

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

In the Matter of a Determination of Special     )  
Contemporary Resource Planning Issues to be     )  
Addressed by the Empire District Electric     )  
Company in its Next Triennial Compliance     )  
Filing or Next Annual Update Report     )

**File No. EO-2013-0105**

**DISSENTING OPINION OF COMMISSIONER TERRY M. JARRETT**

I dissent.

In 2011, this Commission promulgated new and revised rules regarding Integrated Resource Planning (“IRP”)( EX – 2010 – 0254). During the rulemaking process, I expressed concerns about the sheer length and minutiae of the rules. To me, the new rules are more compliance-based than performance-based. In other words, the focus of the rules appears to encourage compliance with the rules and a “just check all the boxes” approach rather than encouraging actual long-range strategic planning. However, none of the utilities or stakeholders voiced any strong objections to that approach, so I voted for the rules as proposed.

Now, in one of the first tests of these new rules, this Commission was asked to evaluate whether to issue an order containing a list of “special contemporary issues” for the utility to analyze and address in its next annual update report. 4 CSR 240-22.020(55) defines a “special contemporary issue” as a “written list of issues contained in a commission order with input from staff, public counsel, and intervenors that are **evolving new issues, which may not have otherwise have been addressed by the utility or are continuations of unresolved issues from the preceding triennial compliance filing or annual update filing.**” (emphasis added).

In my opinion, none of the items designated by the majority as special contemporary issues meet the definition in 4 CSR 240-22.020(55). For example, one of them is: “Disclose and discuss the amount and impact of every state or federal subsidy the Company expects to receive with regard

to any or all fuel sources it intends to use during the IRP study period.” State and Federal subsidies have been around for years and are neither new nor evolving. It is not a special contemporary issue according to our rules.

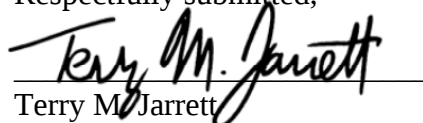
Further, in most cases, the Company has agreed to include the information in its next triennial compliance filing, or the information can be gained in more appropriate ways, such as through MEEIA filings or data requests. While I may agree that the information would be good to have, my concern is that the majority, to get the information, ignores the rule just by calling something a special contemporary issue when it is not.

I believe we should follow the rules, especially when we have other legal avenues to obtain the information. Doing it the right way sometimes is more difficult, but to me that does not justify ignoring the rule of law.

Also, in concurrent dockets with Ameren Missouri and The Empire District Electric Company regarding the same rule, different treatment on identical issues are given by the Commission regarding “special contemporary issue(s)” with regard to Kansas City Power & Light Company and Kansas City Power & Light Company Greater Missouri Operations. While what constitutes a “special contemporary issue” is fact based and utility specific, in this instance the disparate treatment is neither addressed nor distinguished by the majority.

The definition in the rule here is new, but it is not obscure or ambiguous. It had extensive input during workshops and the rulemaking process. Yet here the rule in its first test drive finds itself already off course.

Respectfully submitted,

  
Terry M. Jarrett

This 30<sup>th</sup> day of November, 2012.