

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

In the Matter of the Request of The Empire)
 District Electric Company d/b/a Liberty for)
 Authority to File Tariffs Increasing Rates)
 for Electric Service Provided to Customers)
 In its Missouri Service Area)

Case No. ER-2024-0261

PUBLIC COUNSEL’S MOTION FOR A COMMISSION ORDER

COMES NOW the Office of Public Counsel (“Public Counsel”) and moves the Commission to issue an order that opens to public view the information Liberty designated to be confidential in its November 6, 2024, filing to initiate and support its \$92,136,624 per year general electric rate increase request unless within ten days of its order Liberty complies with the first two sentences of Commission rule 20 CSR 4240-2.135(2)(B) as follows:

1. Commission rule 20 CSR 4240-2.135(1) shows that the Commission strongly favors transparency to the public:

All items filed in case proceedings before the commission shall be open to the public unless protected pursuant to this rule or otherwise protected by law.

2. Liberty redacted from public view portions of the testimony and schedules in its November 6, 2024, general electric rate increase request. Public Counsel believes the following are the documents where Liberty made redactions and the specific subsections of Commission rule 20 CSR 4240-2.135(2)(A) Liberty identified on the documents:

	Confidential	Highly Confidential
Shawn Eck	direct testimony (portion; 20 CSR 4240-2.135(2)(A)8) and Sch. SE-1 (entirety; 20 CSR 424-2.135(2)(A)8)	
Candice Kelly	Sch. CK-4 (entirety; 20 CSR 4240-2.135(2)(A)8)	
Leigha Palumbo	Schs. LP-6 (entirety; 20 CSR 4240-2.135(2)(A)3) & LP-9 (entirety; 20 CSR 4240-2.135(2)(A)3);	Sch. LP-8 (entirety; 20 CSR 4240-2.135(2)(A)3)
Todd W. Tarter	direct testimony (limited; 20 CSR 4240-2.135(2)(A)1) and Schs. TWT-2 (entirety; 20 CSR 4240-2.135(2)(A)1) & TWT-3 (limited-one number; 20 CSR 4240-2.135(2)(A)1)	
Jeffrey Westfall	direct testimony (limited; 20 CSR 4240-2.135(2)(A)7) and Sch. JW-1 (entirety; 20 CSR 4240-2.135(2)(A)7)	

3. Commission rule 20 CSR 4240-2.135(2)(B) requires:

(B) Any information designated as confidential shall be submitted with a cover sheet or pleading describing how such information qualifies as confidential under subsection (2)(A) of this rule, including the specific subsection relied upon and an explanation of its applicability. Only the specific information that qualifies as confidential shall be designated as such. In addition, each document that contains confidential information shall bear the designation “Confidential” and the paragraph(s) of 4 CSR 240-2.135(2)(A) through which that information is protected.

4. While Liberty has complied with the last sentence of rule 20 CSR 4240-2.135(2)(B), it has not complied with the first: “Any information designated as confidential shall be submitted with a cover sheet or pleading describing how such information qualifies as confidential under subsection (2)(A) of this rule, including the specific subsection relied upon and an explanation of its applicability.”

5. The specific subsections Liberty asserts qualify information it redacted from being open to the public are subsections 1, 3, 7, and 8. The categories for those subsections are:

1. Customer-specific information;

* * * *

3. Marketing analysis or other market-specific information relating to services offered in competition with others;

* * * *

7. Relating to the security of a company’s facilities; or

8. Concerning trade secrets, as defined in section 417.453, RSMo.

6. Nowhere in its November 6, 2024, filing does Liberty explain how the following information it has redacted from public view qualifies for the exception from public view it identifies:

(A) The parts of the direct testimony of its witness Todd W. Tarter, schedule TWT-2, and schedule TWT-3 that it identifies as customer-specific information (subsection 1);

(B) The parts of schedule LP-6, schedule LP-8 (Liberty has designated this schedule to be HC, but cites to subsection three for confidentiality), and schedule LP-9 that it asserts

include marketing analysis or other market-specific information relating to services offered in competition with others (subsection 3);

(C) The parts of the direct testimony of its witness Jeffrey Westfall, and schedule JW-1 that identifies as relating to the security of a company's facilities (subsection 7); and

(D) The parts of the direct testimony of its witness Shawn Eck, schedule SE-1, and schedule CK-4 it identifies as concerning trade secrets (subsection 8).

(E) Commission rule 20 CSR 4240-2.135(2)(B) also requires, "Only the specific information that qualifies as confidential shall be designated as such." It appears to Public Counsel that Liberty has not adhered to this requirement where it has designated entire documents to be confidential. For example Liberty has designated schedule CK-4—a Liberty J.D. Power results report—to be confidential in its entirety; however, in the prefiled direct testimony of its witness Candice Kelly she publicly discloses information from that report in her summary of it on pages seven to eight. In contrast, Liberty designates only one value in schedule TWT-3 to be confidential.

Wherefore, the Office of Public Counsel moves the Commission to issue an order that opens to the public the information Liberty designated to be confidential in its November 6, 2024, filing to initiate and support its \$92,136,624 per year general electric rate increase request unless within ten days of its order Liberty complies with the first two sentences of Commission rule 20 CSR 4240-2.135(2)(B) by submitting cover sheets or pleadings describing how the information it has designated to be confidential qualifies as confidential under 20 CSR 4240-2.135 (2)(A), including the specific subsection of 20 CSR 4240-2.135 (2)(A) relied upon and an explanation of its applicability, limiting its designations of confidential information to only the specific information that qualifies as confidential.

Respectfully,

/s/ Nathan Williams

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 14th day of November 2024.

/s/ Nathan Williams