

PUBLIC

** _____ ** Denotes Confidential

Issue: Stipulation

Witness: Christopher D. Krygier

Type of Exhibit: Affidavit in Support

Sponsoring Party: The Empire District

Electric Company

Case No: EO-2018-0092

Date: April 24, 2018

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

**AFFIDAVIT IN SUPPORT OF
NON-UNANIMOUS STIPULATION AND AGREEMENT**

OF

CHRISTOPHER D. KRYGIER

APRIL 24, 2018

Affidavit of Christopher D. Krygier

STATE OF MISSOURI)
) ss.
COUNTY OF JASPER)

I, Christopher D. Krygier, first being duly sworn, on my oath state as follows:

1. My name is Christopher D. Krygier and my address is 602 Joplin Street, Joplin, Missouri, 64801. My employer is Liberty Utilities Service Corp. and I serve as the Director, Rates and Regulatory Affairs for Liberty Utilities Central Region, which includes The Empire District Electric Company ("Empire" or "Company").

2. On October 31, 2017, I filed Direct Testimony in Case No. EO 2018-0092, and on March 13, 2018, I filed Surrebuttal Testimony in the same case.

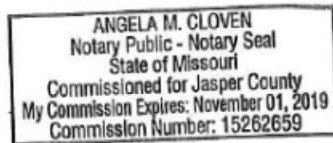
3. Attached hereto and made a part hereof for all purposes is a Statement in Support of the Non-Unanimous Stipulation and Agreement filed on April 24, 2018, in Missouri Public Service Commission Cases Nos. EO-2018-0092 and ER-2018-0228.

4. I hereby swear and affirm that the that the statements contained herein are true and correct to the best of my information, knowledge and belief.

Christopher D. Krygier 4/24/18
Christopher D. Krygier, Affiant

Subscribed and sworn to before me by Christopher D. Krygier, who personally appeared before me and is known to me to be the person described in and who executed the foregoing affidavit, and acknowledged that he executed the same as his free act and deed.

In Witness Whereof, I have hereunto set my hand and affixed my official seal on this 24 day of April, 2018.



Angela M. Cloven
_____, Notary Public

My Commission Expires: November 1, 2019

**STATEMENT IN SUPPORT OF
NON-UNANIMOUS STIPULATION AND AGREEMENT**

1. The purpose of this Statement in Support of Non-Unanimous Stipulation and Agreement (“Statement”) is to provide support for the Non-Unanimous Stipulation and Agreement (“Stipulation”) executed and filed by the Signatories in this proceeding on April 24, 2018. This Statement describes the major components of the Stipulation, addresses the nature of the approval for the Wind Projects, the customer protections, and the future regulatory reviews relating to the Wind Projects. In addition, I explain why the Stipulation is reasonable and in the public interest and should be approved by the Commission.

2. The economics of acquiring 600 MW of Wind Projects is addressed in the Affidavit of James McMahon and tax reform is addressed in the Affidavit of Charlotte North. Other provisions in the Stipulation arise out of direct and surrebuttal testimony filed by Empire in this case, including the process for selecting which Wind Projects to acquire (Mr. Wilson), the tax equity partnership and the associated corporate structure used to acquire the Wind Projects (Mr. Mooney), operation of the Wind Projects, including affiliate agreements (Mr. Mertens), depreciation for the Wind Projects (Mr. Watson), and matters relating to Asbury operations and coal combustion residual compliance (Mr. Mertens).

3. The Stipulation includes the following four major components: (a) Empire’s acquisition of a nameplate capacity of up to 600 MW of wind generation in or near Empire’s service territory including related transmission interconnection assets (the “Wind Projects”), with ** _____ **, in conjunction with tax equity partner(s), and associated future rate base treatment of that investment; (b) customer protections, including a rate moratorium until April 2019 and financial protections for customers based on the financial performance of the wind generation in the Southwest Power Pool Integrated Marketplace (“SPP IM”); (c) the continued operation of the Asbury power plant, subject to management discretion, and; (d) the reduction of customer rates as of October 1, 2018, as a result of the Tax Cuts and Jobs Act of 2017. I describe each of these components below.

Acquisition of Wind Generation, Tax Equity and Rate Treatment

4. Amount of Wind Generation Acquired: Under Paragraph 14.a of the Stipulation, Empire would be authorized to acquire a nameplate capacity of up to 600 MW of wind generation, including related transmission interconnection assets, in or near Empire’s service

territory that meet the following criteria: (i) are located within the Southwest Power Pool footprint with energy and capacity deliverable to the EDE service territory; (ii) ** _____ ***, and; (iii) without regard to K.S.A 66-1245¹. While the Company initially proposed acquiring up to 800 MW of Wind Projects, the Company has agreed to reduce the amount of Wind Projects to 600 MW in order to address issues raised by some of the parties regarding the amount of energy from the Wind Projects that would be sold into the SPP IM. Mr. McMahon’s Affidavit explains the economics of acquiring 600 MW of wind, and how 600 MW will still deliver savings to customers over the life of the Wind Projects.

5. ** _____

_____.

6. Related Regulatory Filings: Empire has committed to filing a Notice with the Commission within 30 days of the execution of any Wind Project purchase agreements so that the Commission and the parties will have full information about each project, including the identity of the wind developer who will be constructing each Wind Project, and the project’s location and size, among other information (Paragraph 14.c). The Stipulation further requires that before the Wind Projects are constructed, Empire must file application(s) for a Certificate of Convenience and Necessity (“CCN”) with respect to its interest in any of the Wind Projects physically located in the state of Missouri, and with respect to its interest in any Wind Projects which are located outside of the state of Missouri for which such application is then required by Commission regulations (Paragraph 16.a). Empire further agreed to seek Commission authorization in the event that it used financing in association with acquisition of the Wind Projects if it were to encumber its franchise, works or system necessary or useful in the performance of its duties to the public (Paragraph 16.b). While Empire does not contemplate

¹ In a companion filing in Kansas, Empire sought certain benefits under K.S.A. 66-1245 relating to the location of Wind Projects. Empire has agreed, as part of this Stipulation, to acquire Wind Projects without regard to any of the provisions of that statute, which provide certain benefits to generation assets located in specified areas of Kansas.

such financing at this time, it would adhere to this provision in the event that its financing plans were to change.

7. Accounting: The Stipulation addresses the accounting associated with Empire's acquisition of the Wind Projects. Specifically, Paragraph 14.d provides that so long as Empire's acquisition of the Wind Projects meet the criteria of the Stipulation, Empire should be authorized to record its capital investment to acquire the Wind Projects as utility plant in service subject to audit in Empire's next general rate case. While the Signatories agreed in the Stipulation that Empire's acquisition of the Wind Projects is reasonable, given the information presented in Case No. EO-2018-0092, and considering that the Company must make decisions prospectively, rather than in reliance on hindsight, the Signatories recognized that the Stipulation does not preclude the Commission and the Signatories from reviewing the reasonableness of the costs of the Wind Projects and related infrastructure in a general rate proceeding following the date when the Wind Projects are fully operational and used for service. (Paragraph 14.e). As a result, in any rate case in which Empire seeks cost recovery of its share of the capital investment necessary to acquire the Wind Projects, the Commission and parties will have the opportunity to review the actual costs of the Wind Projects and to determine whether they are reasonable. This is similar in concept to the regulatory plan for Empire that was approved in Commission Case No. EO-2005-0263, and which provided Empire an opportunity to participate in the construction of Iatan II.

8. Rate Case Provisions. The Signatories agreed to specific provisions in the Stipulation regarding such rate cases where the Wind Project investment is recovered. Specifically, Paragraph 15 provides that in any rate case in which Wind Project investment is recovered, there will be a true-up period that ends no later than five months prior to the operation of law date. This provides the parties to such rate case with sufficient time to audit and review final construction costs before such construction is included in Empire's rates. In addition, the Signatories further agreed that Empire's equity percentage for purposes of establishing its capital structure in those rates cases should be between 47% to 53%, and that its debt costs should be reasonable for an electrical corporation with a BBB credit rating with a cost of debt imputed only for any debt issued during a period in which EDE carried a credit rating below BBB, and that any initial tax equity investment should not be used for purposes of calculating Empire's capital structure for regulatory purposes. These provisions provide protections for Empire's customers in regard to the any potential adverse impact of the construction on Empire and its rates.

9. Depreciation: The Stipulation also provides direction to Empire regarding the depreciation of the Wind Project assets. Specifically, Empire is required to record its depreciable wind assets in FERC Account 341 through 346 utilizing a composite 3.33% depreciation rate beginning with such time as the assets are placed in-service and continuing until such time as depreciation rates may be changed by the Commission. Any other assets that do not qualify for these FERC accounts will use depreciation rates authorized in Case No. ER-2016-0023. Empire further committed to consider the Wind Projects and other infrastructure as part of its next depreciation study where it has enough information concerning the Wind Projects to include them in the depreciation study (Paragraph 14.f).

10. Tax Equity: The Stipulation recommends that the Commission authorize Empire to contract with tax equity partner(s) for financing the Wind Projects so long as those tax equity contracts are consistent with parameters identified in Paragraph 18 of the Stipulation. Mr. Mooney's direct and surrebuttal testimony explains why those parameters are appropriate.

11. Renewable Energy Credits: In Paragraph 20 of the Stipulation, Empire agreed to propose a tariff which implements a program by which non-residential customers may be assigned a portion of Renewable Energy Credits received from the Wind Projects. By establishing this tariff, Empire will provide opportunities to those commercial and industrial customers that seek to establish a "green energy profile," while at the same time protecting other customers. Such a tariff provides a win-win opportunity for the Company and its customers, by maximizing the value of the REC's that are acquired.

12. Auditing, Inspection of Books and Records: Given that Empire anticipates that the Wind Projects would be held through subsidiary companies, the Signatories confirmed that Staff, the Office of the Public Counsel, and the Signatories would have the authority to review, inspect and audit books, accounts and other records held by those companies (Paragraph 21). Empire recognizes that this provision is important to ensure full transparency as to the transactions that arise out of this Stipulation.

Customer Protections

13. Rate Moratorium: Paragraph 17.d provides that Empire will not file tariffs seeking a change in general distribution rates prior to April 2019. This provision ensures that Empire's customers will have rate certainty with regard to general distribution rates for a period that could run until March of 2020, or longer. But for this Stipulation, such a provision would

not otherwise have been achieved for the Company's customers, and provides an important protection.

14. In-Service Criteria for Wind Projects: The Stipulation requires (Paragraph 17.a) that Empire propose to the Signatories in-service criteria for the Wind Projects within sixty days after the Wind Project purchase agreements have been executed. These criteria will use those previously used by the Commission in Case No. ER-2010-0355 as a starting point. The Signatories agree to work in good faith to agree to such criteria and file the same in this Case No. EO-2018-0092 within 120 days of execution of the Wind Project Purchase Agreements. These criteria are protective of customers because Wind Projects can only be considered in-service (fully operational and used for service), once these agreed upon criteria are met.

Asbury Power Plant

15. Empire will continue to operate the Asbury power plant (paragraph 19), though it will retain management discretion regarding when and whether to retire the plant at a later date. In association with this continued operation, the Signatories agree to not contest, and recommend that the Commission find, that the decision to comply with the Environmental Protection Agency's coal combustion residuals rules and effluent limitation guidelines is reasonable. In recognition of the investment necessary to meet this environmental compliance requirement, and the uncertainty associated with the length of Asbury's continued operation, the Signatories agreed that if Asbury were subsequently retired prior to the full depreciation of this compliance investment, the Signatories would not object to Empire's recovery of and on the compliance investment at its weighted average cost of capital. This provision is important to Empire given that it will be required to make an immediate investment in the range of \$20-\$30 million dollars, and was only willing to do so if it could be sure that it would be fully recoverable in the future.

16. In further recognition of the uncertain future of the Asbury plant, the Signatories agreed not to contest Asbury's financial performance in the SPP IM so long as it is bid into the market in compliance with the SPP IM rules, Empire's recovery of operations and maintenance expense during the period of Asbury's continued operation, or Empire's need for fuel cost recovery (Paragraph 19.c).

17. These provisions are important to Empire, because while it is agreeable to continuing to operate Asbury for the near term, it has raised concerns in this Case No. EO-2018-0092 regarding the ongoing economic value of Asbury in the SPP IM. These provisions are

necessary to Empire in order to ensure that it does not continue to operate the plant and yet face challenges to the plant's financial performance or the ongoing costs to operate it. Empire recognizes that Paragraph 19.c of the Stipulation does not preclude the Signatories or the Commission from reviewing the reasonableness of the costs of these items in any of Empire's future general rate proceedings.

Tax Reform

18. Empire has agreed to file tariffs reflecting a reduction in base rate revenue as the result of the implementation of the Tax Cuts and Jobs Act of 2017. Those tariffs will take effect as of October 1, 2017 (Paragraphs 24-26). Ms. Charlotte North explains the mechanics of these provisions in her Affidavit, and how these provisions provide important certainty to Empire's customers regarding when and how they will receive the benefits of tax reform legislation. These tax reform provisions are very important, as they will deliver an annual reduction of approximately \$18 million to Empire's customers.

The Stipulation Is Reasonable And In The Public Interest

19. Empire believes that this Stipulation, which finds it reasonable for Empire to acquire up to 600 MW of Wind Projects, is in the public interest for a number of reasons. First, Empire has conducted extensive analysis of the economics of acquiring wind generation in or near its service territory through its Generation Fleet Savings Analysis ("GFSA"), and subsequent discussions with the parties to this case. The GFSA, including updates to it, has utilized reasonable assumptions, studied various sensitivity scenarios, and applied stochastic analysis to show that acquiring 600 MW of Wind Projects is the best way forward for Empire's customers. Second, the Stipulation provides many protections for Empire's customers. Most obviously, based upon the Market Price Protection Provision, Empire is providing Missouri customers with up to \$35 million in rate protection for a period of ten years of operation of the Wind Project assets in the SPP IM. This customer protection should provide assurance to the Commission that there is an appropriate treatment of risk associated with the project. Customers are further benefitted by a rate moratorium, which gives Empire's customers rate certainty for a substantial period of time with regard to their general distribution rates. Third, Empire's agreement to reduce customer rates as a result of recent tax reform legislation will provide customers with a rate decrease as of October 1, 2019. ** _____

_____.** Finally, the Stipulation ensures that for the near term, the Asbury plant will remain in operation. In effect, the Stipulation recognizes the value of acquiring wind generation for Empire's customers, while providing the opportunity for further consideration of the merits of Asbury's operation. Altogether, this is well-balanced settlement that provides the Company clarity for moving forward with its plan, while implementing a series of immediate customer benefits, as well as protection well into the distant future.