

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

In the Matter of the Joint Application of Entergy Arkansas, Inc.,)
Mid South TransCo LLC, Transmission Company Arkansas,)
LLC and ITC Midsouth LLC for Approval of Transfer of Assets)
and Certificate of Convenience and Necessity, and Merger and,)
in connection therewith, Certain Other Related Transactions) **File No. EO-2013-0396**

EMPIRE’S RESPONSE TO OBJECTION TO AFFIDAVITS

COMES NOW The Empire District Electric Company (Empire), and, in response to ITC Midsouth LLC’s Objection to Affidavits, states as follows to the Missouri Public Service Commission (Commission):

1. On May 31, 2013, ITC Midsouth LLC (ITC Midsouth) filed its Objection to Affidavits (Objection). Therein, ITC Midsouth objected to Schedule BKW-2 to the Rebuttal Testimony of Empire Witness Bary Warren. Schedule BKW-2 is a recent filing by General Staff of the Arkansas Public Service Commission in Docket Number 12-069-U suggesting that this “same transaction” should not be approved.

2. ITC Midsouth argues that Schedule BKW-2 is hearsay, appears to be unverified, is not in the form required by Commission rules, has no foundation and is “irrelevant, because it concerns substantially different facts regarding matters in Arkansas and purport to address a different legal standard than applies in this Missouri proceeding.”

3. As an initial matter, Empire agrees that this is a different forum than the Arkansas Public Service Commission and the Federal Energy Regulatory Commission, with different public interests to protect. Empire has made this point in various pleadings in this case and Case No. EO-2013-0431 in response to applicant allegations that certain matters have already been

address by the Arkansas Public Service Commission and the FERC, and were therefore inappropriate for consideration by this Commission.

4. In specific response to the Objection, Empire would note that Schedule BKW-2 is not offered as an individual piece of testimony. It is offered as a schedule to Mr. Warren's testimony. Mr. Warren, in introducing Schedule BKW-2, stated that:

Empire agrees with a recent filing by General Staff of the APSC in Docket Number 12-069-U suggesting that this "same transaction" should not be approved. We believe the APSC Staff has done a thorough job of reviewing this transaction properly concluded that the EAI/ITC transaction is not in the public interest of the State of Arkansas for reasons that should be equally of interest to the State of Missouri.

5. Thus, Mr. Warren is suggesting that he independently agrees with the subject and reasoning of the Schedule BKW-2 and that he believes these subjects to be relevant to the Missouri's review of this transaction in accordance with the standard to be applied by the Missouri Commission. Mr. Warren provides the verification, foundation and form required by Commission rules. The hearsay objection will be cured by Mr. Warren's direct examination and appearance for cross-examination at the hearing of this matter.

6. In terms of relevance, among other things, Schedule BKW-2 suggests as follows:

- ITC Midsouth and Entergy have not demonstrated concrete benefits that outweigh the significant quantitative costs; and,
- The Transaction will result in significant increases in transmission charges for both retail ratepayers and wholesale customers.

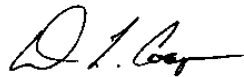
7. These are matters that should be of interest to the Missouri Commission in determining whether the proposed transaction is "not detrimental to the public interest." ITC Midsouth's objection to Schedule BKW-2 should be denied/overruled. However, should the Objection be sustained, Empire notes that the various pieces of surrebuttal testimony that purport to respond to Mr. Warren's testimony in regard to Schedule BKW-2 would not be relevant to this proceeding and should likewise not be admitted

into evidence. Empire would anticipate objecting to such testimony should ITC Midsouth's Objection be sustained.

8. Lastly, ITC Midsouth additionally objects to the admission into evidence of any of the prefiled testimony until and unless the witnesses appear at the hearing for cross-examination. Empire agrees with this principle and supports the application of this principle in this case, except where the parties shall unanimously agree to a different approach.

WHEREFORE, Empire prays that the Commission issue its order denying/overruling ITC Midsouth's Objection to Schedule BKW-2.

Respectfully submitted,



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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was sent by electronic mail, on June 10, 2013, to the following:

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