

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

In the Matter of the Solar Rebate and)
Net Metering Tariff Sheets of) Case No. ET-2015-0285
The Empire District Electric Company)

MOTION FOR EXPEDITED TREATMENT AND APPROVAL OF TARIFF SHEETS

COMES NOW The Empire District Electric Company (“Empire” or the “Company”), by and through counsel, and, for its motion for expedited treatment pursuant to 4 CSR 240-2.080(14), request for approval of its new solar rebate tariff sheets and its revised net metering tariff sheets on less than thirty days’ notice, and for a contingent waiver of the notice requirement of 4 CSR 240-4.020(2), respectfully states as follows to the Missouri Public Service Commission (“Commission”):

Empire

1. Empire is a Kansas corporation with its principal office and place of business at 602 South Joplin Avenue, Joplin, Missouri, 64801. Empire is engaged in the business generally of providing electrical and water utility services in Missouri to customers in its service areas. Empire is an “electrical corporation” and a “public utility” as those terms are defined in §386.020 and is subject to the jurisdiction and supervision of the Commission as provided by law. Empire also provides natural gas service in Missouri through a wholly-owned subsidiary. A subsidiary of the Company also provides fiber optic services.

2. Empire has no pending or final unsatisfied judgments or decisions against it from any state or federal agency or court which involve customer service or which involve challenges to its rates, which have occurred within the three years immediately preceding the filing of this application. Empire has no overdue Commission annual reports or assessment fees.

3. Empire's documents of incorporation have been previously filed with the Commission in Case No. EF-94-39, and said documents are incorporated herein by reference in accordance with 4 CSR 240-2.060(1)(G). A Certificate of Authority from the Missouri Secretary of State to the effect that Empire, a foreign corporation, is duly authorized to do business in the State of Missouri was filed with the Commission in Case No. EM-2000-369 and is incorporated herein by reference.

4. All communications, notices, orders and decisions respecting this application and proceeding should be addressed to the undersigned counsel.

5. With this motion, Empire seeks approval of its new solar rebate tariff sheets and revised net metering tariff sheets on less than thirty days' notice and a waiver of the notice provisions of 4 CSR 240-4.020(2), if necessary, all as more specifically described below.

Empire's Request for Expedited Treatment and Approval of Tariff Sheets

6. Pursuant to Commission Rule 4 CSR 240-2.080(14)(A), Empire requests that the Commission act on this motion on Wednesday, May 6, 2015, and issue its order approving Empire's solar rebate tariff sheets (Tracking No. YE-2015-0322) and its revised net metering tariff sheets (Tracking No. YE-2015-0323) to take effect ten days thereafter.

7. On November 4, 2008, Missouri voters approved "Proposition C," codified at RSMo. §§393.1020-393.1035, which requires investor-owned utilities in Missouri to generate or purchase electricity from renewable energy sources, such as solar, wind, biomass, and hydro power, or purchase Renewable Energy Credits, in amounts equal to at least 5% of retail sales in 2014, increasing to at least 15% by 2021. Empire has been, and continues to be, in compliance with this requirement. Proposition C, however, also requires that 2% of the energy from renewable energy sources be solar and provides for the offering of certain solar rebates. Empire,

in reliance on RSMo. §393.1050 and the previous decisions of the courts and this Commission, operated under the belief that the Company was exempt from these solar-specific requirements.

8. On January 20, 2013, the Earth Island Institute, d/b/a Renew Missouri, and others challenged the solar exemption provided for in RSMo. §393.1050, by filing a complaint with the Commission (Commission Case No. EC-2013-0378). The Commission dismissed the complaint, and Renew Missouri sought review in the Missouri Supreme Court. The Supreme Court determined that the statutory exemption from payment of solar rebates upon which Empire relied had been repealed by the passage of Proposition C. The mandate from the Supreme Court was issued on April 2, 2015. Thereafter, on April 10, 2015, the Commission issued an order in Case No. EC-2013-0378, directing Empire to file a proposed solar rebate tariff by April 30, 2015. This deadline was extended, by Commission order in Case No. EC-2013-0378, to May 5, 2015. The Commission also directed Empire to request expedited approval of the tariff, so that Empire's ratepayers may begin receiving solar rebates as soon as possible.

9. On this date, May 5, 2015, Empire filed its proposed solar rebate tariff sheets (Tracking No. YE-2015-0322) and its revised net metering tariff sheets (Tracking No. YE-2015-0323). Each tariff sheet bears an effective date thirty days after filing. Empire, however, does not believe that thirty days' notice for these tariff sheets to become effective is necessary or appropriate under the circumstances. Although RSMo. §393.140(11) indicates that thirty days' notice is generally required before any tariff sheet filed by an electrical corporation can become effective, §393.140(11) also specifically provides that, for good cause shown, the Commission may allow changes without requiring thirty days' notice.

10. As noted above, Proposition C was approved on November 4, 2008, and the Commission, by orders issued in Case No. EC-2013-0378, directed the Company to file its

proposed solar rebate tariff by May 5, 2015, and seek expedited approval thereof. Additionally, Empire, the Staff of the Commission ("Staff"), the Office of the Public Counsel ("OPC"), and counsel for various other stakeholders, including counsel for the Complainants in Case No. EC-2013-0378, worked together on the proper language for Empire's solar rebate tariff. To account for a solar rebate tariff, certain changes were also required to be made to Empire's net metering tariff sheets.

11. Pursuant to 4 CSR 240-2.080(14)(B), Empire states that expedited treatment of this motion will not harm Empire's customers, but will allow Empire's customers to begin receiving solar rebates as soon as possible.

12. Pursuant to 4 CSR 240-2.080(14)(C), Empire states that this motion was filed as soon as possible, in that the subject tariff sheets were filed on this date.

Deferral of Compliance Costs and Rate Recovery

13. RSMo. §393.1030.2(4) provides that the Commission must implement whatever rules may be necessary to allow utilities to recover, outside the context of a regular rate case, all prudently incurred costs and the pass-through of benefits of savings achieved in meeting the requirements of Proposition C. In this regard, 4 CSR 240-20.100(6)(D) provides that an electric utility may recover RES compliance costs¹ without use of the RESRAM² procedure through rates established in a general rate proceeding. The rule further provides that, "(i)n the interim between general rate proceedings the electric utility may defer the costs in a regulatory asset

¹ RESRAM, or Renewable Energy Standard Rate Adjustment Mechanism, means a mechanism that allows periodic rate adjustments to recover prudently incurred RES compliance costs and pass-through to customers the benefits of any savings achieved in meeting the requirements of the Renewable Energy Standard. 4 CSR 240-20.100(1)(M).

² RES compliance costs means "prudently incurred costs, both capital and expense, directly related to compliance with the Renewable Energy Standard. 4 CSR 240-20.100(1)(N).

account, and monthly calculate a carrying charge on the balance in that regulatory asset account equal to its short-term cost of borrowing.”

14. When Empire initiated its current rate case, Case No. ER-2014-0351, in reliance on RSMo. §393.1050 and the prior decision of the Commission in Case No. EC-2013-0378, Empire did not propose a solar rebate tariff and/or request a related recovery mechanism for costs to comply with the solar rebate requirement of Proposition C.

15. Pursuant to RSMo. §393.1030.2(4) and Commission Rule 4 CSR 240-20.100(6)(D), upon approval of Empire’s solar rebate tariff sheets, Empire will begin to defer and record to the Uniform System of Accounts Account 182.3, Other Regulatory Assets, the costs incurred to comply with the solar rebate provisions of Proposition C and will monthly calculate a carrying charge on the balance in that regulatory asset account equal to the Company’s short-term cost of borrowing. Empire will then request that it be authorized to begin amortization and recovery of the costs so deferred commencing with the effective date of rates approved by the Commission in Empire’s first electric rate case following Case No. ER-2014-0351.

Contingent Request For Waiver

16. Empire does not know the direction this filing will take or whether it is likely to become a contested case subject to the notice of filing requirement of 4 CSR 240-4.020(2). In any case, this application has been filed as soon as possible after the court decision described herein and it would serve no purpose to wait additional time before filing this motion for expedited treatment and approval of Empire’s solar rebate tariff. Accordingly, should the Commission conclude that the filing of this motion is likely to be a contested case and subject to

the notice of filing requirement of 4 CSR 240-4.020(2), Empire requests a waiver of the sixty-day notice requirement for good cause shown pursuant to 4 CSR 240-4.020(2)(B).

WHEREFORE, Empire respectfully requests that the Commission issue an order approving the Company's solar rebate tariff sheets and revised net metering tariff sheets on less than thirty days' notice, waiving the notice requirement of 4 CSR 240-4.020(2), if necessary, and granting such other and further relief as the Commission deems necessary or appropriate.

BRYDON, SWEARENGEN & ENGLAND P.C.

By:

/s/ Diana C. Carter

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ATTORNEYS FOR THE EMPIRE
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CERTIFICATE OF SERVICE

I hereby certify that the above and foregoing document was filed in EFIS and that a copy of the same was sent via electronic mail on this 5th day of May, 2015, to counsel for the Staff of the Commission and the Office of the Public Counsel. A courtesy copy was also provided to all counsel of record in Commission Case No. EC-2013-0378.

/s/ Diana C. Carter