

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

In the Matter of a Proposed Rulemaking to) **File No. EX-2009-0267**
Amend Commission Rule 4 CSR 240-20.065)

COMMENTS OF THE EMPIRE DISTRICT ELECTRIC COMPANY

Introduction

The Empire District Electric Company (Empire or Company) provides the following comments in regard to the proposed elimination of the liability insurance requirement currently found in Missouri Public Service Commission (Commission) Rule 4 CSR 240-20.065. Empire opposes the elimination and modification of the current insurance provisions. However, if those provisions are eliminated and modified, Empire supports the proposed additional language that would provide notice to customers regarding potential liabilities.

Discussion

Empire has its principal office and place of business at 602 Joplin Street, Joplin, Missouri, 64801. Empire is engaged in the business of providing electrical and water utility services in Missouri to customers in its service areas and has a certificate of service authority to provide certain telecommunications services. Empire is an “electrical corporation,” a “water corporation,” a “telecommunications company” and a “public utility,” all as defined in RSMo. §386.020. Empire has a wholly owned subsidiary that is a “gas corporation.”

The current Commission Rule 4 CSR 240-20.065 requires customer-generator systems of greater than ten kilowatts (10kW) to carry no less than one million dollars (\$1,000,000) of liability insurance, and customer-generator systems of less than ten

kilowatts (10kW) to carry no less than one hundred thousand dollars (\$100,000) of liability insurance. The proposed amendment eliminates that insurance requirement for customer-generator units of ten kilowatts (10 kW) or less, and reduces the requirement for customer-generator units of ten kilowatts (10 kW) or more from \$1,000,000 to \$100,000.

Empire believes it and others, including the general public, could be adversely impacted by this proposed change. This proposed action by the Commission could have the effect of allowing customer-generators in Missouri to expose the public to the potential for extreme injuries and even death without requiring those customer-generators to be financially responsible for the consequences.

The approach taken by the Commission is contrary to the approach taken by the state in other contexts. For example, the state of Missouri considers the operation of a motor vehicle to be dangerous enough to require all licensed operators to carry liability insurance or a prescribed substitute. The state also considers the operation of certain swimming pools to be dangerous enough to require that a minimum of \$1,000,000 in liability insurance be obtained. Customer-generators can carry the same potential for injury and death as the operation of a motor vehicle or the ownership of a swimming pool.

It should be common knowledge, especially to the Commission, that electricity can cause anything from a mild shock to horribly disfiguring and disabling injuries, to death. It should also be common knowledge that net metering installations, by definition, generate electricity. While under normal circumstances, net metering installations can operate safely, there can be situations when it can present hazards.

For example, if something occurs to allow the electricity produced by the customer-generator to flow back into the utility's system at a time when it is not supposed to do that, that presents a danger. One possible scenario would involve a downed power line. If a malfunction occurs in the customer-owned protective device and electricity flows into the downed power line from the customer-owned generation system, a hazardous situation would be created that not only impacts utility service workers but also the general public. If someone were injured as a result of a contact with this energized line, it is not difficult to imagine that lawsuits would be filed. It is also possible to imagine other scenarios where a customer's personal electric generating equipment could pose a hazard.

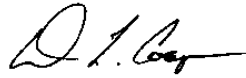
Any additional liability exposure incurred by Empire will be a cost to its entire customer base. In other words, the customer base, as a whole, will be required to protect against the possible consequences of these voluntary acts and choices of certain customers. To allow the operation of a customer-generator without any requirement for liability insurance is, in Empire's opinion, extremely unwise and would be a failure to protect the interest of the public.

WHEREFORE, Empire respectfully requests that the Commission consider these

comments in regard to the proposed amendments to Commission Rule 4 CSR-20.065.

Respectfully submitted,

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