

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

In the Matter of the Empire District)	
Electric Company For Authority)	
To Implement Rate Adjustments)	Case No. ER-2018-0270
Related to the Company's Fuel)	
And Purchase Power Adjustment (FAC))	
Required in 4 CSR 240-020.090(4))	

OPC'S RESPONSE TO STAFF RECOMMENDATION

For OPC's Response to Staff Recommendation, the Office of the Public Counsel states as follows:

1. Empire is required to submit surveillance monitoring reports. 4 CSR 240-20.090(10) states, "Each electric utility with an approved RAM shall submit to staff, OPC and parties approved by the commission a Surveillance Monitoring Report in the form and having the content provided for by 4 CSR 240-3.161(6)." 4 CSR 240-20.090(10)(a) provides that these reports must be submitted within fifteen days of filing a 10-K or 10-Q reports with the Securities and Exchange Commission (SEC). Notably, the rule incorporates SEC filings for the purpose of identifying a proximity by which the Surveillance Monitoring Reports must be filed. Failure to provide accurate information in the surveillance reports may result in, upon hearing, the Commission suspending a fuel adjustment mechanism or order other appropriate remedies as provided by law. 4 CSR 240-20.090(10)(c).

2. Empire did not timely file its surveillance monitoring reports. This information was not provided until after the submission of Staff's recommendation and upon demand by Public Counsel. Therefore, Staff erred in its recommendation by alleging Empire "is current on its submission of its Surveillance Monitoring reports." See Paragraph 10, Staff Recommendation.

Prior to this case, OPC reminded Empire to provide surveillance monitoring reports in multiple correspondences in March of 2018. For unknown reasons, Empire did not follow-up.

3. OPC is taking steps to protect ratepayers from future omissions by Empire. OPC is now in receipt of the surveillance reports and is in communication with Empire to ensure Empire's future compliance. OPC understands that the timing, but not the necessity, of submitting surveillance reports relates to the timing of filing a utility's financial reports with the SEC. Empire's ultimate owner files financial statements in Canada, through the Canadian repository of www.sedar.com. OPC does not know if Empire still needs to file 10-Ks or 10-Qs, and OPC could not find recent 10-Q/10-K filings on www.edgar.com. For these reasons, OPC is seeking assurances from Empire that it will timely provide surveillance reports with the same regularity and content as other electric utilities who operate in Missouri and have a FAC.

4. If this Commission believes Empire needs a waiver of 4 CSR 240-20.090(10)(A) in this single instance, and under the authority of 4 CSR 240-20.090(15), OPC will not contest a one-time waiver in this instance.

5. OPC does not oppose Staff's recommendations subject to the statements made above; however, OPC's non-opposition to the filings in these cases is not a waiver of any right it maintains to scrutinize costs accumulated by Empire in its FAC.

Whereas, OPC provides its response, states it does not oppose a one-time waiver of the rule, and asks the Commission for whatever other relief it deems just.

Respectfully submitted,

/s/ Ryan Smith

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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was sent by electronic mail or by U.S. Mail, postage prepaid, on May 11, 2018 to all counsel of record.

/s/ Ryan D. Smith