

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

In the Matter of Evergy Metro, Inc. d/b/a)
Evergy Missouri Metro’s Request for)
Authority to Implement a General Rate) Case No. ER-2026-0143
Increase for Electric Service)

**RESPONSE TO GOOGLE LLC (“GOOGLE”) AND VELVET TECH SERVICES, LLC
 (“VELVET”)’S MOTION FOR PROTECTIVE ORDER**

COMES NOW the Office of Public Counsel (“Public Counsel”) and responds to Google LLC (“Google”) and Velvet Tech Services, LLC (“Velvet”)’s motion for a protective order as follows:

1. On April 6, 2026, Google and Velvet filed their motion for protective order wherein they assert (in ¶¶ 9 & 10),

9. The data center market is an extremely competitive forum where information regarding customer pricing, supply costs, business relationships, market data, and other proprietary data are closely guarded trade secrets. This information, as well as terms and details relating to business contracts and other information relating to data center infrastructure are sensitive information that impact data centers’ competitive advantage with respect to its competitors and with parties with whom it negotiates. Moreover, communications, negotiations, and the contents of contracts are generally subject to nondisclosure agreements and many data center contracts also contain confidentiality provisions.

10. The standard Confidential designation under 20 CSR 4240-2.135 will not provide adequate protection for these categories of information (“Highly Confidential” or “HC”) because it would require Velvet and Google to produce otherwise discoverable HC information to in-house representatives of non-state-agency parties who may have competitive relationships now or in the future, including other industrial customers and data center developers. The mere disclosure of HC information to these parties and their employees and representatives would irreparably harm Velvet and Google because it would give these parties knowledge of HC information that would affect their relative bargaining positions.

2. Google and Velvet propose the following:

11. Accordingly, Velvet and Google propose establishing a “Highly Confidential” or “HC” designation under a protective order. Under this system, Staff and OPC, and their outside consultants, will have rights to receive unredacted HC documents

and information. With respect to intervenors and other parties, Velvet and Google request HC documents and information be restricted to outside attorneys, outside consultants, and/or attorneys of record for investor-owned utilities.

And

12. Velvet and Google therefore request the Commission issue a Protective Order as follows:

- a. Information designated as “Confidential” would be subject to the standard protocols included in Commission Rule 20 CSR 4240-2.135.
- b. Parties may additionally designate as “Highly Confidential” or “HC” the following:
 - (1) confidential information relating to the data center operations, including customer specific data, customer pricing, supply costs, business relationships, market data, other proprietary data and protected trade secrets; and
 - (2) information relating to confidential contracts entered into relating to data centers.
- c. With regard to intervenors and parties other than the Commission, the Staff of the Commission, and the Office of the Public Counsel:
 - i. Disclosure of materials or information designated as HC shall be made only to outside attorneys, outside consultants, and/or attorneys of record for investor-owned utilities, who have executed an HC Nondisclosure Agreement. No “HC” information shall be provided directly or indirectly to any other individual or employee.
 - ii. Persons afforded access to materials or information designated “HC” 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 “HC” in the possession of any entity or person, as well as any notes pertaining to such information, shall be returned to the party disclosing the same or destroyed upon the conclusion of the referenced case.
- d. If any party disagrees with the HC designation of any information, that party shall follow the informal discovery dispute resolution procedures set forth in Commission Rule 20 CSR 4240-2.090(8). If these dispute resolution procedures are exhausted without resolution, the party may file a motion challenging the designation.
- e. All persons authorized to access HC information in this case shall complete the nondisclosure agreement attached to the hereto as Exhibit B.

3. Commission rule 20 CSR 4240-2.135(1) is clear that the Commission desires transparency in case proceedings before it:

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.

4. Commission rule 20 CSR 4240-2.135(2) provides:

(2) Confidential Designation.

(A) Any person may submit to the commission, without first obtaining a protective order, information designated as confidential if that information is—

1. Customer-specific information;
2. Employee-sensitive personnel information;
3. Marketing analysis or other market-specific information relating to services offered in competition with others;
4. Marketing analysis or other market-specific information relating to goods or services purchased or acquired for use by a company in providing services to customers;
5. Reports, work papers, or other documentation related to work produced by internal or external auditors, consultants, or attorneys, except that total amounts billed by each external auditor, consultant, or attorney for services related to general rate proceedings shall always be public;
6. Strategies employed, to be employed, or under consideration in contract negotiations;
7. Relating to the security of a company's facilities; or
8. Concerning trade secrets, as defined in section 417.453, RSMo.

(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.

5. While Public Counsel takes no position on the merits of issuing the protective order that Velvet and Google seek, consistent with Commission rule 20 CSR 4240-2.135(2)(B), Public Counsel requests that the Commission require as part of any such protective order that the person designating information to be "highly confidential" to do the following:

- (1) Designate the specific information that qualifies as highly confidential information to be highly confidential, *i.e.*, identifying a document to be highly confidential in its entirety should be the exception, not the rule;
- (2) Mark the specific information by preceding and following it with triple asterisks and mark each page of the document in the center of the footer with "Highly Confidential"; and
- (3) Include in a cover page accompanying the submission or filing which includes information designated "highly confidential" the following:

- a. Each of the following categories the information specifically identified to be highly confidential falls into together with an explanation of why it falls into that category:
 - i. Information relating to the data center operations, including, but not limited to,
 1. data center customer specific data;
 2. data center customer pricing;
 3. data center supply costs;
 4. data center business relationships;
 5. data center market data;
 6. other data center proprietary data; and
 7. protected data center trade secrets;
 - and
 - ii. Information relating to confidential contracts entered into relating to data centers, and
- b. An explanation of why disclosure of the specifically identified information would harm the person making the HC designation, or why disclosure would create a competitive advantage over the person making the HC designation for those participating in this docket over the person making the HC designation or for the non-participating competitors of the person making the HC designation.

WHEREFORE, the Office of Public Counsel requests that the Commission include the above-identified requirements to any protective order that it issues in this case.

Respectfully,

/s/ Nathan Williams

Nathan Williams
Chief Deputy Public Counsel
Missouri Bar No. 35512

Office of the Public Counsel
Post Office Box 2230
Jefferson City, MO 65102
(573) 526-4975 (Voice)
(573) 751-5562 (FAX)
nathan.williams@opc.mo.gov

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 7th day of April 2026.

/s/ Nathan Williams