

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

In the Matter of the Application of The)
Empire District Electric Company for) File No. EO-2018-0092
Approval of Its Customer Savings Plan.)

**SIGNATORIES' RESPONSE IN OPPOSITION TO
OPC'S MOTIONS TO SUSPEND PROCEDURAL SCHEDULE**

COME NOW The Empire District Electric Company (“Empire”), the Staff of the Commission (“Staff”), Renew Missouri Advocates (“Renew Missouri”), the Midwest Energy Consumers Group (“MECG”), and the Missouri Department of Economic Development - Division of Energy (“DE”), the Signatories to the Non-Unanimous Stipulation and Agreement (the “Agreement”), and submit their Response in Opposition to the Motion to Suspend Procedural Schedule and the Second Motion to Suspend Procedural Schedule both filed herein by the Office of the Public Counsel (“OPC”). In this regard, the Signatories respectfully state as follows to the Missouri Public Service Commission (“Commission”):

1. Pursuant to the modified procedural schedule agreed to by all parties to this proceeding, including OPC, and approved by the Commission in its *Order Amending Procedural Schedule*, the Signatories filed the Agreement on April 24, 2018, along with supporting affidavits. Thereafter, OPC filed its opposition to the Agreement and served a number of data requests regarding the terms of the Agreement on the Signatories.

2. Data request no. 6, referenced in OPC’s first motion, asked the Signatories to identify the source of the Commission’s authority to authorize Empire, through a subsidiary, to enter into particular purchase agreements (para. 14a of the Agreement). After reflecting on OPC’s question, the Signatories determined that it was important to clarify their intent in the Agreement, and provided an answer to OPC’s data request no. 6 on May 1, 2018. That answer

removed three words from two provisions of the Agreement – “is authorized to” – and added four words – “The Signatories agree” and “will” as reflected below:

Paragraph 14.a. – “**The Signatories agree** EDE, through its ownership in Wind Holdco(s), ~~willis authorized to~~ enter into purchase agreement(s) for a nameplate capacity of up to 600 MW of Wind Projects...”

Paragraph 18.a. – “**The Signatories agree** EDE, through its ownership in Wind Holdco(s), ~~willis authorized to~~ contract with tax equity partner(s) for financing of the Wind Projects...”

3. As a result of these changes, OPC asked that the Commission suspend the procedural schedule so that it may conduct discovery on these changes. Contrary to OPC’s argument, the intended changes to the Agreement are not material changes which would require modification of the procedural schedule and/or postponement of the evidentiary hearing in this matter. Rather, the intended changes remove two “asks” from the Agreement, thus lessening the number of requests for relief to be opposed by OPC.¹ The Signatories’ intent to modify the Agreement as set forth above does not provide cause for a delay of this proceeding. As such, OPC’s first motion should be denied.

4. OPC’s second motion should also be denied. OPC states that Empire and Staff have failed to respond to data requests in a timely manner, thereby preventing OPC from preparing for hearing. OPC’s second motion references three unanswered data requests (out of approximately 100 served): data request 5 served on April 26 and data requests 8055 and 8056 served on April 27. Empire kept counsel for OPC apprised of its progress on data request responses and responses to additional requests for information from OPC, and the Company

¹ The Signatories intend to modify the Stipulation to clarify that they will simply acknowledge and agree that Empire will take these actions, as opposed to stating that Empire is “authorized to.”

served its responses to all three referenced data requests on May 3, 2018.² Staff served its response to data request 8055 (EFIS No. 72) on May 3, 2018 at 4:24 p.m. Staff's response concurred with Empire's response to data request 8055 and did not provide any new information.

5. It should also be noted that as of the filing of OPC's second motion (10:00 a.m. on May 3), Empire had answered 73 data requests served by OPC related to the Agreement, MECG had answered 27 data requests served by OPC related to the Agreement, and Staff had answered 26 data requests served by OPC related to the Agreement.

6. If the hearing is postponed as requested by OPC, the processing of this case will be significantly impacted. Based on the Commission's and the parties' calendars, it is likely that the hearing could not take place during the month of May, thereby necessarily pushing off the date by which the Commission may issue an order and hampering Empire's ability to move forward with the time sensitive aspects of the subject projects.

WHEREFORE, the Signatories respectfully request an order of the Commission denying OPC's motions and request such other and further relief as is just and proper under the circumstances.

Counsel for The Empire District Electric Company:

/s/ Diana C. Carter
Diana C. Carter #50527
Dean L. Cooper #36592
BRYDON, SWEARENGEN & ENGLAND P.C.
312 E. Capitol Avenue
P. O. Box 456
Jefferson City, MO 65102
(573) 635-7166
dcarter@brydonlaw.com
dcooper@brydonlaw.com

² Empire served its responses to data requests 8055 and 8056 at 11:34 a.m. on May 3 and served its response to data request 5 at 2:51 p.m. on May 3.

Counsel for the Staff of the Commission:

/s/ Marcella L. Forck
Marcella L. Forck #66098
Associate Staff Counsel
PO Box 360
Jefferson City, MO 65102
(573) 751-4140
Marcella.Forck@psc.mo.gov

Counsel for Renew Missouri Advocates:

/s/ Tim Opitz
Tim Opitz #65082
409 Vandiver Dr., Bldg. 5, Ste. 205
Columbia, MO 65202
(573) 303-0394
tim@renewmo.org

Counsel for the Midwest Energy Consumers Group:

/s/ David L. Woodsmall
David L. Woodsmall #40747
308 E. High Street, suite 204
Jefferson City, MO 65101
(573) 636-6006
David.woodsmall@woodsmalllaw.com

Counsel for the Missouri Department of Economic Development - Division of Energy:

/s/ Marc Poston
Marc Poston #45722
Senior Counsel
Department of Economic Development
PO Box 1157
Jefferson City, MO 65102
(573) 751-5558
Marc.poston@ded.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that the above and foregoing document was filed in EFIS on this 4th day of May, 2018, with notice of the same being sent to all counsel of record.

/s/ Diana C. Carter