

In the Matter of:

The Empire District Electric Company'e Request to file Tariffs

ER-2019-0374 VOL 6

February 28, 2020



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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Procedural Conference

February 28, 2020

Jefferson City, Missouri

Volume 6

In the Matter of:
The Empire District Electric)
Company's Request for)
Authority to File Tariffs) File No. ER-2019-0374
Increasing Rates for Electric)
Service Provided to Customers)
in its Missouri Service Area.)

JOHN T. CLARK, Presiding
REGULATORY LAW JUDGE

REPORTED BY:
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PROCEEDINGS

1
2 JUDGE CLARK: Let's go on the record.
3 Today's date is February the 28 of 2020, and it is
4 currently 11:03 a.m. We are in room 305 of the
5 Governor Office Building. The Commission set aside
6 this time for a procedural conference in the case
7 captioned as In the Matter of the Empire District
8 Electric Company's Request for Authority to File
9 Tariffs Increasing Rates for Electric Service
10 Provided to Customers in its Missouri Service Area,
11 File No. ER-2019-0374.

12 Good morning. My name is John Clark; I'm
13 the regulatory law judge in this matter. I'm going
14 to begin by asking the attorneys to enter their
15 appearance starting with the Empire District.

16 MS. CARTER: Diana Carter for the Empire
17 District Electric Company, and I've provided my
18 contact information to the court reporter.

19 JUDGE CLARK: Thank you, Ms. Carter. For
20 Commission Staff.

21 MS. PAYNE: Whitney Payne on behalf of
22 the staff of the Missouri Public Service Commission.
23 I've also provided my contact information to the
24 court reporter.

25 JUDGE CLARK: Thank you, Ms. Payne. The

1 Office of Public Counsel.

2 MR. WILLIAMS: Nathan Williams. The
3 court reporter has my information as well.

4 JUDGE CLARK: Thank you, Mr. Williams.
5 For Renew Missouri.

6 MR. OPITZ: Tim Opitz for Renew Missouri.

7 JUDGE CLARK: For National Housing Trust.

8 MR. LINHARES: Andrew Linhares by phone
9 for the National Housing Trust. My address is 3115
10 South Grand Boulevard, Suite 600, St. Louis, Missouri
11 63118.

12 JUDGE CLARK: Thank you, Mr. Linhares.
13 I'll note for the record that the National Resources
14 Defense Counsel and Sierra Club as well as another
15 attorney were excused from appearing. Are there any
16 other parties present that I haven't mentioned.
17 Okay.

18 Now, this procedural conference was
19 called by myself to address Staff's motion to
20 clarify. I'll briefly recap the procedural history
21 as to how we got here. The Office of Public Counsel
22 filed a motion to change the test year or in the
23 alternative, include isolated adjustments for the
24 retirement of the Asbury coal-fired power plant in
25 this rate proceeding. The Commission Staff then

1 filed a response indicating that they thought the
2 test year should not be moved, but they were
3 agreeable to having isolated adjustments for known
4 and measurable impacts within this rate proceeding.

5 Now the Office of Public Counsel filed a
6 motion for reconsideration which the Commission
7 denied and the staff's counsel filed a motion to
8 clarify which asked to consider isolated adjustments
9 and stated that proposed isolated adjustments or
10 changes which are presented to the commission during
11 an evidentiary hearing for a determination of whether
12 they're known and measurable or whether or not the
13 test year should be adjusted. And indicated they had
14 always seen that as a -- they interpreted that under
15 previous commission cases to mean that this was an
16 evidentiary question, the admission of any evidence
17 is always an evidentiary question, and asked if this,
18 in fact, was a policy change.

19 And I guess that was based upon the
20 thought that somehow the Commission was being
21 ambiguous in its order. And the commission's order
22 stated that the Commission will not modified the test
23 year nor allow isolated adjustments for Asbury
24 retirement to be addressed in this general rate
25 proceeding, which I think the Commission considered

1 to be fairly straight forward. And I understand that
2 some of the parties are not happy with the answer
3 they received, but that is the answer the Commission
4 gave.

5 I also want to point out that in regard
6 to a policy change by the commission, Staff's
7 interpretation of prior commission orders do not
8 recreate a commission policy. So there's no policy
9 that's being changed because there was no policy
10 created. This is a unique situation where Empire
11 will be filing a rate case immediately after this
12 one, and so the Commission made the determination
13 that Asbury's retirement is best handled in that
14 proceeding. I know that that goes against case law
15 as it was interpreted by the commission staff.

16 If you go back and look at the agenda as
17 to what the chairman said, I would recommend that the
18 parties do that. What he indicated in regard to
19 Asbury's retirement was he did not want this issue to
20 be a distraction. And I think the feeling right now
21 with the Commission is that this has become a
22 distraction in a way that is exactly what the
23 Commission did not want to have happen.

24 Now, the parties have been given the
25 opportunity to include items for submission in an

1 AAO, and I've left that as broad and as wide as it
2 can be in regards to what categories or items they
3 want to include. There's a -- I can't remember off
4 the top of my head, but there is a deadline for that,
5 for submission of those in the procedural schedules.
6 What I would recommend strongly to the parties is
7 that they have a witness at the evidentiary hearing
8 who can explain to the Commission why this retirement
9 is extraordinary and explain the other requirements
10 of an AAO to the Commission. But I am going to
11 stress that that would be for an AAO and not isolated
12 adjustments to be considered in this hearing.

13 Now, with that all being said, if the
14 parties have individual items that they believe are
15 known and measurable now, even though they are
16 outside the true-up test year cutoff period, if they
17 can agree to what those items are and the value of
18 those items, because that's what the Commission does
19 not want to be determining during this hearing,
20 you're welcome to file a stipulation and agreement
21 among the parties in regards to those items. And I'm
22 certain that there are probably some items that
23 Empire might not want to pay interest on. So if
24 there are items that all the parties can agree on,
25 are known and measurable and establish a value for

1 and you want to submit those, I don't think that
2 presents a problem. Are there any questions?

3 MS. PAYNE: Part of Staff's concern with
4 limiting this to an AAO has been that the Company
5 specifically asked for an AAO in regards to
6 operations and maintenance expense. And so when the
7 Commission said that it was open to items to be
8 suggested in an AAO, we are confused as to whether
9 that is limited to operations and maintenance.

10 JUDGE CLARK: Okay. And that was not
11 addressed in the motion to clarify that I remember.
12 I will say that when that was discussed, when the
13 chairman said at agenda that they were going to go
14 with the company solution, it was not understood at
15 that time that operations and maintenance didn't
16 cover everything.

17 MS. PAYNE: Right.

18 JUDGE CLARK: So it's a very open wide
19 AAO. You can submit whatever items or categories you
20 believe should be covered in an AAO. They may not
21 all make it through; they may not all be included,
22 but it's a fairly wide open -- you're welcome to
23 offer whatever you want. You're not limited to
24 operation and maintenance.

25 MS. PAYNE: Thank you, Judges.

1 JUDGE CLARK: If the Commission -- if I'm
2 wrong and the Commission did mean operation and
3 maintenance, they can trim it back to that.

4 MS. PAYNE: Okay.

5 JUDGE CLARK: Any other questions? I see
6 no hands and I hear nothing. Are there any other
7 matters that need to be addressed by the Commission
8 at this time?

9 MS. PAYNE: I think Staff rests.

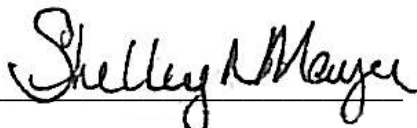
10 JUDGE CLARK: Okay. Then I will conclude
11 this procedural conference and go off the record.
12 I'd like to thank you all for attending today.

13 (Off the record.)
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CERTIFICATE

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Shelley L. Mayer, CCR

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