

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

In the Matter of the Application of The )  
Empire District Electric Company for a )  
Certificate of Convenience and )  
Necessity Related to its Customer )  
Savings Plan )

**Case No. EA-2019-0010**

**POSITION STATEMENTS**

**COMES NOW** the Staff of the Public Service Commission and presents its position statements for the evidentiary hearing scheduled for April 8-11, 2019, in this case.

- 1. Does the evidence establish that the Kings Point, Neosho Ridge, and North Fork Ridge wind projects for which The Empire District Electric Company ("Empire") is seeking certificates of convenience and necessity ("CCN") are "necessary or convenient for the public service" within the meaning of that phrase in section 393.170, RSMo.?**

Staff reviewed Empire's Applications based on the five factors the Commission listed in *In Re Tartan Energy*, GA-94-127, 3 Mo.P.S.C.3d 173, 177 (1994): need, qualified to own, operate, control and manage the facilities and provide the service, financial ability, economic feasibility, and promotion of the public interest ("Tartan Criteria").

Staff has interpreted "need" as whether there are benefits to the project that justify the cost, in accordance with the Western District's opinion in *State ex rel. Intercon Gas, Inc. v. Pub. Serv. Comm'n of Missouri*, 848 S.W.2d 593, 597 (Mo. Ct. App. 1993).<sup>1</sup> The primary need identified by Empire is the ability to take advantage of the opportunity to

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<sup>1</sup> "The PSC has authority to grant certificates of convenience and necessity when it is determined after due hearing that construction is "necessary or convenient for the public service." § 393.170.3. The term "necessity" does not mean "essential" or "absolutely indispensable", but that an additional service would be an improvement justifying its cost." *State ex rel. Intercon Gas, Inc. v. Pub. Serv. Comm'n of Missouri*, 848 S.W.2d 593, 597 (Mo. Ct. App. 1993).<sup>1</sup>

add generation capacity to Empire's fleet at a reduced cost due to the availability of the PTCs and to provide low cost energy to customers. Providing low cost energy to customers is in the best interest of the public, as can be seen by 4 CSR 240-22.010's mandate that "minimization of the present worth of long-run utility costs" be the primary selection criterion in selection of a preferred resource plan that meets the fundamental objective of the resource planning process; "to provide the public with energy services that are safe, reliable, and efficient, at just and reasonable rates, in compliance with all legal mandates, and in a manner that serves the *public interest* and is consistent with state energy and environmental policies."

Based on its review of the various Tartan Criteria, the project is needed, Empire is qualified to own and operate the project, Empire has the financial ability to acquire the project, and the Wind Projects satisfy the public interest and will be economically feasible, subject to the conditions recommended by Staff below. Furthermore, the Wind Projects will further the public policy goals of the Commission and the state, as the Commission noted in its Report and Order in Case No. EO-2018-0092; at page 20,

It is the public policy of this state to diversify the energy supply through the support of renewable and alternative energy sources. In past decisions, the Commission has stated its support in general for renewable energy generation, which provides benefits to the public. Empire's proposed acquisition of 600 MW of additional wind generation assets is clearly aligned with the public policy of the Commission and this state.

The Commission reiterated this, even more recently, in its Report and Order on remand in Case No. EA-2016-0358, at page 47 stating,

There can be no debate that our energy future will require more diversity in energy resources, particularly renewable resources. We are witnessing a worldwide, long-term and comprehensive movement towards renewable energy in general and wind

energy specifically. Wind energy provides great promise as a source for affordable, reliable, safe, and environmentally-friendly energy.

*(Rebuttal Testimony of Natelle Dietrich, p. 3, Staff Rebuttal Report p. 2-4, 11-34)*

**2. For each CCN the Commission grants, what conditions, if any, should the Commission deem to be reasonable and necessary, and impose?**

The Commission should condition approval of the Empire CCN Applications for the MO Wind Projects and the KS Wind Project, under the specific terms of the PSAs, with the following conditions:

1. Implementation of the Market Protection Provision as proposed in Appendix A to the non-unanimous Stipulation and Agreement between Empire, MEEG, Staff, Renew Missouri Advocates, and DE filed on April 24, 2018 in Case No. EO-2018-0092 with the following changes:
  - a. Remove the guarantee cap which was a negotiated value equal to \$35 Million;
  - b. Limit the value of PPA Replacement to the amount calculated based upon the number of MWh generated to produce RECs in order to comply with the RES;<sup>2</sup>
  - c. Incorporate mutually agreeable provisions to adequately balance risks and performance related to Transmission Congestion Rights (“TCRs”) and Auction Revenue Rights (“ARRs”) related to the Neosho Ridge interconnection point to Empire’s load serving area;

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<sup>2</sup> The Company’s current estimation of the RECs required for RES compliance in 2021 (first year of 15% RES requirement) is 638,429. (Response to Staff Data Request 0047)

- d. Inclusion of network interconnection costs in the revenue requirement for each project.
2. Completion of the SPP Definitive Impact System Impact Studies;
  - a. Empire will demonstrate that the outstanding studies do not raise any new issues, and if they do, that the Commission is satisfied with Empire's solution to address those issues.
3. Completion, and subsequent filing with the Commission, of a sensitivity analysis on curtailment and the dispatching down of each Wind Project;
  - a. Empire will demonstrate that the analysis does not raise any new issues, and if it does, that the Commission is satisfied with Empire's solution to address those issues.
4. Filing of the construction-level plans and specifications prior to commencing construction of each project;
  - a. If the specifications materially change from those contained in the Applications, Empire must file an updated application for the Wind Project(s).
5. Filing of the evidence of all required permits and approvals of affected governmental bodies outlined in Empire's response to Staff Data Request 0029;
6. Empire's commitment to cap the total network upgrade costs for which recovery may be sought at Empire's estimate plus 10% contingency;
7. Use of the in-service criteria contained in attached Schedule CME-r1 to determine whether the projects are in-service.

*(Staff Rebuttal Report p. 37-38)*

**WHEREFORE**, Staff hereby tenders its *Position Statements* for the Commission's information and consideration.

Respectfully Submitted,

**/s/ Casi Aslin**

Casi Aslin  
Associate Counsel  
Missouri Bar No. 67934  
Attorney for the Staff of the  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, Mo 65102-  
0360  
(573) 751-8517  
[casi.aslin@psc.mo.gov](mailto:casi.aslin@psc.mo.gov)

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, hand delivered, transmitted by facsimile or electronically mailed to all counsel of record this 22<sup>nd</sup> day of March, 2019.

**/s/ Casi Aslin**