

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

In the Matter of the Cause of the)
February 2021 Cold Weather Event and)
its Impact on Investor Owned Utilities)
File No. AO-2021-0264

**MOTION TO OPEN 10 ADDITIONAL DOCKETS TO RECEIVE SEPARATE
COMPANY-SPECIFIC INFORMATION RELATING TO STAFF’S REPORT AND
MOTION FOR PROTECTIVE ORDER FOR EACH ADDITIONAL DOCKET**

COMES NOW Staff of the Missouri Public Service Commission (“Staff”), by and through Staff Counsel’s Office, and requests the Public Service Commission (“Commission”) issue two orders: the first order establishing 10 additional dockets for the purpose of receiving company-specific information relating to the Staff Report in this docket, File No. AO-2021-0264, and the second order adopting the attached proposed Protective Order, **Attachment 1** incorporated by reference herein, for this and each additional docket. In support of these Motions, Staff states that this order would substantially follow the same procedures adopted by the Commission in File No. EW-2019-0370 (In the Matter of an Investigation of Missouri Jurisdictional Generator Self-Commitments into SPP and MISO Day-Ahead Energy Markets), and in addition states the following:

Background and Procedural History

1. In February 2021, Missouri—along with the rest of the nation—experienced unseasonably cold temperatures, resulting in rolling electrical blackouts and extreme natural gas price spikes in Missouri.¹

2. On February 22, 2021, the Commission opened this file and on February 24, the Commission directed the Commission’s Regulatory Analysis and

¹ EFIS File No. AO-2021-0264, Item No. 2 (Feb. 24, 2021) (Order Directing Staff to Investigate and Submit Report).

Customer Experience Departments, with assistance as needed from other departments within its Industry Analysis and Financial and Business Analysis Divisions, to investigate Missouri's electrical and natural gas utilities' preparation for and response to Missouri's February 2021 extreme cold, and to report the findings to the Commission. The report is to summarize analysis performed by the RTOs, market monitors, FERC, NERC, or any other relevant body, and is also to include information from the utilities as to their response measures, impacts on customers, and lessons learned going forward.²

3. On March 11, 2021, the Commission directed Missouri's investor-owned natural gas utilities, to include various Liberty Utilities entities, Union Electric Company d/b/a Ameren Missouri, Spire Missouri, Inc. d/b/a Spire, and Summit Natural Gas of Missouri, Inc. to appear and present additional information related to potential consequences and options to mitigate the impact of the February 2021 extreme cold weather event at a workshop scheduled for March 23, 2021.

4. In responding to this and other inquiries of the Commission and Commission Staff, certain investor-owned utilities have provided information designated as "confidential" and in some cases "highly confidential."³

² *Id.*

³ 20 CSR 4240-2.135(4)(A) states that when a motion seeking greater protection than that provided by a "confidential" designation is being sought, "the disclosing party requesting greater protection will be afforded the protection sought." The Commission granted the motion of Empire District Electric Company, Liberty Utilities (Midstates Natural gas) Corp., Liberty (Empire) (Electric), Liberty (Empire) (Gas), and Liberty (MNG) (Gas) for a protective order. Otherwise, the parties providing information designated as "confidential" or "highly confidential" have marked the information as such, but have not yet filed such a motion with the Commission as of the date of this filing. In accordance with 20 CSR 4240- 2.1235(4)(A), Staff has afforded the protection sought by those parties to give them time to file such a motion while Staff reviews the information. EFIS Docket No. AO-2201-0264, Item Nos. 12, 19 (Mar. 30, 2021, Apr. 14, 2021).

5. The Commission’s Order Directing Response, issued March 19, 2021, provided that, “[a]ny stakeholder wishing to respond to the responses made by an IOU at the workshop or in their supplemental written response may do so by April 8, 2021.”

6. On April 8, 2021, the Commission received the comments and response of the Office of the Public Counsel, Clearwater Enterprises, LLC, Symmetry Energy Solutions, LLC, and Constellation NewEnergy-Gas Division, LLC.⁴

Basis for Requests

7. The Commission’s Rule on confidential information, 20 CSR 4240-2.135, provides that the Commission may order greater protection than that provided by a “Confidential” designation upon a motion explaining what information must be protected, the harm to the disclosing entity or the public that might result from the disclosure of the information, and an explanation of how the information may be disclosed while protecting the interests of the disclosing entity and the public. The designation for any document requiring greater protection than that provided by a “Confidential” designation shall be “Highly Confidential.”⁵

8. Under federal law, FERC-regulated gas utilities are prohibited from preferring their marketing affiliates over unaffiliated shippers with respect to transportation matters, access to information, and transportation discounts, and FERC-regulated electrical utilities are prohibited from using their unique access to information to favor their

⁴ EFIS Docket No. AO-2021-0264 Item Nos. 15–18.

⁵ 20 CSR 4240-2.135(4)(B).

own merchant functions, or those of affiliates.⁶ Missouri law contains similar prohibitions applicable to Missouri regulated gas and electrical utilities and their marketing affiliates.⁷

9. As a result of Staff's own questions to these gas and electrical corporations in furtherance of the investigation, Staff has access to information designated as both "Confidential" and "Highly Confidential" that has not been filed in the Commission's Electronic Filing and Information System ("EFIS") that Staff will use in its report(s). Thus, a further concern of Staff in maintaining the confidential and possibly highly confidential status of this information/data, which will be used by Staff in its report(s), is in maintaining its confidential and possibly highly confidential status as company-specific information and data.⁸

10. Further, Staff is talking with, and, as a consequence, may acquire information/data from other sources such as the Market Monitors for the Midcontinent Independent System Operator, Inc. ("MISO") and the Southwest Power Pool, Inc. ("SPP"). Information from such sources may need to be designated as "Confidential" or "Highly Confidential" if used in a report.

11. Given the market-specific basis of the information/data that is the subject of this investigation ordered by the Commission, the fact that all investor-owned electrical and gas corporations are the subject of this investigation ordered by the Commission, and that each entity has its own information which it desires to protect as "Confidential"

⁶ See, e.g., *Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation*, 57 Fed. Reg. 13267-02 (Apr. 16, 1992) (FERC Order 636); *Open Access Same-Time Information System (Formerly Real-Time Information Networks) and Standards of Conduct*, 61 Fed. Reg. 21737-01 (May 10, 1996) (FERC Order 889).

⁷ See, e.g., 20 CSR 4240-20.015—20.017; 20 CSR 4240-40.015—40.017; 20 CSR 4240-80.015.

⁸ Staff also notes that the four electrical corporations are required to maintain functional separation between their own employees on opposite sides of the intended arms-length transactions that occur through the applicable RTO in which each participates as a member.

and in some cases “Highly Confidential,” Staff is concerned that the provisions for “Confidential” information are insufficient to protect both the electrical and gas corporations and their customers, and other stakeholders in the wholesale and retail markets. Staff’s proposed Protective Order, incorporated as **Attachment 1**, will ensure that the protections set in place under both federal and state law remain in place.

12. For the reasons stated above, Staff recommends proceeding in this matter under procedures consistent with the Commission’s Order in File No. EW-2019-0370.⁹

In that case, among other things:

- a. the Commission opened new investigative files for each utility;
- b. Staff submitted its general report in the main file (No. EW-2019-0370);
while
- c. Staff submitted company-specific confidential and highly confidential information in the new files established for each utility (File Nos. EW-2020-0032 through EW-2020-0035); and
- d. the Commission issued separate protective orders in each of the above-referenced files (Nos. EW-2019-0370 and EW-2020-0032 through EW-2020-0035) substantially similar to the proposed Protective Order incorporated as **Attachment 1** hereto; and
- e. the Commission made each utility a party to its own file.

13. Accordingly, Staff recommends that the Commission issue an order in this current case, File No. AO-2021-0264:

⁹ EFIS File No. EW-2021-0370, Item No. 35.

- a. Opening the following investigative files for the following utilities for the purpose of receiving information designation as “Confidential” or “Highly Confidential.”:
 - i. EO-2021-XXXX: Union Electric Co., Inc. d/b/a Ameren Missouri (Electric)
 - ii. EO-2021-XXXX: Evergy Missouri West, Inc.
 - iii. EO-2021-XXXX: Evergy Missouri Metro, Inc.
 - iv. EO-2021-XXXX: The Empire District Electric Co. d/b/a Liberty
 - v. GO-2021-XXXX: Union Electric Co., Inc. d/b/a Ameren Missouri (Gas)
 - vi. GO-2021-XXXX: Spire Missouri, Inc. d/b/a Spire Missouri West
 - vii. GO-2021-XXXX: Spire Missouri, Inc. d/b/a Spire Missouri East
 - viii. GO-2021-XXXX: The Empire District Gas Co., d/b/a Liberty
 - ix. GO-2021-XXXX: Liberty Utilities (Midstates Natural Gas) Corp. d/b/a Liberty
 - x. GO-2021-XXXX: Summit Natural Gas of Missouri, Inc.
- b. Direct that the general report in this matter be filed in this case, File No. AO-2021-0264;
- c. Direct that any company-specific information designated “Confidential” or “Highly Confidential” be filed in the company’s specific file designated above;
- d. Issue the proposed Protective Order incorporated as **Attachment 1**; and

- e. Make each company a party to its own company-specific docket designated above.

WHEREFORE Staff requests that the Commission grant Staff's *Motion To Open 10 Additional Dockets To Receive Separate Company-Specific Information Relating To Staff's Report And Motion For Protective Order For Each Additional Docket* for the reasons stated above; and grant such other and further relief as the Commission finds just.

/s/ Curt Stokes

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic mail, or First Class United States Postal Mail, postage prepaid, on this 15th day of April, 2021, to all counsel of record.

/s/ Jamie S. Myers

- 1) EO-2021-XXXX: Union Electric Co., Inc. d/b/a Ameren Missouri (Electric)
- 2) EO-2021-XXXX: Evergy Missouri West, Inc.
- 3) EO-2021-XXXX: Evergy Missouri Metro, Inc.
- 4) EO-2021-XXXX: The Empire District Electric Co. d/b/a Liberty
- 5) GO-2021-XXXX: Union Electric Co., Inc. d/b/a Ameren Missouri
- 6) GO-2021-XXXX: Spire Missouri, Inc. d/b/a Spire Missouri West
- 7) GO-2021-XXXX: Spire Missouri, Inc. d/b/a Spire Missouri East
- 8) GO-2021-XXXX: The Empire District Gas Co., d/b/a/ Liberty
- 9) GO-2021-XXXX: Liberty Utilities (Midstates Natural Gas) Corp. d/b/a Liberty
- 10) GO-2021-XXXX: Summit Natural Gas of Missouri, Inc.

In addition to the protective order in this file, the Commission will issue separate protective orders in each of those files. Each utility will be made party to its own file in order to view the information designated as “Confidential” and “Highly Confidential” in its own file.

The specific additional protections to be afforded to information designated as “Highly Confidential” are set forth as follows.

THE COMMISSION ORDERS THAT:

1. Competitively sensitive information designated as “Highly Confidential” shall be disclosed only to the party that submitted it and to all to state agency parties and their employees who are covered by statutory confidentiality requirements to include Section 386.480, RSMo (2016).
2. This order shall be effective when issued.

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

In the Matter of the Cause of the)
February 2021 Cold Weather Event and) File No.
its Impact on Investor Owned Utilities –)
{Utility Name})

Protective Order and Order adding Parties

Issue Date:

Effective Date:

The Commission opened file AO-2021-0264 as a working case to facilitate the investigation into Missouri’s electrical and natural gas utilities’ preparation for and response to Missouri’s February 2021 extreme cold. Staff, the Regulatory Analysis Department, and the Customer Experience Department have been directed to file a report regarding the investigation no later than April 22, 2021. On April 15, 2021, Staff filed a motion asking the Commission to open 10 new files, one for each of the investor-owned electric and natural gas utilities, and to issue a protective order in each new file.

Staff explains that in the course of its investigation it is has obtained market specific information from each of the utilities that should be treated as “Highly Confidential” pursuant to the Commission’s confidential information rule, 20 CSR 4240-2.135(4). Staff intends to refer to information designated as “Highly Confidential” in its report regarding each utility, but market specific information cannot be shared with other utilities, and in some instances with certain affiliates of the utilities. To avoid the confidentiality problem, Staff asks the Commission to open new investigative files for each of the utilities. Staff proposes to submit the general elements of its report in this file. It proposes to file its report containing the company-specific information that has been designated as “Confidential” or “Highly Confidential” in the new files established for the specific utilities. This file has been established for {Utility Name}.

The Commission will issue a protective order in this file. The specific additional protections to be afforded to information designated as “Highly Confidential” are set forth as follows.

THE COMMISSION ORDERS THAT:

1. **{Utility Name}** is made a party in this file.
2. Information designated as “Highly Confidential” shall be disclosed only to **{Utility Name}** and to all to state agency parties and their employees who are covered by statutory confidentiality requirements to include Section 386.480, RSMo (2016).
3. This order shall be effective when issued.