

**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)	Case No. ER-2026-0143
Authority to Implement a General Rate)	
Increase for Electric Service)	

**EVERGY MISSOURI METRO’S REPLY IN SUPPORT OF
GOOGLE LLC’S AND VELVET TECH SERVICES, LLC’S
MOTION FOR PROTECTIVE ORDER**

COMES NOW, Evergy Metro, Inc. d/b/a Evergy Missouri Metro (“Evergy Missouri Metro” or “Evergy”), for its Reply in Support of Google LLC and Velvet Tech Services, LLC’s Amended Joint Motion for Protective Order (“Motion”), states as follows:

1. Evergy supports entry of the Motion. OPC does not oppose the requested protective order on the merits. Instead, OPC asks the Commission to add three procedural instructions governing future “Highly Confidential” (“HC”) designations. Google’s and Velvet’s Reply Regarding Amended Joint Motion for Protective Order (“Reply”) indicated that, if the Commission elects to include such instructions, those instructions should be modified. Evergy agrees with Google’s and Velvet’s proposed modifications insofar as they preserve flexibility and recognize that disclosure may harm third parties whose information Evergy may be obligated to protect. Evergy does not, however, agree that any future HC designation should be accompanied by a separate cover page or cover letter, especially one requiring an explanatory burden greater than the Commission’s Rules contemplate.

2. The Commission should therefore grant the Motion as filed. Alternatively, if the Commission elects to add clarifying language, it should adopt Google’s and Velvet’s modifications to OPC’s proposed language except for the separate cover-page requirement, which should be omitted.

I. If the Commission includes clarifying language, it should adopt Google’s and Velvet’s substantive modifications, but not a separate cover-page requirement.

3. Again, OPC does not oppose the requested protective order itself. The remaining question is only whether the Commission should append any additional language governing future HC designations (proposed by OPC or as modified by Google and Velvet). To the extent the Commission chooses to add language, Evergy agrees with Google’s and Velvet’s modifications, and requests further modification thereto.

4. First, Evergy agrees that any explanation of harm should not be limited to harm suffered only by the person making the HC designation. Accord Reply at ¶ 5. As the Reply notes, Evergy is also subject to contractual obligations requiring it to use reasonable care to prevent unauthorized disclosure of information that belongs to, concerns, or reflects the proprietary information of existing or prospective customers, counterparties, or other third parties. Any clarifying language should therefore recognize that disclosure may harm the person making the HC designation and/or third parties to which the information relates.

5. Second, Evergy does not oppose Google’s and Velvet’s proposed clarification that any page-marking instruction may use “Highly Confidential” or “HC.” Accord Reply at ¶ 4(2).

6. Third, Evergy does not oppose clarifying language stating that identifying an entire document as HC should be the exception, not the rule, Accord Reply at ¶ 4(1), so long as the Commission also recognizes the obvious corollary: some documents may appropriately be designated in their entirety where the whole document is composed of protected commercial terms, proprietary customer information, confidential contractual terms, pricing schedules, or other information that falls wholly within the protected categories.

7. Evergy *does* object to OPC’s further request that every submission or filing containing HC information be accompanied by a separate cover page or cover letter setting out

category-by-category and detailed harm explanations. See Response to Amended Joint Motion for Protective Order (“Response”) at ¶ 5(3). That additional requirement is unsupported by the Rule, unnecessary to police designations, and would create avoidable disputes over form rather than substance.

II. Missouri law does not impose the separate cover-page or cover-letter burden OPC proposes.

8. OPC’s cover-page proposal depends on importing the requirements of Rule 20 CSR 4240-2.135(2)(B) into a different subsection that does not contain them. Subsection (2)(B) applies to ordinary “Confidential” designations and expressly provides that information designated as confidential “shall be submitted with a cover sheet or pleading” describing how the information qualifies as confidential, identifying the specific subsection relied upon, and explaining its applicability. 20 CSR 4240-2.135(2)(B).

9. By contrast, the Motion seeks greater protection under subsection (4) of Rule 20 CSR 4240-2.135, not ordinary confidential treatment under subsection (2)(B). Subsection (4) provides that the Commission may order greater protection “upon a motion” explaining what information must be protected, the harm that might result from disclosure, and how the information may be disclosed while protecting the interests of the disclosing entity and the public. 20 CSR 4240-2.135(4). While such a motion is pending, the disclosing party must, at minimum, provide a detailed summary of the information at issue, and any document containing such information must bear the designation “Highly Confidential.” 20 CSR 4240-2.135(4)(A)-(B).

10. The Rule expressly places a cover-sheet requirement in subsection (2)(B) but does not even require the level of explanation that OPC now requests. OPC’s Response identifies no Missouri appellate case or generally applicable PSC order holding that HC designations under

Rule 2.135(4), or under a Commission protective order entered pursuant to that Rule, must be accompanied by the sort of separate, highly particularized cover page OPC proposes here.

11. The original Motion itself satisfies the explanatory burden subsection (4) actually imposes. It identifies the categories of information to be protected, explains the competitive harm that disclosure could cause, and proposes the manner in which the information may still be disclosed under appropriate safeguards. See Motion at ¶¶ 9–12.

12. The Commission’s protective-order practice in analogous large-load and data-center matters reinforces why OPC’s cover-page proposal is excessive. In EO-2023-0022, for instance, the Commission granted Google’s motion as reasonable and set out the protections to be afforded for “Highly Confidential” material. See Protective Order, EO-2023-0022, Dkt. 17 (Dec. 28, 2022). A similar motion filed by Velvet was summarily granted in EO-2025-0154. See Order Granting Motion for Protective Order, EO-2025-0154, Dkt. 40 (June 30, 2025). And in ET-2025-0184, the Commission granted ADS’s and Google’s request for an HCHS protective order covering materially similar data-center categories. Protective Order, ET-2025-0184, Dkt. 43 (Aug. 12, 2025). OPC did not even *oppose* any of these motions in these other matters, much less seek to impose the heightened requirements it does here. See Order, EO-2023-0022, Dkt. 17 at 1 (“[N]o party has opposed [the] motion.”); Order, EO-2025-0154, Dkt. 40 at 1 (“No party has objected to the request.”); Order, ET-2025-0184, Dkt. 43 at 2 (“The Commission allowed responses by August 8, and none were received.”). Consequently, none of those Orders promulgated any requirements that each HC or HCHS designation must be accompanied by a separate cover page or cover letter containing detailed justifications. There is no reason to depart from that practice here.

13. The closest PSC authority favoring OPC’s position appears to be EO-2022-0040. But even that order does not establish what OPC asks the Commission to impose here. There, the

Commission granted Liberty’s motion “including some of the modifications proposed by Public Counsel” and required the proponent of a highly confidential designation to identify the category into which the information fell and explain why public or confidential treatment would create a competitive advantage. See Order Establishing Protective Order, EO-2022-0040, Dkt. 20 at 1-3 (Feb. 28, 2022). **Even there, however, the Commission did not require a separate cover page or cover letter for each later designation.** See id.

14. The current rule also already contains a separate safeguard against abuse. A claim of confidentiality constitutes a representation to the Commission that the claiming party has a “reasonable and good faith belief” that the designation is proper. 20 CSR 4240-2.135(18). The rule thus already polices designations through a good-faith standard. A mandatory separate cover letter on every HC submission is not necessary to accomplish that purpose and would create an unnecessary burden for the designating party.

III. The existing challenge process is the proper way to police HC designations.

15. The Motion already includes a mechanism for handling future disputes. If a party disagrees with an HC designation, the party must first follow the informal discovery-dispute procedures in Rule 20 CSR 4240-2.090(8), and only if those procedures are exhausted without resolution may the party file a motion challenging the designation. In contrast, OPC’s cover-page requirement would effectively force the designating party to submit a mini-brief every time protected information is used, even where no party objects and even where the relevant category and competitive harm are already obvious from the nature of the material and from the protective order itself. The better course is the course Missouri law already provides; namely, good-faith designation in the first instance, followed by informal dispute resolution and motion practice only if a real dispute arises.

16. If the Commission nonetheless concludes that some additional explanatory mechanism is desirable beyond the initial Motion itself, the proper place for that explanation is in response to a challenge or upon Commission request, not in a separate cover page accompanying every future HC filing or submission. That approach would preserve the Commission’s flexibility, avoid unnecessary procedural burden, and still allow focused review of any designation that is actually contested.

III. The Commission should grant the Amended Joint Motion, and if it adds clarifying language, it should omit any separate cover-page requirement.

17. In light of the foregoing, Evergy respectfully submits that the cleanest course is simply to grant the Motion as filed. Alternatively, if the Commission elects to include the clarifying language suggested by OPC, it should: (1) retain the flexible understanding that whole-document HC designations should be the exception, not the rule; (2) allow the footer notation “Highly Confidential” or “HC”; and (3) make clear that any explanation of harm may address harm to the person making the HC designation or harm to third parties to which the information relates. In any event, the Commission should not require that each future HC designation be accompanied by a separate cover page or cover letter as proposed by OPC.

WHEREFORE, Evergy Missouri Metro further requests such other and further relief as the Commission deems just and proper.

Respectfully submitted,

/s/ Cole Bailey

Roger W. Steiner, MBN 39586
Cole Bailey, MBN 77268
Evergy, Inc.
1200 Main – 17th Floor
Kansas City, Missouri 64105
Phone: (816) 556-2314
Fax: (816) 556-2110
roger.steiner@evergy.com
cole.bailey@evergy.com

Karl Zobrist, MBN 28325
Jacqueline M. Whipple, MBN 65270
Dentons US LLP
4520 Main Street, Suite 1100
Kansas City, MO 64111
Phone: (816) 460-2400
Fax: (816) 531-7545
karl.zobrist@dentons.com
jacqueline.whipple@dentons.com

James M. Fischer, MBN 27543
Fischer & Dority, P.C.
2081 Honeysuckle Lane
Jefferson City, MO 65109
Phone: (573) 353-8647
jfisherpc@aol.com

Attorneys for Evergy

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served upon counsel for all parties on this 9th day of April 2026, by EFIS filing and notification, and/or e-mail.

/s/ Cole Bailey

Cole Bailey