

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

In the Matter of The Empire District Electric)
Company for Authority to File Tariffs Increasing)
Rates for Electric Service Provided to Customers) Case No. ER-2016-0023
in the Company's Missouri Service Area)

**EMPIRE'S REPLY TO PUBLIC COUNSEL'S RESPONSE TO COMMISSION
ORDER SUSPENDING EMPIRE'S DEMAND SIDE MANAGEMENT TARIFFS**

COMES NOW The Empire District Electric Company ("Empire" or the "Company"), by and through counsel, and respectfully submits this Reply to the Response filed herein on January 10, 2017, by the Office of the Public Counsel ("Public Counsel"), with regard to the *Order Suspending Tariff Sheets* issued herein on December 30, 2017, by the Missouri Public Service Commission ("Commission"):

1. Empire has fully complied with the Stipulation and Agreement of the parties to Empire's rate case (the "Rate Case Stipulation") and the Commission's Order Approving Stipulation and Agreement issued herein on August 10, 2016, effective September 9, 2016. Public Counsel's objection to the DSM tariff sheets is without merit.¹

2. Pursuant to the Rate Case Stipulation and the Commission's Order Approving Stipulation and Agreement, Empire worked with the Demand Side Management ("DSM") group to investigate PAYS financing and similar programs and the feasibility of administering such programs in Empire's service territory. It was determined that Empire is resource constrained and that it would be imprudent for a PAYS program to be included as one of Empire's four new DSM programs to be implemented by January 1, 2017, or as soon thereafter as possible. Pursuant to the Rate Case Stipulation and the Commission's Order Approving Stipulation and Agreement,

¹ Empire notes that the Staff of the Commission submitted its Response to Commission Order Suspending Tariff Sheets on January 5, 2017, stating its opinion that Empire's DSM tariff sheets are in compliance. No other party to the rate case has made a filing regarding Empire's proposed DSM tariff sheets.

the DSM group agreed to implement four other DSM programs (residential HVAC, C&I customer program, income-eligible multi-family direct install, and multi-family direct install). Empire and OPC also arranged for a presentation to the Commission on PAYS. Information on PAYS was presented to the Commissioners at their agenda meeting on Wednesday, November 30, 2016.

3. Once there was agreement among the members of the DSM group on the four DSM programs to be implemented, Empire and the members of the DSM group went to work on the tariff sheets. There were multiple calls and emails to accomplish the tasks required of Empire by the Rate Case Stipulation. On December 2, 2016, Empire submitted tariffs to implement the agreed-upon DSM programs, with a proposed effective date of January 1, 2017.

4. Public Counsel fully participated in the DSM group discussions which took place in the months leading up to Empire's tariff filing, and Public Counsel agreed on the four DSM programs to be implemented. It was not until Friday, December 2, 2016, the day the DSM tariff sheets were being submitted, that Public Counsel suggested there should be further study of PAYS and that the DSM budget should be modified in order to pay for a formal study. On December 2, 2016, Public Counsel stated that "(t)his idea came out of the Agenda discussion with the Commissioners on Wednesday."²

5. The DSM group considered PAYS and many other possible programs and reached agreement on the four new DSM programs to be implemented by Empire. There is nothing in the Rate Case Stipulation which requires further study of PAYS at this time. There is also nothing in the Rate Case Stipulation which requires that part of Empire's DSM budget be diverted from the four, agreed-upon DSM programs and used, instead, for further study of PAYS.

² The written communication from Public Counsel is attached hereto.

6. Empire has fully complied with the Rate Case Stipulation, and nothing else is required of Empire at this time. That being said, as Empire communicated to Public Counsel, Empire is certainly willing to continue discussing the feasibility of a PAYS-type program for Empire, particularly as part of Empire's next IRP. Empire, however, believes it would be imprudent to further delay implementation of the four agreed-upon DSM programs in order to further study PAYS in this setting, and Empire believes it would be unwise to divert money from the four agreed-upon DSM programs in order to pay for a formal PAYS study at this time.

WHEREFORE, Empire respectfully submits this Reply and renews its request that its DSM tariff sheets be approved by the Commission.

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 and that a copy of the same was sent via electronic mail on this 17th day of January, 2017, to all counsel of record.

/s/ Diana C. Carter