

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

In the Matter of an Investigation into the)
Coordination of State and Federal Regulatory)
Policies for Facilitating the Deployment of all) **File No. EW-2010-0187**
Cost-Effective Demand-Side Savings to)
Electric Customers of All Classes Consistent)
With the Public Interest)

**The following is the response of the EMPIRE DISTRICT ELECTRIC COMPANY to
the order opening case.**

EW-2010-0187

**The Empire District Electric Company
Comments -Electric Issues Workshop February 22, 2010**

1. **Does the term “energy efficiency” include shifting demand to off-peak periods (Section 393.1124.2(4))? Does “modify net consumption” as used in Section 393.1124.2(3) include shifting demand to off-peak periods (Section 393.1124.2(2))?**

EMPIRE RESPONSE:

The shifting of demand to off-peak periods relates to Demand Response, as indicated by the definition of Demand Response in Section 393.1124.2(2). Modifying net consumption, as stated in Section 393.1124.2(3), may be accomplished through a variety of means, one of which is shifting to off-peak periods through Demand Response.

2. **What does “load management” as used in Section 393.1124.2(3) mean?**

EMPIRE RESPONSE:

Load management is a broad term which can include the reduction of peak energy use or the shifting of peak demand periods to match available supplies. The former could be achieved through improved efficiency, while the latter might be accomplished through Demand Response programs, either time-of-use rates or the use of an interruptible program.

3. **What is “demand savings”? How should “demand savings” be determined (Section 393.1124.4)?**

EMPIRE RESPONSE:

Demand savings are expressed in terms of kW or MW, which indicate rates of consumption. Reduced demand is possible not only from demand response programs, but also from energy efficiency programs. These demand savings can

occur during peak or off-peak times. For example, installing more efficient HVAC units will reduce demand whenever the units are operating, but they will also help reduce the peak demand for a summer peaking utility.

Demand savings can be determined through the use of International Performance Measurement and Valuation Protocol (IPMVP) or through an approach known as Deemed Savings which stipulates savings values for projects with well-known and documented savings values. The National Action Plan for Energy Efficiency's (NAPEE) Model Energy Efficiency Program Impact Evaluation Guide discusses each of these methods along with the overall evaluation process.

4. **How should "energy savings" be determined (Section 393.1124.4)? Should there be a regular, standard process for determining whether a utility program achieves "cost-effective measurable and verifiable efficiency savings" (Section 393.1124.3(3))? If "yes," what should be that regular, standard process?**

EMPIRE RESPONSE:

Energy savings, like demand savings, can be determined through the use of impact evaluations based upon the International Performance Measurement and Valuation Protocol (IPMVP) or through an approach known as Deemed Savings which stipulates both energy and demand savings values for projects with well-known and documented savings values. The National Action Plan for Energy Efficiency's (NAPEE) Model Energy Efficiency Program Impact Evaluation Guide discusses each of these methods along with the overall evaluation process.

5. **What is meant by the term(s) "rate design modifications" / "rate design modification" as it appears in Section 393.1124.5?**

EMPIRE RESPONSE:

In Section 393.1124.5, the Commission is given authority to develop a variety of cost recovery mechanisms to encourage demand-side investments of which rate design modifications is one such mechanism. Empire believes rate design modifications also include cost recovery options such as, but not limited to, decoupling, a cost recovery surcharge or rider and a straight fixed variable rate design methodology.

6. **How does a "customer" "notify" the "electric corporation" that the customer elects not to participate in demand-side measures offered by an "electric corporation" (Section 393.1124.7)?**

EMPIRE RESPONSE:

The customer should provide to the electric corporation a letter indicating under which option it desires to not participate and include any relevant details to show how it meets the opt-out criteria.

7. **Is there any significance to the fact that the term “electric corporation” appears in SB 376 in addition to the term “electrical corporation” and the term “electric corporation” is not a defined term in Section 386.020?**

EMPIRE RESPONSE:

Empire believes these two terms, “electric corporation” and “electrical corporation”, to be interchangeable in SB 376.

8. **What is the definition of the term “customer” as that term is used in SB 376?**

EMPIRE RESPONSE:

For the purposes of SB 376, the term “customer” refers to any party taking power from an electrical corporation under a retail rate.

9. **What is meant by the term “corporation-specific settlements” which appears in Section 393.1124.11?**

EMPIRE RESPONSE:

A “corporation-specific settlement” refers to any agreement or order approved by the Commission for a specific utility as opposed to a state-wide or industry-wide order or rule.

10. **How does, or how should, an electrical corporation propose a demand-side program pursuant to Section 393.1124 (Section 393.1124.4)? How does, or should, the Commission approve demand-side programs proposed pursuant to Section 393.1124 (Section 393.1124.4)?**

EMPIRE RESPONSE:

The Commission should allow demand-side programs to be proposed, and approved with a cost recovery mechanism implemented outside of a general rate case, if desired by the utility. The demand-side program adjustment, allowed by Section 393.1124.13, should contain an annual true-up provision to allow for a more accurate and timely recovery of program expenditures.

11. **How should the determination be made whether a demand-side program is beneficial to all customers in a customer class regardless of whether the program is utilized by all customers (Section 393.1124.4)?**

EMPIRE RESPONSE:

If a demand-side program passes the total resource cost (TRC) test at a level of 1.0 or higher, the program should be considered cost-effective. The TRC test compares the total costs and benefits of a program, including costs and benefits to the utility and the participant and the avoided costs of energy supply. Additionally, if a program is cost-effective, it will also have energy and demand savings associated with its implementation. As these savings increase, all

customers will benefit from the utility's reduced fuel costs and the reduced, or at least delayed, need for energy purchases or new generation.

- 12. Does any Missouri statute, case law, or regulation prohibit or restrict electric utility customers from participating directly or indirectly through aggregator of retail customers (ARCs) in demand response bidding programs, as discussed in FERC's Order Nos. 719 and 719(A)?**

EMPIRE RESPONSE:

Empire takes no position at this time.

- 13. Does a single retail customer or an ARC act as a public utility subject to MoPSC regulation under Missouri statute, case law, or regulation if it bids demand response into SPP's or MISO's organized energy market?**

EMPIRE RESPONSE:

Empire takes no position at this time.

- 14. Does the right to furnish retail electric service under Section 393.170 give a certificated utility an exclusive right to "benefit" from demand response activities of its retail customers either directly or indirectly through an ARC?**

EMPIRE RESPONSE:

Empire takes no position at this time.

- 15. How would a certificated utility and its other retail customers be affected if a single retail customer or an ARC bid demand response directly into SPP's or MISO's organized energy market?**

EMPIRE RESPONSE:

It is unlikely that "only" a single retail customer or a single ARC would be interested in participating in wholesale markets. Therefore, the implications of allowing retail customers access to the SPP's organized market are many and would be material. The question being posed by the Commission relates to a great degree to retail access and retail wheeling and the numerous technical, resource planning, retail cost of service and market design issues inherent with such a critical policy decision. The issues associated with such a decision are complicated, and should only be undertaken with clear/explicit instructions from the Missouri legislature.

No state within the SPP RTO market area, with the exception of the ERCOT market/electrical area within Texas, has retail access or retail wheeling. A very important feature of the SPP wholesale market is that it is a broad multi-

state market area within the eastern electrical interconnection. Demand response participation by a single retail customer or ARC may be applicable to retail choice states that have retail access markets, but not in states that have not "deregulated". Individual retail customer participation in an SPP organized demand response program in a regulated retail market area such as Missouri has the potential to cause significant issues between the SPP, the public utilities within the SPP, and the other states with participating SPP utilities.

- 16. What would be the effect on utility rate design if a single retail customer or an ARC bids demand response directly into SPP's or MISO's organized energy market?**

EMPIRE RESPONSE:

It would unnecessarily complicate the relationship between the retail customer and the utility directly serving the customer, raise the specter of discrimination between similarly situated customers, impact the obligation of the utility to serve, affect the utility's cost of service and the cost allocations between customer classes and within customer classes, as well as real time operations and long-term resource planning and delivery obligations. It would also complicate and directly compete with authorized retail energy efficiency and interruptible programs and services.

- 17. What would be the effect on utility revenue collection if a single retail customer or an ARC bids demand response directly into SPP's or MISO's organized energy market?**

EMPIRE RESPONSE:

It is highly unlikely that there would be a "single" retail customer involved, but in any event the ramifications of such an numerous. See response to 16).

- 18. How would utility's long-term load forecasting process change if a single retail customer or an ARC bids demand response directly into SPP's or MISO's organized energy market?**

EMPIRE RESPONSE:

It is highly unlikely that there would be a "single" retail customer involved, but in any event the ramifications of such an numerous. See response to 16).

- 19. How would utility's budgeting process change if a single retail customer or an ARC bids demand response directly into SPP's or MISO's organized energy market?**

EMPIRE RESPONSE:

It is highly unlikely that there would be a "single" retail customer involved, but in any event the ramifications of such an numerous. See response to 16).

20. Are there any other consequences of allowing participation in demand response programs by a single retail customer or an ARC?

EMPIRE RESPONSE:

It is highly unlikely that there would be a "single" retail customer involved, but in any event the ramifications of such an numerous as described in response to 16). Traditional cost of service analysis will be complicated with additional resource requirements placed on the utilities and MOPSC staffs. In fact, such cost of service analysis and allocations for multi-jurisdictional utilities such as Empire, would further complicated from an implementation standpoint for the utility as well as regulation by the MoPSC.

21. How would customers' demand rates be estimated if a single retail customer or an ARC bids demand response directly into SPP's or MISO's organized energy market?

EMPIRE RESPONSE:

It would certainly complicate the calculation. It is impossible to say what the impact would be of an event without knowing the retail access market rules, operational characteristics of the demand responses, and obligations of all parties. A decision to allow a single retail customer or ARC to participate in the SPP market has numerous cost of service and jurisdictional implications and should not be decided upon without explicit governmental direction.

22. How would demand sales be transacted from an operation standpoint if a single retail customer or an ARC bids demand response directly into SPP's or MISO's organized energy market?

EMPIRE RESPONSE:

This particular question from the Commission illustrates the complexity and implications of allowing individual retail demand response resources to participate in wholesale markets in non-retail choice regulated states. How would the interruptible resource be treated within the SPP? For example, would it be similar to a "generating" resource and abide by the SPP market protocols; would the customer be obligated to provide for its capacity and ancillary services requirements? The ultimate impacts of allowing retail access to the SPP wholesale market are many and need to be thoroughly investigated on an individual utility basis prior to implementation.

- 23. Would existing or planned demand response programs, and the costs associated with implementation of these programs, be undermined or cause a loss in benefits to retail ratepayers if a single retail customer or an ARC bids demand response directly into SPP's or MISO's organized energy market?**

EMPIRE RESPONSE:

Yes. The benefits that a public utility realizes through its Commission approved retail demand response or interruptible arrangements would be affected and most likely reduced. Given the retail regulatory lag that exists, the rates offered by the utility could end up subsidizing a single demand response customer or group of customers until such time as the Commission authorizes a rate change.

- 24. If the MoPSC has the authority to do so, what conditions would the MoPSC place on a single retail customer or an ARC if it bids demand response directly into SPP's or MISO's organized energy market?**

EMPIRE RESPONSE:

If the Commission decides that single retail customers or an ARC are to be given access to the SPP wholesale market, the Commission should not allow retail customer access to the wholesale market outside of an individual utility general rate case. This will enable the Commission to determine the impact of such a decision on the individual utility and the individual customer or group of customers seeking access to the wholesale market, including the utility's obligation to serve and ultimate impact upon the utility's other retail customers.

- 25. How are efforts to encourage demand response by MoPSC jurisdictional electric utilities implicated if a single retail customer or an ARC bids demand response directly in SPP's or MISO's organized energy market?**

EMPIRE RESPONSE:

The Commission's efforts to encourage demand response by individual utilities under its jurisdiction may be undermined, since the terms and conditions offered by the SPP will probably differ considerably from those offered by an individual utility. Unlike the retail circumstances in Missouri, FERC's interest in demand response resources at the retail level appear to be directed toward RTO markets that already have retail access protocols and conditions in place. The implications of the implementation of such a policy in a "regulated" non-retail choice state, such as Missouri, and multiple states within an RTO are many and would vary by individual utility and state and should be thoroughly vetted on an individual utility, especially multi-jurisdictional utilities such as Empire, prior to any implementation by the Commission.

26. How are efforts to encourage energy efficiency programs by MoPSC jurisdictional electric utilities implicated if a single retail customer or an ARC bids demand response directly into SPP's or MISO's organized energy market?

EMPIRE RESPONSE:

The Commission's efforts to encourage energy efficiency by individual utilities under its jurisdiction may be undermined, since the terms and conditions offered by the SPP for demand response will probably differ considerably from the energy efficiency programs offered by an individual utility. Unlike the retail circumstances in Missouri, FERC's interest in demand response resources at the retail level appears to be directed toward RTO markets that already have retail access protocols and conditions in place. The implications of the implementation of such a policy in a "regulated" state, such as Missouri are many and would vary by individual utility and should be thoroughly vetted on an individual utility basis prior to any implementation by the Commission.