

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

In the Matter of Empire District Electric)
Company for Authority to Implement Rate)
Adjustments Related to the Company's Fuel) File No. ER-2017 0092
and Purchase Power Adjustment Clause)
(FAC) Required in 4 CSR 240-20.090(4).)

In the Matter of the True-Up of Empire District) File No. EO-2017-0094
Electric Company's Fuel Adjustment Clause (FAC)) Tracking No. JE-2017-0046

**RECOMMENDATION OF THE OFFICE OF PUBLIC COUNSEL REGARDING
EMPIRE DISTRICT ELECTRIC COMPANY AND COMMISSION STAFF**

COMES NOW the Office of the Public Counsel (“OPC”) and for its Recommendation the filings of Empire District Electric Company (“Company”) and the Public Service Commission Staff (“Staff”) regarding authority to implement rate adjustments related to the Fuel and Purchase Power Adjustment Clause (“FAC”) and true-up for the Company states as follows:

1. OPC does not disagree with the tariff sheets or the calculation of the Fuel Adjustment Rate (“FAR”) provided in this case but asks the Commission to order the Company to comply with the Federal Energy Regulatory Commission’s (“FERC”) Order 668 when reporting purchased power costs and off-system sales revenue in its FAC reporting requirements. This is misstated by Staff in its report. Further, OPC hopes to provide additional information to the Public Service Commission (“Commission”) neither found in the Company’s or Staff’s filings.

2. Further, the Company is not quantifying its purchased power costs and off-system sales revenues as required by FERC Order 668. On page 113 of its *Report and*

Order in the Union Electric Company d/b/a Ameren Missouri (“Ameren Missouri”) rate case, ER-2014-0258, the Commission found:

Furthermore, under FERC Order 668, public utilities must net their MISO-cleared load and generation in each hour and report that net amount as either: (i) sale for resale (i.e. off-system sale under account 447 when the utility’s cleared generation exceeds the cleared load,[]) or (ii) a power purchase under Account 555 when the utility’s cleared load exceeds its cleared generation. That order states “Netting accurately reflects what participants would be recording on their books and records in the absence of the use of an RTO market to serve their native load.” That means that for accounting purposes, Ameren Missouri is required to recognize the distinction between off-system sales, power purchased to supplement its generation and self-generated power. (footnote omitted)

3. On page 28 of its *Report and Order* in the Company’s rate case ER-2014-0351, the Commission applied the same finding when it stated:

Empire argues that the Commission cannot make the same determination that it made in the Ameren Missouri rate case (File No. ER-2014-0258) since the parties did not present factual evidence related to such an argument. Empire is incorrect. The determination the Commission made in Ameren Missouri’s rate case was based on its legal analysis of the FAC statutes, and the analysis in that case applies equally to the question of what transmission costs should be included in Empire’s FAC. The legal analysis does not change with the facts submitted.

4. In the direct testimony provided by Company witness Bryan S. Owens in this case, on Schedule BSO-1, page 2 of 2 shows native load purchased power (“PP”) of \$61 million and off-system sales revenue (“OSSR”) of \$74 million for the six-month time period of March 2016 through August 2016. The purchased power cost of \$61 million provided by Mr. Owens includes the payment the Company made to Southwest Power Pool (“SPP”) for its native load. The OSSR amount is the payment SPP made to the Company for its generation. This is inconsistent with the methodology prescribed by FERC Order 668. The result is true purchased power and off-system sales cannot be

determined using from the information provided by Company in this filing. The same issue exists in the monthly FAC report submissions.

5. As a result of these filings, OPC asks the Commission to require the Company to follow the guidelines established by FERC as to reporting its true purchased power and off-system sales in all future FAC filings and report submissions.

6. Staff states in its recommendation in this case, ER-2017-0092, its review shows the Company's filing is in compliance with the Commission's report and order in ER-2016-0023.¹ As a part of the *Stipulation and Agreement* the Commission approved in that case, effective September 9, 2016, the Company agreed to provide as part of its monthly FAC reports, a listing of FAC costs and revenues by general ledger account for that month and the 12-months ending with that month.²

7. The detail outlined in Paragraph Six was not included in the Company's September 2016 FAC monthly report and OPC is now working with it regarding this issue.

8. OPC would like to point out to the Commission that the next FAC rate change will not be a large refund to the customers since the FAC base was reset in the recent rate case. Mr. Owen gave decreased fuel costs due to the conversion of Riverton Unit 12 to a Combined Cycle and lower natural gas prices as contributing factors to the lower fuel cost in this FAC accumulation period.³ Both the conversion of Riverton 12 to a combined cycle and lower fuel costs were recognized in the recent Empire rate case, ER-2016-0023, and were incorporated in base rates that became effective September 14, 2016.

¹ *Corrected Staff Recommendation to Approve Tariff Sheet*, filed November 1, 2016, page 3

² Page 9

³ Direct Testimony of Bryan S. Owens, page 7

WHEREFORE Public Counsel respectfully offers its recommendations to the filings of the Empire District Electric Company and Public Service Commission Staff in the above-captioned matters.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been emailed to all parties in Case Nos. EO-2017-0092 and EO-2017-0094 this 9th day of November 2016.

Service List for Case No. **ER-2017-0092** Last Updated: **10/4/2016**

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