

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

In the Matter of The Empire	)	
District Electric Company's Request	)	<b><u>Case No. ER-2016-0023</u></b>
For Authority to Implement a General	)	Tracking No.: YE-2016-0104
Rate Increase for Electric Service	)	

**STAFF'S REPLY TO OPC'S RESPONSE  
TO EMPIRE'S MOTION TO STRIKE**

**COMES NOW** the Staff of the Missouri Public Service Commission, by and through counsel, and for its *Reply to OPC's Response to Empire's Motion to Strike*, states as follows:

1. On April 1, 2015, Office of Public Counsel ("OPC") witness Charles R. Hyneman, in his Direct Testimony in this matter, improperly requested the Commission to order The Empire District Electric Company ("Empire") to adopt his schedule CRH-1 as its Cost Allocation Manual ("CAM") required by the Commission's Affiliate Transaction Rule for electric utilities, 4 CSR 20.015, (2)(E) and (3)(D).<sup>1</sup>

2. On April 25, 2016, Empire filed its *Motion to Strike CAM Testimony and Motion for Expedited Treatment*, stating, "Empire makes this request at this time, so that Empire and the other parties to this rate case are not required to direct time and resources away from rate case matters in order to rebut Mr. Hyneman's allegations regarding Empire's CAM and otherwise discuss Empire's CAM in this rate case proceeding." Empire went on to explain the deficiencies in Mr. Hyneman's testimony

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<sup>1</sup> Rule 4 CSR 240-20.015(2)(E) states, "The regulated electrical corporation shall include in its annual Cost Allocation Manual (CAM), the criteria, guidelines and procedures it will follow to be in compliance with this rule." (3)(D), in turn, states: "In transactions involving the purchase of goods or services by the regulated electrical corporation from an affiliated entity, the regulated electrical corporation will use a commission-approved CAM which sets forth cost allocation, market valuation and internal cost methods. This CAM can use benchmarking practices that can constitute compliance with the market value requirements of this section if approved by the commission."

and noted the existence of a pending docket devoted to Empire's CAM, Case No. AO-2012-0062. Empire devoted significant space to a summary of the events in the CAM docket.

3. On April 28, 2016, OPC responded to Empire's *Motion to Strike*, stating "Empire has not, and OPC suggests it cannot, show that responding to the CAM testimony is prejudicial and should be stricken. . . . Empire's opposition to the CAM testimony appears to be because it is different testimony than what the company expected, and so, not redundant. Because the company is required to have a commission-approved CAM as it helps allocate costs appropriately the testimony is material and pertinent. The only thing of controversy about the CAM is that after nearly five years, Empire does not have a commission-approved CAM."

4. Staff concurs in Empire's *Motion to Strike* and opposes OPC's attempt to inject the issue of the CAM into this case. Staff acknowledges the torpid pace of Case No. AO-2012-0062 as demonstrated by Empire's summary of events. Mr. Hyneman served as Staff's principal technical expert on that CAM case prior to his recent relocation to OPC, so he should also be well aware of the events related to the pace of that case. Further, a review of the docket sheet of Case No. AO-2012-0062 reveals a complete lack of activity by OPC.<sup>2</sup>

5. Why is OPC's attempt to inject the CAM into this case not appropriate? Because the Affiliate Transaction Rule contemplates and requires a separate, CAM-focused docket. The descriptions of the required CAM contained in the Affiliate

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<sup>2</sup> It did join in two joint filings early on.

Transaction Rule,<sup>3</sup> that it contain the “criteria, guidelines and procedures” necessary to comply with the rule and the “cost allocation, market valuation and internal cost methods” to be used when a regulated electrical corporation purchases goods or services from an affiliate, reveal it to be a matter of significant controversy. Millions of dollars may well be at stake. With the repeal in 2005 of the Public Utility Holding Company Act (“PUHCA”), most of Missouri’s energy utilities reorganized themselves as a holding company with operating and service subsidiaries. Some of those operating subsidiaries are regulated and some are not. Transactions among those affiliates are common and must comply with the Affiliate Transaction Rule. The CAM must encompass all of those various transactions. For this reason, the negotiation of a CAM acceptable to all stakeholders is a painstaking and contentious process. It requires that every sentence of a lengthy document be scrutinized, debated, re-written and re-written again. A general rate case, in which many matters must be considered and resolved in a very short term, is not the place for negotiating a CAM.<sup>4</sup> The purpose of a rate case is to make rates, not to make a CAM. The latter is the purpose of a CAM docket, such as Case No. AO-2012-0062. Let OPC file Mr. Hyneman’s testimony and its proposed CAM in that docket, where it belongs.

**WHEREFORE,** Staff prays that the Commission will grant Empire’s *Motion to Strike* and will direct OPC to file Mr. Hyneman’s testimony and its proposed CAM in Case No. AO-2012-0062; and grant such other and further relief as the Commission deems just in the circumstances.

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<sup>3</sup> See Footnote 1, *supra*.

<sup>4</sup> Speaking of La La Land, that is where OPC is attempting to take this rate case.

Respectfully submitted,

**/s/ Kevin A. Thompson**

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing has been served, by hand delivery, electronic mail, or First Class United States Mail, postage prepaid, to all parties of record on the Service List maintained for this case by the Data Center of the Missouri Public Service Commission, on this 29<sup>th</sup> day of April, 2016.

**/s/ Kevin A. Thompson**