information (“CEII”) as defined at 18 C.F.R. §§ 388.113(a), (c) or 10 C.F.R §§1004.13(c)(4), and Bulk Electric System Cyber Security Information (“BCSI”) as implemented per NERC regulations.

In discussions with Staff related to certain Staff DRs, EMW has identified areas of the Commission’s inquiry that may likely involve the production of CEII and/or BCSI, such as EMW’s load shed plan, asset identification and locations, and a multitude of other aspects of EMW’s operations that could be used by nefarious actors to attack EMW’s system, disrupt system reliability, cause uncontrolled customer outages, and do other harm.

As permitted by the rule, EMW requests a protective order to increase the level of protection for that particularly sensitive information.

The Commission will grant the motion, including the modifications proposed by EMW for a higher level of confidentiality for CEII and BCSI.

THE COMMISSION ORDERS THAT:

1. The following definitions shall apply to this Protective Order:

a) Bulk Electric System Cyber Security Information (BCSI) (from the enforceable NERC Glossary of Terms): 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) Critical Energy/Electric Infrastructure Information (CEII): is as defined at 18 C.F.R. §§ 388.113(a), (c) or 10 C.F.R §§1004.13(c)(4).

2. The following Protective Order is established:

A party may designate as CEII, any material that meets the definition of that term as provided by 18 C.F.R. §§ 388.113(a), (c) or 10 C.F.R §§1004.13(c)(4). A party may designate as BCSI any material that meets the definition represented in the NERC Glossary of Terms as particularized herein. If a party designates material as CEII or BCSI, it will 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 summary of the contents of the document as confidential per the procedures outlined in this Protective Order.

3. Any CEII or BCSI produced in this docket shall be made available only to the Commission, Staff and/or Public Counsel. The contents of CEII and BCSI or any other form of information that copies or discloses such materials shall not be disclosed to anyone, including other intervenors in the docket, and shall be used only in connection with this specific proceeding.

4. When Staff and/or Public Counsel views CEII and BCSI information in this docket, it will do so as view-only through Evergy's encrypted document review system;

5. If Staff and/or Public Counsel needs to reference its review of CEII or BCSI in its report, testimony, and recommendations filed in the docket, it will reference the material by name only in the written filing and provide any necessary description of the details of the CEII or BCSI verbally to the Commission in a closed session; and

6. Staff and Public Counsel will not include any details regarding CEII or BCSI in writing in any filing made in the docket.

7. This order shall be effective when issued.