

1 STATE OF MISSOURI
2 PUBLIC SERVICE COMMISSION
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5 TRANSCRIPT OF PROCEEDINGS
6 On-The-Record Proceeding
7 February 25, 2013
8 Jefferson City, Missouri
9 Volume 9
9
10 In the Matter of the Empire)
District Electric Company of)
11 Joplin, Missouri for Authority to)
File Tariffs Increasing Rates for) File No. ER-2012-0345
12 Electric Service Provided to)
Customers in the Missouri Service)
13 Area of the Company.)

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MICHAEL BUSHMANN, Presiding,
Regulatory LAW JUDGE.
KEVIN D. GUNN, Chairman,
TERRY M. JARRETT,
19 STEPHEN M. STOLL,
WILLIAM P. KENNEY,
20 COMMISSIONERS.

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1 P R O C E E D I N G S

2 (WHEREUPON, the on-the-record presentation
3 began at 10:01 a.m.)

4 JUDGE BUSHMANN: Good morning. It's
5 Monday, February 25th, 2013. The Missouri Public Service
6 Commission has set this time for an on-the-record
7 proceeding to direct questions to the parties regarding a
8 Stipulation & Agreement in File No. ER-2012-0345, which is
9 captioned as in the matter of the application of the
10 Empire District Electric Company of Joplin, Missouri for
11 authority to file tariffs increasing rates for electric
12 service provided to customers in the Missouri service area
13 of the company.

14 My name is Michael Bushmann. I'm the
15 Regulatory Law Judge that will be taking care of this
16 proceeding this morning. Let's begin with counsel making
17 their entries of appearance. For the Empire District
18 Electric Company.

19 MS. CARTER: Diana Carter and Russ Mitten
20 of Brydon, Swearngen & England, representing the Empire
21 District Electric Company.

22 JUDGE BUSHMANN: For Office of Public
23 Counsel.

24 MR. MILLS: On behalf of the Office of
25 Public Counsel and the public, my name is Lewis Mills. My

1 address is Post Office Box 2230, Jefferson City, Missouri
2 65102.

3 JUDGE BUSHMANN: Staff of the Missouri
4 Public Service Commission.

5 MS. KLIETHERMES: On behalf of the Staff,
6 Sarah Kliethermes, Nathan Williams and Jeffrey Keevil for
7 and of the Staff of the Missouri Public Service
8 Commission, 200 Madison Street, Jefferson City, Missouri.

9 JUDGE BUSHMANN: Missouri Department of
10 Natural Resources.

11 MR. KNEE: Jeremy Knee, Assistant Attorney
12 General, representing the department in this case,
13 P.O. Box 899, Jefferson City, 65102.

14 JUDGE BUSHMANN: Midwest Energy Consumers
15 Group.

16 MR. WOODSMALL: David Woodsmall on behalf
17 of MECG.

18 JUDGE BUSHMANN: Midwest Energy Users
19 Association.

20 MR. CONRAD: Stu Conrad and the law firm of
21 Finnegan, Conrad & Peterson, 3100 Broadway, Suite 1209,
22 Kansas City, Missouri 6410 -- I'm sorry 64101 -- 64111.
23 I'll get it right in a minute.

24 By the way, Judge, are you streaming?

25 JUDGE BUSHMANN: Yes, sir.

1 MR. CONRAD: Okay.

2 JUDGE BUSHMANN: And for Missouri Gas
3 Energy.

4 MR. JACOBS: Todd Jacobs on behalf of
5 Southern Union Company, d/b/a Missouri Gas Energy.

6 JUDGE BUSHMANN: As far as preliminary
7 matters go, this Stipulation & Agreement that we're
8 discussing this morning, there was one party that did not
9 sign the agreement, so it's nonunanimous. Under the
10 Commission rules, if a party doesn't sign, they have seven
11 days to object to the Stipulation & Agreement. The party
12 that didn't sign was Missouri Gas Energy.

13 Mr. Jacobs, does Missouri Gas Energy waive
14 that seven-day requirement to object to this Stipulation &
15 Agreement?

16 MR. JACOBS: That's correct, Judge, we do
17 waive that period.

18 JUDGE BUSHMANN: And does Missouri Gas
19 Energy oppose the Stipulation & Agreement?

20 MR. JACOBS: We do not object to it.

21 JUDGE BUSHMANN: And are you -- so you're
22 not intending to object or request a hearing?

23 MR. JACOBS: Correct.

24 JUDGE BUSHMANN: Thank you. Are there any
25 other preliminary matters that the parties need to take

1 up? I don't hear any.

2 At this point what I'd like to do would be
3 to put the potential witnesses that may be called to
4 testify today under oath. We'll just do it all at one
5 time to save time. The parties that I have -- or the
6 witnesses that I have designated are Kim Bolin, Shawn
7 Lange and Adam Bickford, and I believe Kelly Walters also.
8 Ms. Walters, are you on the line?

9 MS. WALTERS: I am.

10 JUDGE BUSHMANN: Do the parties have
11 anybody else that might be a potential witness they want
12 to designate at this point? So for those four people,
13 could you please raise your right hand.

14 (Witnesses sworn.)

15 JUDGE BUSHMANN: Thank you. And as you
16 respond to any questions today, could you please identify
17 yourself so that the court reporter will be able to make
18 sure that she knows who's speaking.

19 Now we're ready for any statements or any
20 questions from the Commissioners about the Stipulation &
21 Agreement, and why don't we start with Chairman Gunn.

22 CHAIRMAN GUNN: Thank you. And I want to
23 thank all the parties for doing this on a little bit of an
24 expedited schedule, and thank you for the waiver of the
25 time. I thought it would hopefully be better, if the

1 Commission does vote on approval, that it be a full
2 Commission, and so I appreciate everybody doing that. I
3 just have a couple questions, and then I'll move on.

4 The question about customer charge, has the
5 customer charge changed in this or is it staying the same?
6 Any party can answer.

7 MS. CARTER: There's no increase in the
8 customer charge with these tariffs for residential.

9 COMMISSIONER GUNN: And that was my --
10 that's my biggest concern. I appreciate that. What
11 was -- what was the original amount of the request? If
12 the original tariff sheets were filed, do we know what the
13 approximate revenue increase would be?

14 MS. KLIETHERMES: I believe that's
15 30.7 million.

16 COMMISSIONER GUNN: Okay. I thought it was
17 a little bit lower than that, so that's very helpful for
18 me.

19 And then can someone talk to me quickly
20 about the energy efficiency part of this, because
21 there's -- there hasn't been a filing under MEEIA yet; is
22 that correct?

23 MS. CARTER: Empire actually made a MEEIA
24 filing and then, upon agreement of all the parties,
25 withdrew that filing, and there is an agreement as to when

1 the next MEEIA filing will take place. But Adam Bickford
2 would probably be the person for that if you have specific
3 questions.

4 COMMISSIONER GUNN: Let me ask this in
5 general before we make anybody get up here. Is the amount
6 of revenue increase, the approximate amount that we have,
7 is there a portion of that that includes funding for
8 energy efficiency programs or will that be taken care of
9 in the next MEEIA filing in the next potential rate case?

10 MS. CARTER: There are non-MEEIA programs.
11 Empire had existing energy efficiency programs that are
12 continuing until their new program's put in place through
13 a MEEIA filing.

14 CHAIRMAN GUNN: Got you. So these are --
15 these are programs that were either already in place or
16 that are done -- they are not part of any MEEIA filing as
17 MEEIA's voluntary, but there will be another MEEIA filing
18 which will deal with it on a broader basis than we do
19 here?

20 MS. CARTER: Yes. Likely Empire's MEEIA
21 filing would be at the end of this calendar year.

22 CHAIRMAN GUNN: Okay. Now I just have a
23 quick question for Public Counsel. There have been
24 concerns about some of the rebuild Joplin issues
25 previously. Are those still separate or were those

1 discussed or talked about? Are any particular programs
2 for Joplin dealt with in the agreement?

3 MR. MILLS: There aren't any -- and you may
4 be referring to some of the -- some of the rebates for
5 appliances when you talk about concerns.

6 CHAIRMAN GUNN: Right.

7 MR. MILLS: None of that is directly dealt
8 with in this agreement.

9 COMMISSIONER GUNN: All right. So we
10 will -- those concerns will be dealt with or are continued
11 to be dealt with in a separate issue not resolved here, so
12 we should expect those to continue cropping up --

13 MR. MILLS: Perhaps.

14 COMMISSIONER GUNN: -- if those concerns
15 still exist?

16 MR. MILLS: Right.

17 COMMISSIONER GUNN: That's all the
18 questions I have for folks. Again, I appreciate it. I
19 know this was hard work. I want to thank everybody for
20 putting the time in and getting this done. It's been an
21 extraordinarily busy time for everyone involved with the
22 amount of rate cases that have come through here, and I
23 just want to commend everybody on sitting down and getting
24 this done. So we appreciate it. I want to thank
25 everybody, but I don't have anything further. Thanks,

1 Judge.

2 JUDGE BUSHMANN: Commissioner Jarrett.

3 COMMISSIONER JARRETT: Thank you, Judge.

4 Good morning, everybody. I also want to echo Chairman
5 Gunn's sentiments on the settlement. We appreciate the
6 parties getting together and cooperating in good faith and
7 all of that to come to a -- hopefully a mutually
8 beneficial agreement for everybody.

9 I had a quick question of Empire. I know
10 you had filed an interim rate increase request for storm
11 costs. Does this settlement take care of Empire's
12 concerns and Empire's costs for the storm that they were
13 seeking in the interim?

14 MS. CARTER: Kelly, are you available to
15 answer that?

16 MS. WALTERS: Yes. And yes, those costs
17 are included in this permanent of the 27 and a half
18 million.

19 COMMISSIONER JARRETT: Okay. Thank you.
20 And then I just had another question. If you could
21 refresh my memory, I know you mentioned in the settlement
22 agreement Iatan 2 and Plum Point. What other generation
23 does Empire own besides Plum Point and Iatan?

24 MS. WALTERS: I'm sorry. This is Kelly
25 Walters with Empire. I'm not sure I understood the

1 question. Are you asking if there are other costs
2 included in this for generation?

3 COMMISSIONER JARRETT: No. I'm just asking
4 generally to refresh my memory, what generation does
5 Empire own? I know that in the agreement Iatan 2 and Plum
6 Point are mentioned. Are there other plants that Empire
7 owns?

8 MS. WALTERS: Yes. Iatan 1 and 2 we have a
9 12 percent ownership. With Plum Point we have 50
10 megawatts of ownership and 50 megawatts of purchased power
11 agreement. In addition, we have a coal-fired facility,
12 our Asbury facility, that we are 100 percent owner. We
13 have Riverton, we have a Riverton 150 megawatt gas unit.
14 This year we transitioned two coal units at Riverton,
15 Riverton 7 and 8, we transitioned those to gas.

16 We have gas units at our Energy Center
17 facility and we have gas at State Line. In addition, we
18 have purchased power agreements for wind farms which makes
19 up about 15 percent of our generation.

20 COMMISSIONER JARRETT: Okay. Thank you.
21 Again, I want to thank everybody for cooperating and
22 coming to an agreement, and I don't have any further
23 questions.

24 JUDGE BUSHMANN: Commissioner Stoll.

25 COMMISSIONER STOLL: I think I have one

1 probably for the company also. On the agreement No. 12,
2 could you elaborate on that a little bit about the
3 economic development rider, exactly how that works?

4 MS. CARTER: Yes, Commissioner. The tariff
5 sheets are actually attached, and there is a Schedule EDR,
6 which is a new tariff going in for Empire with the stated
7 purpose of encouraging industrial and commercial business
8 development in Missouri, and it would apply to give a
9 slightly lower rate for new business development, and the
10 tariff defines what would constitute new business
11 development, and would apply to customers who enter into
12 an agreement for economic incentives of sorts.

13 For example, if you're -- you can receive
14 from the state or federal government certain business
15 development incentives, this would go hand in hand with
16 that. And the settlement agreement provides that that
17 won't negatively impact other Empire customers. So Empire
18 would be absorbing any of those discounts.

19 COMMISSIONER STOLL: So the other customers
20 aren't really paying for that?

21 MS. CARTER: That is correct.

22 COMMISSIONER STOLL: And one other quick
23 one, I think. Back on No. 6, authorized -- this may be
24 something that's covered in your statements in a minute,
25 but authorize the tracking of revenue related to the

1 recovery of an Iatan 2 ITC tax liability. What is the
2 that acronym, ITC?

3 MS. CARTER: Investment tax credit.

4 COMMISSIONER STOLL: Investment tax credit
5 tax liability.

6 MS. CARTER: And if you have specific
7 questions on that one, Ms. Walters will be able to handle
8 that for you.

9 COMMISSIONER STOLL: I think that's as deep
10 as I'll get.

11 MS. WALTERS: I'm happy with that as well.

12 COMMISSIONER STOLL: Okay. Thank you very
13 much. Thank you, Judge.

14 JUDGE BUSHMANN: Commissioner Bill Kenney.

15 COMMISSIONER W. KENNEY: Mr. Chairman, I
16 think I'll just listen to the testimony, thank you, or the
17 explanation. Excuse me.

18 JUDGE BUSHMANN: Any other questions from
19 the Commissioners? Hearing none. Do the parties have
20 anything further that they need to bring up at this time?

21 MR. WOODSMALL: I would just mention an
22 issue that I was thinking may catch the Commission's eye.
23 Earlier in the case the Commission attempted to or did
24 interject the issue of rate stability, and it later came
25 out, but I would note that the parties are always

1 looking -- well, at least the consumers are always mindful
2 of that, and in this case there is a 18-month moratorium.
3 So there is some focus on rate stability here. It will be
4 at least 18 months until there is another general rate
5 increase that takes effect.

6 JUDGE BUSHMANN: Thank you, Mr. Woodsmall.
7 Anything further?

8 MS. KLIETHERMES: Yes, Judge. If the
9 Commissioners were seeking sworn testimony that certain
10 experts find the stipulation to be a reasonable resolution
11 of the case, we do have Staff witnesses who are prepared
12 to so testify.

13 COMMISSIONER GUNN: That's probably a good
14 idea just to put it on the record that we have in the
15 record that probably one from Staff and maybe someone from
16 the company and someone else just wants to testify that
17 they find this to be a just and reasonable settlement of
18 all the issues in the case, we should probably get that on
19 the record.

20 Just a comment on -- to Mr. Woodsmall. I
21 actually -- I saw that. I'm -- and you see in a lot of
22 other states these types of moratoriums that are done
23 through settlement, and I actually think that they're much
24 more effective when done through settlement rather than --
25 rather than done through a formal mechanism because it

1 gets everybody on board. Everybody can make those risk
2 assessments and make a determination where that happens.

3 I would love -- my opinion's not going to
4 count for much for very much longer, but I would love to
5 see more of these as general policy statements where
6 people can agree that there's a certain amount of time
7 because I think stability definitely from a business
8 development standpoint, from a company standpoint, from a
9 residential consumer standpoint, if they know there's a
10 certain amount of time in which those rates are going to
11 stay stable, it allows them to do budgeting and planning
12 and do it for at least that period of time in which rates
13 aren't going to be raised.

14 So I would encourage all the folks that are
15 not -- or that are involved in other rate cases, not just
16 Empire's, we're hitting a little bit of a fingers crossed
17 period that we're not going to get -- not going to see a
18 lot of people in as quickly as we've seen in the past, but
19 that when they're look at resolving issues in these cases,
20 that that becomes a point of discussion. That's one of
21 the reasons why we wanted to talk about it. I applaud the
22 parties for doing that.

23 So I appreciate you pointing that out
24 because as I saw it, I think it's an important point. I
25 want to thank everybody for putting it in. I think it's

1 probably a good idea that we get on the record that people
2 agree that this is a just and reasonable or whatever the
3 magic words are. Thanks.

4 JUDGE BUSHMANN: Okay. Who would you like
5 to have testify about that? You can stay right there and
6 just testify from there.

7 MS. KLIETHERMES: Should I just ask
8 questions?

9 Good morning, Ms. Bolin. Could you
10 indicate whether you consider this resolution contained in
11 the stipulation and the attached tariffs to reflect a just
12 and reasonable resolution of the Empire rate case?

13 MS. BOLIN: Yes, I believe the resolution
14 to be just and reasonable.

15 JUDGE BUSHMANN: Thank you. And Ms. Carter
16 or Mr. Mitten, would you like to ask Ms. Walters that same
17 question?

18 MS. CARTER: Yes. Ms. Walters, do you
19 believe the --

20 MS. WALTERS: Yes.

21 MS. CARTER: -- Nonunanimous Stipulation &
22 Agreement that was filed in this proceeding on Friday is a
23 just and reasonable resolution of this rate case?

24 MS. WALTERS: Yes, I do.

25 MS. CARTER: And do you believe the tariffs

1 attached to that Stipulation & Agreement contain just and
2 reasonable rates?

3 MS. WALTERS: I do.

4 JUDGE BUSHMANN: Thank you. Do the parties
5 have anything further they need to add at this point?

6 Hearing none, this on-the-record proceeding is now
7 adjourned. Thank you very much. We're off the record.

8 (WHEREUPON, the on-the-record presentation
9 concluded at 10:18 a.m.)

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C E R T I F I C A T E

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

I, Kellene K. Feddersen, Certified
Shorthand Reporter with the firm of Midwest Litigation
Services, do hereby certify that I was personally present
at the proceedings had in the above-entitled cause at the
time and place set forth in the caption sheet thereof;
that I then and there took down in Stenotype the
proceedings had; and that the foregoing is a full, true
and correct transcript of such Stenotype notes so made at
such time and place.

Given at my office in the City of
Jefferson, County of Cole, State of Missouri.

Kellene K. Feddersen, RPR, CSR, CCR

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