

**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 ) **File No. ER-2024-0261**  
for Electric Service Provided to Customers )  
In its Missouri Service Area )

**ORDER GRANTING MOTION REGARDING INFORMATION  
DESIGNATED AS CONFIDENTIAL**

Issue Date: November 26, 2024

Effective Date: November 26, 2024

On November 14, 2024,<sup>1</sup> the Office of the Public Counsel (Public Counsel) filed its Motion for a Commission Order (Motion). The Motion argued that The Empire District Electric Company d/b/a Liberty redacted certain portions of testimony and schedules in violation of the rule governing submission of confidential information. On November 18, Liberty responded.

**DESCRIBING HOW THE INFORMATION QUALIFIES AS CONFIDENTIAL**

Commission Rule 20 CSR 4240-2.135(2)(B) states that information designated as confidential shall be submitted with a cover sheet or pleading describing how such information qualifies as confidential, including a citation of the specific subsection relied upon. Public Counsel argued that although Liberty cited the subsection of the rule, it failed to explain the applicability of the rule to the underlying confidential information.

The Motion cited eleven submissions of prefiled direct testimony as problematic, as follows:

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<sup>1</sup> All dates refer to 2024 unless otherwise indicated.

- Shawn Eck – partially redacted direct testimony and wholly redacted Schedule SE-1; citing 20 CSR 4240-2.135(2)(A)8 (trade secrets);
- Candice Kelly – wholly redacted Schedule CK-4; citing 20 CSR 4240-2.135(2)(A)8 (trade secrets);
- Leigha Palumbo – wholly redacted Schedule LP-6, wholly redacted Schedule LP-8, and wholly redacted Schedule LP-9; citing 20 CSR 4240-2.135(2)(A)3 (marketing analysis or other market specific information);
- Todd W. Tarter – partially redacted direct testimony, wholly redacted Schedule TWT-2, and partially redacted Schedule TWT-3; citing 20 CSR 4240-2.135(2)(A)1 (customer-specific information); and
- Jeffrey Westfall – partially redacted direct testimony and wholly redacted Schedule JW-1; citing 20 CSR 4240-2.135(2)(A)7 (security of facilities).

As a remedy, Public Counsel has requested the Commission order the pleadings currently designated as confidential to be opened to public viewing, or direct Liberty to submit cover sheets or pleadings describing how the information designated as confidential qualifies for that designation.

Liberty responded that it has complied with the Commission's confidentiality rule. Liberty stated that each document designated as confidential identified the specific subsection of Commission Rule 20 CSR 4240-2.135(2)(A) for confidential treatment. Liberty argued that a separate cover sheet or pleading would be duplicative, increase costs, and wrongly elevate form over substance. Liberty noted that in separate cases,

Public Counsel has designated information as confidential in the same manner as Liberty – by only identifying which subsection is the basis for confidential treatment.<sup>2</sup>

The Commission notes that an explanation of why Schedule JW-1 qualifies as confidential due to security concerns would not be duplicative or elevate form over substance. While Schedule JW-1 does include items that clearly involve security concerns, it also includes items that are less obviously related to security.

### **FULL REDACTION VERSUS PARTIAL REDACTION**

Public Counsel's second objection is that Liberty has unnecessarily designated entire documents to be confidential. Commission Rule 20 CSR 4240-2.135(2)(B) provides that only the specific information that qualifies as confidential shall be designated as such. Public Counsel cited Schedule CK-4 as an example. Schedule CK-4 is a J.D. Power results report designated confidential in its entirety. Public Counsel noted that in contrast to its confidential designation, the prefiled direct testimony of Candice Kelly publicly discloses information from that report. Public Counsel has requested an order directing Liberty to limit its designations of confidential information to only the specific information that qualifies as confidential.

Liberty explained that the J.D. Power results report is marked confidential in whole because J.D. Power's reports derive economic value from not being generally known or readily ascertainable. Liberty argued against partial redactions as the schedules would still need to be severely redacted. Liberty cites Schedule SE-1's description of the workstreams and projects involved in the Company Cybersecurity Program as needing total redaction. Each workstream separately and the workstreams collectively need to be

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<sup>2</sup> Liberty's concerns are better addressed within those separate case dockets.

maintained confidentially to prevent cyber criminals from gaining knowledge of the Liberty's Cybersecurity Program.

## **CONCLUSION**

The Commission has reviewed the Motion, Liberty's response, the Commission's rules on confidentiality, and the eleven direct testimonies and schedules at issue. The Commission finds that Liberty's filing does not fully comply with 4240-2.135(2)(B) because it is not self-evident from the citation how the information qualifies for confidentiality protection. The Commission will direct Liberty to file a pleading offering those explanations. The Commission will direct that Liberty file this explanatory pleading as a separate document.

As to the wholly redacted schedules, the Commission's review revealed that the schedules that are wholly redacted do not even reveal the cover page, document title, column headers, or other non-confidential portions. The Commission finds that this type of full redaction unnecessarily limits the public's information to even know a general description of a schedule that may otherwise be rightfully wholly redacted. Therefore, the Commission finds that Liberty should review the schedules that are wholly redacted to see if the cover pages, document titles, column headers, or other information can be un-redacted. Should any formerly wholly redacted schedules be found to only require partial redaction, Liberty shall file a new partially redacted public version.

### **THE COMMISSION ORDERS THAT:**

1. No later than December 26, 2024, Liberty shall file a pleading offering explanations for why each document designated as confidential qualifies as confidential. The eleven documents needing such explanation are those listed in the body of this order.

2. Liberty shall review the schedules listed in the body of this order that are redacted in whole to see if any information should be un-redacted. Liberty shall file any new partially redacted public versions no later than December 26, 2024.

3. This order shall be effective when issued.



**BY THE COMMISSION**

A handwritten signature in black ink that reads "Nancy Dippell". The signature is written in a cursive, flowing style.

Nancy Dippell  
Secretary

Charles Hatcher, Senior Regulatory  
Law Judge, by delegation of authority  
pursuant to Section 386.240, RSMo 2016.

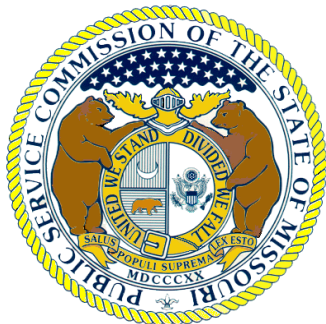
Dated at Jefferson City, Missouri,  
On the 26th day of November, 2024

**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 26<sup>th</sup> day of November 2024.**



*Nancy Dippell*  
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**Nancy Dippell**  
**Secretary**

**MISSOURI PUBLIC SERVICE COMMISSION**

**November 26, 2024**

**File/Case No. ER-2024-0261**

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

*Sincerely,*



**Nancy Dippell  
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.