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August 31, 1992

Mr. Brent Stewart
Executive Secretary
Missouri Public Service Commission
P.O. Box 360
Jefferson City, Missouri 65102

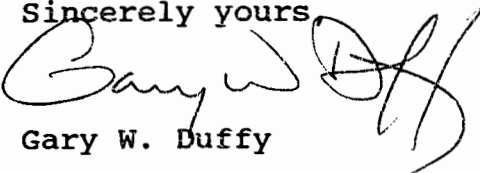
Re: Case No. EX-92-299

Dear Mr. Stewart:

Enclosed for filing with your office please find an original and fourteen copies of the reply comments of The Empire District Electric Company.

If there are any questions about this, please contact me.

Sincerely yours


Gary W. Duffy

GWD:ab
Enclosure
cc: Office of Public Counsel

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PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE COMMISSION

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the matter of proposed Commission)
rules 4 CSR 240-22.010 through) Case No. EX-92-299
4 CSR 240-22.080; Electric Utility)
Resource Planning.)

REPLY COMMENTS OF
THE EMPIRE DISTRICT ELECTRIC COMPANY

Comes now The Empire District Electric Company ("Empire") in response to the notice appearing in the Missouri Register on July 1, 1992 with regard to the above-captioned proceeding, and respectfully submits the following reply comments.

1. These comments are in response to initial comments of other parties that have been filed in response to the notice printed at 17 MoReg 902. As with Empire's initial comments, Mr. Robert B. Fancher, Vice President - Corporate Services, will be available at the public hearing on September 10, 1992 to answer questions from the Commissioners and the Hearing Examiner.

2. Empire has chosen to comment only on certain points in the initial comments of other parties. The absence of a reply to other parts of those comments should not be construed as agreement therewith.

Staff's Comments

3. Empire disagrees with the Staff report of significant deficiencies. On page 3 the Staff comments,

The Project Team issued its report entitled Strategic Resource Planning for Electric Utilities on August 2, 1991. It found wide variation and significant deficiencies in both the information quality and the scope and thoroughness of the analytical methods of

resource planning being utilized in those instances where resource planning existed.

Wide variations among utilities are not necessarily bad. Utilities will develop those data and methods which best suit their particular situation. The fact that there are variations between utilities can be beneficial as all search for the methods which work best.

The report of these alleged significant deficiencies found by the project team was not subjected to replies by the utilities or to any examination process and remains the opinion of the project team alone. As reported in Empire's initial comments, judgment should be based on the results of planning, not the mechanics of the planning process. For Empire, the results have been lower rates and excellent customer relations.

4. Commission approval of strategies does not require more prescriptive rules. On page 4 Staff comments,

If substantive Commission and Staff approval of resource acquisition strategies is determined by the Commission to be the desired result of the adoption of rules on electric utility resource planning, then the rules promulgated by the Commission should be much more prescriptive than the rules that appear in the July 1, 1992 Notice of Proposed Rulemaking.

Empire fails to see how more prescriptiveness is required for Commission approval. This statement seems to follow the argument that all planning processes should follow "the one best method." There is no one best set of customer subclasses, no one and only forecasting method, no one set of uncertain factors that apply equally well to all utilities. Therefore, no one planning method

need be specified. The Staff and Commission should be able to review the reasonableness of resource acquisition strategies by all utilities even though each may come from a slightly different mold.

5. Rules should be focused on the plan not the process to arrive at a plan. On page 15 the Staff comments,

Consequently, the focus of the proposed rules is on the objectives and the quality of the planning process itself rather than the particular plans or decisions that result from the process.

Empire disagrees with the focus on the mechanics of the process. Regardless of the planning process used, the final acquisition strategy and decisions made as a result of the planning process will determine the investments made. The rules should be revised to focus on review of the strategy not the mechanics of planning.

6. Empire agrees that cost for smaller utilities will be relatively higher but disagrees on waiver proof requirements. On page 20 the Staff comments,

There are virtually no differences in the cost of meeting the minimum requirements because of utility size. This means that the cost to the smaller utilities will be higher per kilowatt-hour sold. The proposed rule does allow the utility to demonstrate that the expected cost of acquisition of end-use information outweighs the expected benefits from that information.

Empire stated in initial comments that the cost burden of these rules would be disproportionate for smaller utilities. The Staff agrees. The waiver provision in the last sentence has significantly shifted the burden of proof. These rules as proposed include the requirement for end use data and forecasting without a demonstration of the benefits. A utility will be required to

demonstrate that end use data is not beneficial before receiving a waiver. Empire believes a demonstration of benefits should be made before the rule is adopted.

7. The high cost of implementation should be considered before adopting this rule. On page 20, the Staff comments,

Thus, a high cost of implementation by an affected utility is not a valid reason for the Commission to not adopt the rule.

Empire strongly disagrees with this Staff position. The Commission should weigh the high cost of implementation of these rules against the as yet unquantified benefits. Few reasons would be more valid for not approving than when costs are too high.

8. Empire believes prescriptiveness of rules does micro-manage and reiterates need for approval. On page 48, the Staff comments,

It is not the intent of the Staff that it or the Commission by adoption of the proposed Chapter 22 rules engage in the micro-management of the affected utilities. Thus, there is no requirement in the proposed rules that either the resource acquisition strategy or any deviation from it be approved by the Commission.

The detail specified in these proposed rules constitute micro-management of the planning process. These rules allow very little flexibility within a utility or between utilities.

There will be approval of the acquisition strategy by the Commission at some time. Empire contends that the approval should be when the plan is filed and all information is fresh, not several years later in a rate case where the plan will be viewed under changed circumstances.

Public Counsel's Comments

9. Empire has served as a defender of customers' interests.

On page 3, Public Counsel states,

The problem with granting such discretion is that a utility's interests can diverge from those of the public, and the Commission should be the sole arbiter of what is or is not in the public interest.

and on page 13,

The problem with granting such discretion is that a utility's interests can diverge from those of the public, and the Commission should be the sole arbiter of what is or is not in the public interest.

Certainly, the Commission must weigh evidence presented in a contested hearing and balance the interests of shareholders and customers. Many decisions made on a daily basis that consider the interests of customers and the public though are made by Empire employees. These decisions never reach the levels of Commission involvement but do affect the customers' and public's interest. Empire has always been a defender of customer interests and will continue to be one. Many decisions that balance customer and shareholder interests have been and will be made by Empire management.

Fuel Substitution

10. Empire disagrees with proposals to include fuel substitution as a demand side measure. On page 4 of Public Counsel's comments, all of Western Resources comments, and pages 4 through 7 of Laclede Gas Company comments, the inclusion of fuel substitution as a demand side resource is recommended. Empire

believes the customer is best served if two competitors vie to provide a certain energy service. The customer can evaluate the competitors and choose for himself which will serve his needs best. The utilities should not decide for the customer that only one will provide a certain service. The customer is best served when they have the choice.

MOPIRG's Comments

11. Empire disagrees with MOPIRG's comments and allegations in their entirety.

Missouri Industrial Energy Consumers

12. Empire believes Commission approval of the strategy should be required. On page 2, MIEC comments,

It is the position of the MIEC that all prudence issues should be considered at the time programs or facilities are presented for rate recovery. The MIEC is opposed to plan approval and any link to automatic cost recovery, and objects to the inclusion of any language calling for approval of specific utility plans and strategies.

Empire has commented above on the need for strategy approval to occur at the time the plan is filed. Approval in a rate case may occur several years later when the data and assumptions are stale. The argument over a time consuming hearing on the plan made on page 2 of MIEC comments ignores the fact that this amount of time would be spent during a rate case hearing and might obscure all other facts in that case. The discussion of the strategy plan must take

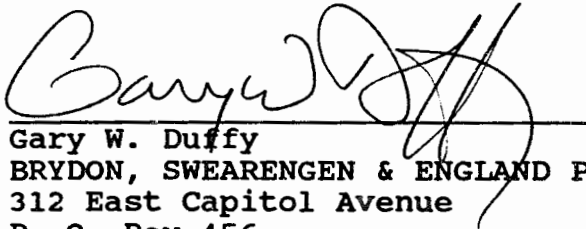
place. Empire believes the discussion should take place when the plan is filed.

13. Empire believes DSM risks must be shared. On page 6, MIEC comments,

Because of the risks of these characteristics of DSM programs, ratepayers should not be burdened with the risks of their implementation. The utility expertise places it in a far better position than the Commission to assess the potential of DSM measures. The utility should therefore account for these risks in the resource planning process, and bear the risk of the success or failure of DSM programs.

For this MIEC scenario to take place on an equitable basis, the utility must have sole discretion on whether to assume those risks and would need to retain the rewards for success. What usually happens is that the penalties for failure are borne by the utility but rewards for success are passed to ratepayers. For DSM programs to be successful risks of both success and failure must be shared.

Respectfully submitted,



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