

**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	)	

**EVERGY MISSOURI METRO'S REPLY IN SUPPORT OF
ITS MOTION FOR PROTECTIVE ORDER**

COMES NOW, Evergy Metro, Inc. d/b/a Evergy Missouri Metro ("Evergy Missouri Metro" or the "Company"), pursuant to 20 CSR 4240-2.080(13), respectfully submits this reply in support of its Motion for Protective Order and for Expedited Treatment (the "Motion"), stating as follows:

I. INTRODUCTION

1. On July 27, 2026, the Commission preliminarily granted the Motion, directing that no party, counsel, or their agents to whom confidential information is disclosed shall "input, upload, submit, or otherwise introduce such information into any unsecured or generative AI Tool," pending responses and a determination on the Motion.¹ Four parties responded: the Staff of the Commission ("Staff"), the Office of the Public Counsel ("Public Counsel"), the Midwest Energy Consumers Group ("MECG"), and Google LLC ("Google").² Read together, the responses narrow the dispute to implementation.

2. No respondent disputes the substance. Staff recognizes that the Company's "concern regarding the use of public or inadequately secured AI platforms is legitimate" and "is supportive of narrowly tailored guidance confirming that confidential or highly confidential

¹ Order Directing Responses and Issuing a Preliminary Protective Order, p. 2 (July 27, 2026) ("Preliminary Order").

² Staff's Response to Evergy Missouri Metro's Motion for Protective Order and for Expedited Treatment (July 31, 2026) ("Staff Response"); Public Counsel's Response in Opposition to Evergy Metro's Motion for Protective Order (Aug. 5, 2026) ("Public Counsel Response"); Midwest Energy Consumers Group's Response to Evergy Missouri Metro's Motion for Protective Order and for Expedited Treatment (Aug. 6, 2026) ("MECG Response"); Google LLC's Response to Evergy's Motion for Amended Protective Order (Aug. 6, 2026) ("Google Response").

information may not be submitted to any AI service that permits unauthorized access, model training, secondary use, or disclosure.”³ Public Counsel concedes that four of the five conditions in the Company’s proposed secure-environment exception “fall within the limitations of rule 20 CSR 4240-2.135(6)-(8).”⁴ MECG agrees the protections the Motion seeks are “already provided by the existing Confidentiality Rule.”⁵ Google “agrees that the use of unsecured or publicly accessible generative artificial intelligence (‘AI’) platforms to process such information poses real risks,” and its own proposed language would condition AI use on the same contractual safeguards the Company proposes: no training on inputs, no unauthorized third-party disclosure, and deletion on request.⁶

3. The Company accepts that convergence and conforms its request. It withdraws the two provisions at the center of the objections: the requirement that a receiving party deliver a written certification describing its AI tools to the designating party, and the requirement that qualifying tools operate on servers within the receiving party’s exclusive control. In their place the Company accepts the documentation procedure Staff proposes⁷ and the functional standard that Staff, Google, and the Morgan court each articulate.⁸ The operative terms of the amended provisions the Company now requests come from the respondents’ own filings. A proposed form is attached as Attachment A. The Commission can confirm its Preliminary Order in a form the respondents’ own language supports.

³ Staff Response ¶¶ 23, 24. Staff’s WHEREFORE clause describes the same guidance as reaching “confidential information” and asks that it apply “to all parties practicing before the Commission.” The Company reads Staff’s recommendation as ¶ 24 states it, covering information designated either Confidential or Highly Confidential.

⁴ Public Counsel Response ¶ 5.

⁵ MECG Response ¶ 3.

⁶ Google Response ¶¶ 1, 23.

⁷ Staff Response ¶ 22.

⁸ Staff Response ¶ 5; Google Response ¶ 23; Morgan v. V2X, Inc., No. 25-cv-01991-SKC-MDB, 2026 WL 864223, at *7 (D. Colo. Mar. 30, 2026).

II. THE RESPONSES CONFIRM THAT CLARIFICATION IS WARRANTED

4. Staff, Public Counsel, and MECG each argue that the existing rule is sufficient because 20 CSR 4240-2.135 already requires every recipient to keep designated information secure and to neither use nor disclose it outside the proceeding.⁹ The Company agrees that section (13) states the duty. The Motion addresses a different question: whether submitting designated information to a generative AI service whose provider retains inputs, uses them for model training, or discloses them onward is consistent with that duty. Courts have begun answering that question because the answer is not obvious to every user and because a wrong answer cannot be undone once the information is submitted.¹⁰

5. Morgan v. V2X, Inc., the decision several respondents analyze, illustrates the value of express clarification. The protective order there “arguably cover[ed] the use of AI already,” and the court observed that transmission of confidential information to an AI provider that stores it in its own databases or uses it for its own purposes “may violate the current Protective Order.” The court nevertheless entered AI-specific language.¹¹ A general confidentiality duty can be sound and still benefit from an express statement of how it applies to tools that invite inadvertent violation.

6. The Preliminary Order reflects the same judgment. Consistent with 20 CSR 4240-2.135(4)(A), which affords a party seeking greater protection the protection sought while its motion is pending, the Commission stated the prohibition expressly and made it effective on issuance.¹² The question the responses present is therefore not whether the prohibition should exist. It exists now. The question is the final form in which to confirm it.

⁹ Staff Response ¶ 1; Public Counsel Response ¶ 3; MECG Response ¶¶ 2-3.

¹⁰ See United States v. Heppner, 820 F. Supp. 3d 292, 296-97 (S.D.N.Y. 2026) (finding no reasonable expectation of confidentiality in a party’s voluntary submissions to a publicly accessible AI platform).

¹¹ Morgan, 2026 WL 864223, at *6 & n.2.

¹² Preliminary Order, pp. 1-2; 20 CSR 4240-2.135(4)(A).

7. Public Counsel’s response points in the same direction. Public Counsel reports that its own use of artificial intelligence is now governed by State Administrative Policy SP19, Acceptable Use for Artificial Intelligence, issued July 15, 2026.¹³ The State found an AI-specific policy necessary for its own workforce, notwithstanding its general confidentiality and security policies, and that supports the premise of the Motion: express application of confidentiality obligations to AI tools protects against inadvertent and irreversible disclosure.

8. The responses also confirm that the subject is current rather than hypothetical. Staff cautions against “chilling use of efficient, compliant tools that already meet no-retention and no-training standards,” and objects that the proposed order could restrict “functionally comparable tools” used by the participants examining the Company’s evidence.¹⁴ The Company takes the respondents at their word. If the tools in use already meet those standards, the proposed provisions change nothing about their use. They make those standards enforceable obligations of this proceeding rather than the voluntary terms of a vendor contract, and their only practical effect falls on non-compliant use. The observation also answers the suggestion that the Motion identifies no present need:¹⁵ the tools and designations are in use already, and a wrong answer about what qualifies cannot be undone later.

III. THE COMPANY’S CONFORMING MODIFICATIONS

9. *Certification.* The Motion proposed that a receiving party using a qualifying AI tool provide written certification to the designating party describing the tool and its safeguards. Every respondent objects, and Staff correctly notes that Morgan required something narrower: a party relying on qualifying contractual protections “must retain written documentation of these

¹³ Public Counsel Response ¶ 6.

¹⁴ Staff Response ¶¶ 11, 14; *see also* Google Response ¶¶ 18-19.

¹⁵ *See* Staff Response ¶¶ 6, 19.

contractual protections.”¹⁶ The Company withdraws the certification requirement. In its place, the Company accepts Staff’s alternative: documentation retained by the user and provided to the Commission “for confidential or in camera review only upon a specific showing of good cause.”¹⁷ That resolution also answers Google’s questions about how and when certifications would be submitted and renewed, and MECG’s concern that a certification process would invite disputes over its terms.¹⁸ Under the attached provisions, no party discloses its tools, workflow, or security architecture to any other party.

10. *Exclusive control.* The Motion’s safe harbor conditioned AI use on tools that keep designated information on servers within the receiving party’s exclusive control. Staff objects that “[s]erver ownership is not a substitute for a functional security analysis,” and Google explains that enterprise-grade systems operate on third-party cloud infrastructure under data processing agreements that prohibit training and unauthorized disclosure.¹⁹ The attached provisions adopt the functional standard instead. The qualifying-tools test is the one the Morgan court entered and the one Staff itself articulates: enforceable access, non-training, non-retention, and deletion restrictions, whatever the hosting arrangement.²⁰ The secure, closed systems Google describes remain fully available.

11. *Enforcement.* The Company does not object to conforming the enforcement provision to the Commission’s rules and to Mo. Rev. Stat. Section 536.095,²¹ which addresses contemptuous conduct in a contested case through application to the circuit court. Nor does the

¹⁶ Morgan, 2026 WL 864223, at *7. See Staff Response ¶ 16 & n.3.

¹⁷ Staff Response ¶ 22.

¹⁸ Google Response ¶¶ 21-22; MECG Response ¶ 5.

¹⁹ Staff Response ¶ 12; Google Response ¶¶ 17-20.

²⁰ Morgan, 2026 WL 864223, at *7; Staff Response ¶ 5 (a secure tool “does not become unlawful merely because it is generative or hosted by a service provider operating under enforceable access, non-training, non-retention, and deletion restrictions”).

²¹ All citations are to the Revised Statutes of Missouri (2016), as amended.

Company object to a reference confirming that officers and employees of the Commission and the Office of the Public Counsel remain subject to Section 386.480.²²

12. *Deletion and return.* The requirement that an AI provider afford the ability to delete uploaded designated information describes a contractual capability of the tool. It operates alongside the return-or-destruction procedure of 20 CSR 4240-2.135(15) and displaces nothing in sections (15) or (16). Section (15) presupposes the capability: a party whose designated information sits with a provider that cannot delete it must perform its own obligation to return or destroy all copies and notes at the close of the proceeding.²³ Morgan imposed the same capability.²⁴ The Company likewise does not object to language preserving litigation holds, public-record obligations, and routine system backups that cannot reasonably be altered without compromising system integrity.²⁵

13. *Nondisclosure Agreements.* Google suggests that the simplest path is an amendment to the Nondisclosure Agreement forms appended to the Protective Order, adding a certification that extends the existing use-and-disclosure prohibitions to AI submission.²⁶ The Company does not oppose that measure as a complement, and the substance of Google’s proposed certification matches Attachment A: use conditioned on a binding agreement that prohibits training on inputs, prohibits unauthorized third-party disclosure, and allows deletion on request. One refinement is warranted. The operative test should remain the functional safeguards rather than whether a platform is labeled public or closed, the technology-neutral point Staff’s own response

²² See 20 CSR 4240-2.135(16).

²³ 20 CSR 4240-2.135(15).

²⁴ Morgan, 2026 WL 864223, at *7 (the AI provider “must contractually afford the party or authorized recipient the ability to remove or delete all CONFIDENTIAL information upon request”); see also Google Response ¶ 23.

²⁵ See Staff Response ¶ 17.

²⁶ Google Response ¶ 23.

makes.²⁷ An amended form would also reach only those who sign it going forward, so it complements the amended order rather than replacing it.

IV. THE MOTION IS NARROWER THAN THE RESPONSES SUGGEST

14. The proposed provisions govern one subject: the handling of information a producing party has designated Confidential or Highly Confidential, which is the same subject the Confidentiality Rule and the existing Protective Order already govern. A party remains free to use any tool, for any purpose, which does not involve submitting another party's designated information to a service lacking the safeguards the respondents themselves endorse. The provisions leave the Commission's internal analytical methods untouched, and they appoint no party an arbiter of another's technology.²⁸

15. The provisions also bind the Company identically. Google notes that its own highly confidential information has been produced in this proceeding.²⁹ When Google, Staff, Public Counsel, MCEG, or any other participant designates information, the Company is a receiving party subject to every restriction. MCEG observes that the Company designates most of the confidential information in a rate case.³⁰ That is true of every utility rate proceeding, and it describes how confidentiality designation works rather than any asymmetry the Motion creates. A producing party's freedom to handle its own information exists under the current rule and under every confidentiality regime the Commission administers. The Motion changes nothing about it.

16. Staff objects that the provisions would attach consequences to a designation before the Commission decides whether the information qualifies. The existing rule already operates that way, and the Preliminary Order applied it. Designations take effect on submission, they remain

²⁷ Staff Response ¶ 5.

²⁸ MCEG Response at 1; Staff Response ¶ 15.

²⁹ Google Response ¶ 1.

³⁰ MCEG Response ¶¶ 4-5; Staff Response ¶ 11.

subject to challenge under 20 CSR 4240-2.135(11), and a party seeking greater protection receives the protection sought while its motion is pending, the mechanism the Commission invoked on July 27.³¹ The proposed provisions add a handling safeguard to that structure and create no new adjudicative shortcut. The Company also accepts the caution against over-designation that the Morgan court directed to the parties before it.³²

17. As to particularity, 20 CSR 4240-2.135(4) asks what must be protected, what harm may result, and how disclosure may occur while protecting the interests at stake. The Motion answers each at the level at which the risk exists. The information is that which qualifies for Confidential or Highly Confidential designations. The harm is the irreversible retention, training use, or onward disclosure that follows once designated information reaches an unsecured platform, a harm that does not vary document by document. The method of protected disclosure is the secure-environment safe harbor whose substantive conditions Public Counsel agrees reflect existing law. Staff itself describes the concern as one “applicable to virtually every Commission proceeding and every utility.”³³ A categorical harm does not require document-by-document proof. Federal courts have addressed the identical risk through case-wide protective-order provisions, and the Preliminary Order took the same form.³⁴

18. Finally, the Company does not oppose Commission-wide treatment of this subject through the alternatives Staff identifies, the workshop or rulemaking MECG suggests, or the rule amendment Google proposes.³⁵ Rulemaking takes time, and discovery involving designated

³¹ See 20 CSR 4240-2.135(4)(A), (11); Preliminary Order, pp. 1-2.

³² See Morgan, 2026 WL 864223, at *7 n.4.

³³ Staff Response ¶ 21.

³⁴ See Morgan, 2026 WL 864223, at *7; Preliminary Order, p. 2.

³⁵ Staff Response ¶ 21; MECG Response ¶ 7; Google Response ¶ 23. To the extent Staff’s WHEREFORE clause asks that the alternative guidance apply to all parties practicing before the Commission, guidance of that breadth would issue through the generally applicable mechanisms Staff identifies in ¶ 21. The provisions proposed here bind the parties to this proceeding and can supply the standardized language for both.

information proceeds now. An order in this docket built on the respondents' own formulations supplies interim protection and can serve as the standardized language Staff recommends.

V. FINAL DETERMINATION

19. Because the operative terms of the attached provisions come from the respondents' own filings, confirmation requires no further record and imposes no burden on any party, customers, or the public. Tools that already meet the provisions' standards remain fully available, so confirmation costs the parties nothing. As to timeliness, the decisions that frame the question issued this year, Heppner in February and Morgan in March, and the State's own AI policy issued on July 15, 2026, days before the Motion was filed.³⁶ The Company requests that the Commission confirm the Preliminary Order and enter the amended provisions at its earliest opportunity.

WHEREFORE, Evergy Missouri Metro respectfully requests that the Commission confirm its Preliminary Order and amend the Protective Order in this proceeding to incorporate the provisions attached as Attachment A; or, in the alternative, issue the narrowly tailored guidance Staff supports, confirming that information designated Confidential or Highly Confidential may not be submitted to any AI service that permits unauthorized access, model training, secondary use, or disclosure; and grant such other and further relief as the Commission deems just and reasonable.

³⁶ Staff Response ¶ 19. *See* Heppner, 820 F. Supp. 3d 292 (S.D.N.Y. Feb. 17, 2026); Morgan, 2026 WL 864223 (D. Colo. Mar. 30, 2026); Public Counsel Response ¶ 6 (SP19 issued July 15, 2026). The Motion was filed July 17, 2026.

Respectfully submitted,

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**ATTORNEYS FOR EVERGY MISSOURI
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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 12th day of August 2026, by EFIS filing and notification, and/or e-mail.

/s/ Roger W. Steiner

Roger W. Steiner

ATTACHMENT A

Proposed Amended Protective Order Provisions

1. **Application.** These provisions supplement the Protective Order issued in this proceeding on April 13, 2026, and govern the handling of information designated Confidential or Highly Confidential under 20 CSR 4240-2.135 and that Protective Order (“Designated Information”) by every party, counsel, consultant, or agent to whom Designated Information is disclosed (each, a “Receiving Party”). These provisions apply equally to all parties, including Evergy Missouri Metro when it receives Designated Information produced by another party. Nothing in these provisions restricts a party’s use of its own information.

2. **Prohibition.** No Receiving Party shall input, upload, submit, or otherwise disclose Designated Information to any artificial intelligence tool, platform, or service that permits unauthorized access, model training, secondary use, or disclosure of such information.

3. **Qualifying Tools.** A Receiving Party may use an artificial intelligence tool to process Designated Information only if: (a) the provider is contractually prohibited from storing or using inputs to train, fine-tune, or otherwise improve any model or algorithm; (b) the provider is contractually prohibited from disclosing inputs to any third party except where disclosure is essential to delivery of the service, and any such third party is bound by obligations no less protective than these provisions; (c) the provider contractually affords the Receiving Party the ability to remove or delete all Designated Information upon request; and (d) the Receiving Party has implemented reasonable technical and organizational safeguards against unauthorized access, disclosure, or use of Designated Information processed by the tool.

4. **Documentation.** A Receiving Party using a tool it contends satisfies Paragraph 3 shall retain written documentation of the required contractual protections or applicable product terms and conditions. . Such documentation shall be provided only to the Commission, for confidential or in camera review, upon motion and a specific showing of good cause. No party shall be required to disclose its tools, workflow, or security architecture to another party.

5. **Notice and Mitigation.** If Designated Information is disclosed without authorization through any artificial intelligence tool, the Receiving Party shall immediately notify the designating party and the Commission and shall take all reasonable steps to mitigate the effects of the disclosure.

6. **Return, Destruction, and Deletion.** These provisions do not alter the return-or-destruction procedure of 20 CSR 4240-2.135(15) or the Protective Order, the treatment of Commission and Office of the Public Counsel personnel under 20 CSR 4240-2.135(16) and Mo. Rev. Stat. Section 386.480, or litigation holds, public-record obligations, and routine system backups that cannot reasonably be altered without compromising system integrity.

7. **Designations.** These provisions do not alter a designating party's obligations under 20 CSR 4240-2.135(2) and (18), any party's right to challenge a designation under 20 CSR 4240-2.135(11), or the Commission's authority under 20 CSR 4240-2.135(19).

8. **Duration and Enforcement.** The restrictions of these provisions survive the conclusion of this proceeding for so long as Designated Information retains its designation. Violations may be addressed under the Commission's rules and Missouri law, including application to the circuit court under Mo. Rev. Stat. Section 536.095.