

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

In the Matter of the Sixth Prudence Review of)	
Costs Subject to the Commission-Approved)	
Fuel Adjustment Clause of The Empire)	Case No. EO-2017-0065
District Electric Company)	

**EMPIRE’S APPLICATION FOR RECONSIDERATION OF THE COMMISSION’S
ORDER REGARDING MOTION TO COMPEL DISCOVERY**

COMES NOW The Empire District Electric Company (“Empire”), by and through counsel, and, with regard to the Motion to Compel filed herein by the Office of the Public Counsel (“OPC”), respectfully requests reconsideration of the *Order Regarding Motion to Compel Discovery* issued herein on April 26, 2017, by the Missouri Public Service Commission (“Commission”).

1. With its *Order Regarding Motion to Compel Discovery*, the Commission held that subpart (4) of OPC data request 1318 is not overbroad and seeks only information relevant to this Fuel and Purchased Power Adjustment Clause (“FAC”) prudence review. Empire seeks reconsideration of this holding. This Motion for Reconsideration also provides additional information regarding how requiring a response from Empire would be unduly burdensome.

2. Empire understands the importance of OPC and wants OPC to have all information necessary in order for OPC to make a determination regarding the costs flowed through Empire’s FAC for the period under review: March 1, 2015 through August 31, 2016 (the “Audit Period”). Empire does not, however, want to waste time and resources gathering information as to periods that have already been reviewed, periods that will be reviewed in subsequent proceedings, and/or topics other than costs flowed through Empire’s FAC – and Empire most certainly does not want to provide OPC with a mass of unorganized and irrelevant information, thereby causing OPC to waste time and resources. The costs flowed through

Empire's FAC prior to the Audit Period were already reviewed, with no imprudence found; and the costs flowed or to be flowed through Empire's FAC after the Audit Period will be the subject of subsequent review proceedings. Actions taken by Empire after August 31, 2016 simply cannot be relevant to the costs flowed through Empire's FAC during the Audit Period.

3. Subpart (4) of OPC data request 1318 seeks "a copy of each and every report, analysis, memo or similar communication between ABB and Empire in 2014, 2015, 2016 and 2017." Empire objected to the request "on the bases that it is overbroad and unduly burdensome, seeks irrelevant information, and requests actions outside the proper scope of discovery." With regard to subpart (4), Empire agreed to "provide the reports, analyses, memos, and similar communications between ABB and Empire pertaining to the costs subject to Empire's Commission-approved FAC for the audit period of March 1, 2015 through August 31, 2016." Empire submits that it has already fully responded to the request with regard to all requested information that is legally relevant in this proceeding, by stating that there are no reports, analyses, memos, or similar communications between ABB and Empire pertaining to the costs subject to Empire's Commission-approved FAC for the audit period of March 1, 2015 through August 31, 2016.

4. ABB, formerly Ventyx, is an international company which offers a variety of products and services. Empire purchases "reference cases" from ABB. Reference cases are developed by ABB during the spring and fall of each year. A reference case is a study performed using a model of the entire eastern interconnect system, including expected load and generation data. The study results include price forecasts for fuel and markets by region. Reference cases developed by ABB are available for purchase by utilities. Utilities then use the reference case for their own internal modeling of various types of generation, load, and transmission studies.

5. Additionally, ABB offers consulting services and has been retained by Empire to perform modeling for Integrated Resource Plans (“IRP”), assist with annual IRP update reports, perform Renewable Energy Standard (“RES”) Retail Rate Impact calculations, and perform modeling for other special studies for several years. As such, there is a significant amount of communication between ABB and Empire to ensure assumptions are modeled in an appropriate manner for IRPs and other studies.

6. While IRP models and studies incorporate fuel price and market price forecasts provided by ABB, they do not, in any way, determine hedging or FAC requirements. As such, production of the requested information would not enable OPC to evaluate Empire’s hedging decisions or any other aspect of Empire’s FAC cost components. The effort to capture all communications between Empire and ABB over the requested four year period, to the extent it is even available, would involve searches to various employee mailboxes, computers, and network locations and would result in a significant amount of information for OPC to evaluate, none of which is used by Empire in the fuel procurement and hedging processes.

7. In a separate process from the long term IRP, Empire annually creates five-year budget projections (short-term). Empire typically purchases the most recent reference case from ABB and utilizes the reference case fuel price and market price forecasts in the development of the five-year budget. Fuel consumption budgets are created based on projected plant output modeling using the ABB reference case price forecasts. Empire then utilizes the fuel consumption from the five-year budget projections to determine the volume of gas to be hedged for each year of the upcoming five-year period, but, again, no price forecasts from ABB are used to determine the price at which gas should be hedged. Instead, actual quotes from gas supply

vendors in conjunction with approved practices in Empire's Risk Management Policy are utilized to determine if and when to purchase gas or place financial hedges.

8. Subpart (4) of OPC data request 1318 is overly broad and unduly burdensome, in that it requests *each and every* report, analysis, memo, or similar communication between ABB and Empire in 2014, 2015, 2016, and 2017, with no specificity as to the topic. Since Empire utilizes ABB for various consulting functions, the majority of requested information is irrelevant to the FAC and FAC prudence review, and production of the requested information would not result in the provision of useful information to OPC. In addition, the generic nature of the request, covering all topics, 16 months prior to the Audit Period, and 8+ months subsequent to the Audit Period, will place an undue burden on Empire to compile the information and will place an undue burden on OPC to review irrelevant information, such as voluminous work papers and communication exchanges used in various IRP studies and RES Retail Rate calculations.

9. Empire agrees to provide the highly confidential reference case information purchased from ABB and used in the development of the 2014, 2015, 2016, and 2017 five-year budget projections utilized by Empire for hedging practices (determination of volume), but the Company renews its request for relief from the broad request of *all* reports, analysis, memos, and similar communication between ABB and Empire over the requested four-year period.

WHEREFORE, Empire respectfully requests that the Commission reconsider its ruling and issue an order sustaining Empire's objections to subpart (4) of OPC DR 1318. Empire requests such other and further relief as is prudent under the circumstances.

BRYDON, SWEARENGEN & ENGLAND P.C.

By:

/s/ Diana C. Carter

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CERTIFICATE OF SERVICE

I hereby certify that the above and foregoing document was filed in EFIS on this 28th day of April, 2017, with notice of the same being sent to all counsel of record.

/s/ Diana C. Carter