

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

In the Matter of The Empire District  
Electric Company for Authority to  
Implement Rate Adjustments Related  
to the Company's Fuel and Purchase  
Power Adjustment (FAC) Required in  
20 CSR 4240-20.090

Case No. ER-2020-0311

**RESPONSE TO STAFF AND EMPIRE RESPONSES**

COMES NOW the Missouri Office of the Public Counsel (“OPC”) and for its  
*Response to Staff and Empire Responses* states as follows:

1. The OPC filed its response to the recommendation filed by the Staff of the Missouri Public Service Commission (“Staff”) in the above styled case on May 11, 2020.
2. Pursuant to the orders of the Missouri Public Service Commission (“the Commission”), the Empire District Electric Company (“Empire”) and Staff filed their responses to the OPC on May 17, 2020, and May 18, 2020, respectively.
3. Neither Empire nor Staff’s response effectively address the issues raised by the OPC, as both have chosen to instead focus their concerns on the retirement date of Empire’s Asbury generation facility.
4. To be perfectly clear: the retirement date of the Asbury generating facility is **wholly and completely irrelevant** to the issue that the OPC has raised
5. The OPC’s issue is instead simply and solely this: coal inventory adjustments and other undefined costs cannot be included in Empire’s FAC because

they are not listed as a cost that can be recovered in the relevant section of Empire's FAC tariff.

6. It is true that the coal inventory adjustments and other undefined costs that the OPC is concerned with are related to the retirement of the Asbury generating facility, but the question of when the retirement occurred has no bearing on whether the costs in question are recoverable through Empire's FAC.

7. To reiterate on the previous filing, Original Sheet 17v of Empire's tariff P.S.C. Mo. No. 5, Section 4 specifically defines "Fuel Costs Incurred to Support Sales" as:

The following costs reflected in Federal Energy Regulatory Commission ("FERC") Accounts 501 and 506: coal commodity and railroad transportation, switching and demurrage charges, applicable taxes, natural gas costs, alternative fuels (i.e. tires, and bio-fuel), fuel additives, Btu adjustments assessed by coal suppliers, quality adjustments assessed by coal suppliers, fuel hedging costs, fuel adjustments included in commodity and transportation costs, broker commissions and fees associated with price hedges, oil costs, combustion product disposal revenues and expenses, consumable costs related to Air Quality Control Systems ("AQCS") operation, such as ammonia, lime, limestone, and powdered activated carbon, and settlement proceeds, insurance recoveries, subrogation recoveries for increased fuel expenses in Account 501.

8. Coal inventory adjustments and other undefined costs are not included in this list.

9. Therefore, coal inventory adjustments and other undefined costs do not fall within the definition of "Fuel Costs Incurred to Support Sales" and thus cannot be recovered through the FAC.

10. Staff's response completely ignored this extremely simple argument that coal inventory adjustments and other undefined costs are not costs appropriate for recovery under Empire's FAC, and so is totally useless. Coal inventory

adjustments and other undefined costs are either includable costs under the language of the FAC tariff or they are not and if they are not, then there is no reason to wait until a later prudence review for those costs to be removed.

11. Empire's response is slightly better in that it at least argues that the coal inventory adjustments were recorded to Account 501 and so should be recoverable under the FAC. However, Empire is still wrong because not all costs included in account 501 are recoverable under the FAC. Instead, it is only those costs found in the definition of "Fuel Costs Incurred to Support Sales" included in Original Sheet 17v of Empire's tariff P.S.C. Mo. No. 5, Section 4 that may be included.<sup>1</sup>

12. Because coal inventory adjustments and other undefined costs are not found in the definition of "Fuel Costs Incurred to Support Sales" included in Original Sheet 17v of Empire's tariff P.S.C. Mo. No. 5, Section 4, the inclusion of coal inventory adjustments and other undefined costs related to the Asbury generating facility (whether it be considered retired or not) cannot be included in the calculation of Empire's Fuel Costs Incurred to Support Sales.

13. Empire's proposed 8th Revised Sheet No. 17ac Replacing 7<sup>th</sup> Revised Sheet No. 17ac proposes adjustments to Empire's FARs based on a calculation of Empire's Fuel Costs Incurred to Support Sales that includes coal inventory adjustments and other undefined costs related to the Asbury generating facility.

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<sup>1</sup> It is somewhat humorous to see Empire claim that the "OPC's challenge is not based on the actual FAC language" when, in reality, the OPC's challenge is based **exclusively** on the FAC language. The OPC's argument literally begins and ends with the examination of the definition of "Fuel Costs Incurred to Support Sales" included in Original Sheet 17v of Empire's tariff P.S.C. Mo. No. 5, Section 4 and the unavoidable conclusion that coal inventory adjustments are not found in this definition.

14. Empire's proposed 8th Revised Sheet No. 17ac Replacing 7th Revised Sheet No. 17ac thus includes an adjustment to Empire's FARs that are not in conformity with the FAC mechanism established in Empire's most recent general rate proceeding.

15. Again, nothing in the response of either Empire or Staff has properly addressed this point.

16. In conformity with Commission rule 20 CSR 4240-20.090(8)(H)3, the Commissions should therefore reject the proposed rate sheets, suspend the timeline of the FAR adjustment filing, set a prehearing date, and order the parties to propose a procedural schedule.

WHEREFORE, the Office of the Public Counsel respectfully requests the Commission accept this *Response* and rule in the OPC's favor on all issues presented herein.

Respectfully submitted,

By:           /s/ John Clizer            
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CERTIFICATE OF SERVICE

I hereby certify that copies of the forgoing have been mailed, emailed, or hand-delivered to all counsel of record this eighteenth day of May, 2020.

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*/s/ John Clizer*