

and agrees with them. Staff has verified that Empire has filed its 2014 annual report and is not delinquent on any assessment. Empire is current on the filing of its Surveillance Monitoring reports as required by 4 CSR 240-20.090(10) and its monthly reports as required by 4 CSR 240-3.161(5). Staff is not aware of any other matter before the Commission that affects or is affected by this filing, except as noted herein. Staff recommends the Commission approve Empire's RP12 true-up filing, which indicates Empire over-collected \$183,134 from its customers, with interest, for inclusion in the calculation of the FPA amount included in Empire's AP14 adjustment filing in File No. ER-2016-0080.

Neither the governing statute¹ nor any other law requires a hearing before approving the unopposed application.² Because this is a non-contested case, the Commission acts on evidence that is not formally adduced and preserved.³ There is no evidentiary record.⁴ Consequently, the Commission bases its decision on the parties' verified filings.

Based on the Commission's independent and impartial review of the verified filings, the Commission finds that it is in the public interest to approve Empire's application and authorize Empire to include the calculated amounts in its next FAC accumulation period as previously described.

¹ Section 386.266, RSMo Supp. 2013. This section provides for a hearing when the FAC is approved, modified or rejected. It does not require a hearing when annual true-ups are filed by the company. Commission Rule 4 CSR 240-20.090(5) states the Commission may hold a hearing if needed, but one is not required.

² Section 536.010(4), RSMo Supp. 2013, defines a contested as "a proceeding before an agency in which legal rights, duties or privileges of specific parties are required by law to be determined after hearing." *State ex rel. Rex Deffenderfer Ent., Inc. v. Public Service Commission*, 776 S.W.2d 494, 496 (Mo. App., W.D. 1989).

³ *State ex rel. Public Counsel v. Public Service Comm'n*, 210 S.W.3d 344, 353-355 (Mo. App. 2006).

⁴ *Id.*

THE COMMISSION ORDERS THAT:

1. The true-up amounts for Recovery Period 12 are established for The Empire District Electric Company as an over-collection of \$183,134 from its customers and shall be reflected in the rate adjustment as approved in Commission File No. ER-2016-0080.
2. This order shall become effective on December 1, 2015.
3. This file shall close on December 2, 2015.



BY THE COMMISSION

Morris L. Woodruff

Morris L. Woodruff
Secretary

Hall, Chm., Stoll, Kenney,
Rupp, and Coleman, CC., concur.

Bushmann, Senior Regulatory Law Judge