

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

In the Matter of the Application of The)
Empire District Electric Company for a) File No. EA-2019-0010
Certificate of Convenience and Necessity)
Related to its Customer Savings Plan)

**EMPIRE’S RESPONSE TO OPC MOTION
TO OPEN THE EVIDENTIARY RECORD AND ADMIT EXHIBITS**

COMES NOW The Empire District Electric Company (“Empire” or “Company”), by and through counsel, and, in response to the Office of the Public Counsel’s (“OPC”) Motion to Open the Evidentiary Record and Admit Exhibits, states the following to the Missouri Public Service Commission (“Commission”):

1. On April 8 and 9, 2019, the Commission held the evidentiary hearing in this matter. A briefing schedule had been previously set calling for Initial Briefs to be filed on April 24, 2019, and Reply Briefs to be filed on May 6, 2019.¹

2. On April 19, 2019, OPC filed its Motion to Open the Evidentiary Record and Admit Exhibits (“Motion to Open Record). Therein, OPC alleged that a certain Southwest Power Pool (“SPP”) transmittal letter and proposed revisions to its open access transmission tariff (“OATT”), which was filed with the Federal Energy Regulatory Commission (“FERC”) on November 16, 2018, approximately five (5) months ago and three (3) months prior to the filing of rebuttal testimony in this case (identified as Exh. 207), and a copy of a FERC order issued April 12, 2019 (identified as Exh. 208), constituted new information that is “relevant and material to this proceeding.”

¹ On April 23, 2019, the Commission issued its Order Granting Extension of Time to File Briefs, wherein the briefing schedule was extended to provided for Initial Briefs to be filed on April 29, 2019, and Reply Briefs to be filed on May 7, 2019.

3. The subject matter raised by the OPC Motion to Open Record is neither new nor relevant and material to the Wind Projects that are the subject of this case. Existing language in the SPP OATT declares that all wind resources with a Commercial Operation Date (“COD”) after October 15, 2012, must be registered as Dispatchable Variable Energy Resource (“DVER”). (Appendix A, SPP OATT, Attachment AE, Section 2.2(10) “All Variable Energy Resources must register as a Dispatchable Variable Energy Resource except for (1) a wind-powered Variable Energy Resource with an interconnection agreement executed on or prior to May 21, 2011 and that commenced Commercial Operation before October 15, 2012. . . .”))

4. Revisions to the SPP OATT as a result of Exh. 207 (Revision Request 272) are meant to require wind farms with a COD **before** October 15, 2012, to make the necessary control system upgrades so that they are dispatchable by SPP and thus registered as a DVER. This can be seen from the following redline version of the new tariff that is found in Exh. 207, p. 47-48/50:

(10) All Variable Energy Resources **in the Integrated Marketplace** must be registered as a Dispatchable Variable Energy Resource except for (1) ~~a wind-powered Variable Energy Resource with an interconnection agreement executed on or prior to May 21, 2011 and that commenced Commercial Operation before October 15, 2012~~ or (2) a Qualifying Facility exercising its rights under PURPA to deliver its net output to its host utility or (23) **a Resource having a primary fuel source of run of the river hydro-electric that is incapable of following Dispatch Instructions** ~~a non-wind-powered Variable Energy Resource registered on or prior to January 1, 2017 and with an interconnection agreement executed on or prior to January 1, 2017. Variable Energy Resources included in (1) and (3) above may register as Dispatchable Variable Energy Resources if they are capable of being incrementally dispatched by the Transmission Provider.~~

5. These revisions have no impact on the Company’s proposed wind farms as they were already assumed and required to be dispatchable and registered as DVERs because they necessarily will have a COD **after** October 15, 2012. The change identified by the OPC Motion to Open Record will do nothing to impact that assumption and requirement.

6. Moreover, this issue was previously addressed in Commission Case No. EO-2018-0092 (the Customer Savings Plan case), albeit prior to the filing of the proposed tariff change, as it has been under discussion in the SPP for some time. Empire witness Blake Mertens, and others, were asked about these potential changes to the DVERs portion of the OATT in Case No. EO-2018-0092 (*See* EO-2018-0092 Tr. 187, ln. 6 – 188, ln. 15; 356, ln. 20 - 359, ln. 1; 689, ln. 11 – 690, ln. 9; 702, ln. 5 – 702, ln. 19; and, 725, ln. 19 – 726, ln. 21).

7. Mr. Mertens explained in Case No. EO-2018-0092 that Empire’s proposed Wind Projects have always been considered to be dispatchable energy resources (EO-2018-0092 Tr. 358). The impact of the change identified by the OPC for Empire would be to the dispatchability of Empire’s current wind farm contracts (Elk River and Meridian Way), which are currently designated as non-dispatchable variable resources. (EO-2018-0092 Tr. 357) Mr. Mertens further explained in Case No. EO-2018-0092 that if SPP were to change the designation of these older wind farms from non-dispatchable to dispatchable, “*that would actually be beneficial to our –our new wind farms. . .*” because it would create more opportunities for the new, more efficient wind farms. (EO-2018-0092 Tr. 358-359)

8. The advantages this change to the SPP OATT would have for the Wind Projects is summarized in OPC’s Exh. 207, p. 9/50:

While the immediate increase in Transmission System security and resiliency alone presents a compelling case for the proposed change, the increases in overall market efficiency further support the proposal. Converting a significant majority of the NDVERs to DVERs creates a multitude of market efficiencies including a reduction in the cost to resolve congestion, a decrease in the price separation between the Day-Ahead Market and the RTBM, an increase in revenue for Resource owners, a decrease in charges to loads, and a reduction in the amount of negative pricing in the SPP Integrated Marketplace.

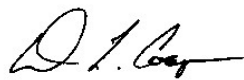
9. The market efficiencies identified by SPP will only benefit the Wind Projects as they move forward in the SPP market.

10. Accordingly, the information for which OPC proposes to “open the evidentiary record and admit exhibits” is not new (it was discussed in Case No. EO-2018-0092, and was filed with FERC five (5) months ago) and is neither relevant nor material to the case (as the change represented by Exhibits 207 and 208 does not impact how the Wind Projects would be treated in the market under the existing SPP OATT). Empire, therefore, objects to the OPC’s motion to open the record and the admit OPC Exhibits 207 and 208.

11. However, should the Commission grant the Motion, Empire separately moves for the admission of Case No. EO-2018-0092 Transcript pages 187, ln. 6 – 188, ln. 15; 356, ln. 20 - 359, ln. 1; 689, ln. 11 – 690, ln. 9; 702, ln. 5 – 702, ln. 19; and, 725, ln. 19 –726, ln. 21, along with **Appendix A** hereto (Exh. 14 for identification).

WHEREFORE, Empire respectfully requests the Commission deny the OPC’s Motion to Open Evidentiary Record or, in the alternative, also admit Case No. EO-2018-0092 Transcript pages 187, ln. 6 – 188, ln. 15; 356, ln. 20 -359, ln. 1; 689, ln. 11 – 690, ln. 9; 702, ln. 5 – 702, ln. 19; and, 725, ln. 19 –726, ln. 21, along with **Appendix A** hereto (Exh. 14 for identification).

Respectfully submitted,



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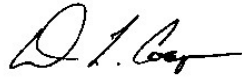
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**ATTORNEYS FOR THE EMPIRE DISTRICT
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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was sent by electronic mail, on April 25, 2019, to the following:

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2.2 Application and Asset Registration

- (1) Applications for a Market Participant to provide services in the Integrated Marketplace must be submitted to the Transmission Provider prior to the expected date of participation consistent with Section 6.4 of the Market Protocols. Applications must conform to the procedures specified in the Market Protocols and may be rejected if not complete. New Market Participants will follow the timeframe as specified in Section 6.4 of the Market Protocols in addition to the detailed model update timing requirements in Appendix E of the Market Protocols.
- (2) As part of the application process, Market Participants must register all Resources and load, including applicable load associated with Grandfathered Agreements (“GFAs”), Non-Conforming Load and Demand Response Load with the Transmission Provider in accordance with the registration process specified in the Market Protocols. As part of Resource registration, Market Participants must specify whether settlement meter data will be submitted on a gross basis or net basis, where gross meter data does not include reductions for auxiliary load and net meter data is gross meter data reduced by auxiliary load. Both Non-Conforming Load and Demand Response Load may only be associated with a single Price Node except that Non-Conforming Load and Demand Response Load may be associated with an aggregated Price Node that contains multiple electrically equivalent Price Nodes. Non-participating embedded load and/or generation must either: (i) register its load and/or generation in the Integrated Marketplace; or (ii) transfer its load and/or generation to an external Balancing Authority.
- (3) Market Participants may elect to define a single Settlement Location that aggregates multiple Meter Data Submittal Locations associated with their load assets. Market Participants may not aggregate multiple Resource Meter Data Submittal Locations into a single Resource Settlement Location unless the Resources are at the same physical and electrically equivalent injection point to the Transmission System.

(4) In addition to the responsibilities described in Section 4.1.2 of this Attachment AE and under the Market Protocols, Market Participants wishing to model each participant's share of a Jointly Owned Unit as a separate Resource must choose one of the two options described below and provide the specified additional information. A Resource registered as a combined cycle Resource may not register as a Jointly Owned Unit.

(a) Individual Resource Option

Under the individual Resource option, each participant's share is modeled as a separate Resource for the purposes of commitment and dispatch and each Resource may be committed independent of the other Resource shares.

The operating owner's Meter Agent will be the Meter Agent for that Jointly Owned Unit unless each individual Jointly Owned Unit participant registers a Meter Agent for its share of the Resource.

Unless otherwise agreed to by the Jointly Owned Unit participants, the operating owner will be responsible for submitting the following data:

- Jointly Owned Unit maximum physical capacity operating limit;
- Jointly Owned Unit minimum physical capacity operating limit;
- Jointly Owned Unit minimum physical regulation capacity operating limit; and
- Maximum physical ten (10) minute response from an off-line state.

(b) Combined Resource Option

Under the combined Resource option each participant's share is modeled and must be registered as a separate Resource. Under this option, the commitment decision is made assuming that all Resource shares must be committed or none at all. Each Asset Owner of a Jointly Owned Unit under the combined Resource option must submit a zero for the Minimum Emergency Capacity Operating Limit, Minimum Normal Capacity Operating Limit, Minimum Regulation Capacity Operating Limit, and

Minimum Economic Capacity Operating Limit. The Jointly Owned Unit minimum physical capacity operating limit and minimum physical regulation capacity operating limit when the Jointly Owned Unit is selected to Regulate, can be achieved by any combination of Jointly Owned Unit shares during the commitment period. A Jointly Owned Unit under the combined Resource option will be dispatched using an aggregated Energy Offer Curve. Once committed, each Jointly Owned Unit share is dispatched independently and is eligible for recovery of Start-Up Offer and No-Load offer costs as described under Sections 8.5.9 and 8.6.5 of this Attachment AE. This option must be selected if the eligibility criteria stated under the individual Resource option cannot be met.

The operating owner's Meter Agent will be the Meter Agent for that Jointly Owned Unit unless each individual Jointly Owned Unit participant registers a Meter Agent for its share of the Resource.

Unless otherwise agreed to by the Jointly Owned Unit participants, the operating owner will be responsible for submitting the following data:

- Jointly Owned Unit maximum physical capacity operating limit;
 - Jointly Owned Unit minimum physical capacity operating limit;
 - Jointly Owned Unit minimum physical regulation capacity operating limit;
 - Maximum physical ten (10) minute response from an off-line state; and
 - Participant share percentage by Market Participant.
- (5) Market Participants may modify their registered assets in accordance with the asset registration procedures specified in the Market Protocols.
- (6) All loads and all Resources, excluding Behind-The-Meter Generation less than 10 Megawatts ("MWs"), must register. Failure or refusal to register a load will result in the Transmission Provider filing an unexecuted version of the service

agreement as specified in Attachment AH of this Tariff for that load with the Commission under the name of the (i) Network Customer, (ii) Transmission Customer, or (iii) Transmission Owner serving load under a Grandfathered Agreement for which the Transmission Owner is neither taking Network Integration Transmission Service nor Firm Point-To-Point Transmission Service. Failure or refusal to register a Resource will result in the Transmission Provider filing an unexecuted version of the service agreement as specified in Attachment AH of this Tariff for that Resource with the Commission under the name of the generation interconnection customer under an interconnection agreement with the Transmission Provider or the applicable Transmission Owner. In the case of a Qualifying Facility exercising its rights under PURPA to deliver all of its net output to its host utility, such registration will not require the Qualifying Facility to participate in the Energy and Operating Reserve Markets or subject the Qualifying Facility to any charges or payments related to the Energy and Operating Reserve Markets. Any Energy and Operating Reserve Market charges or payments associated with the output of the Qualifying Facility will be allocated to the Market Participant representing the host utility purchasing the output of the Qualifying Facility under PURPA, and the Market Participant will be provided the settlement data required to verify the settlement charges and payments.

- (7) A Market Participant wishing to Offer an External Resource in the Energy and Operating Reserve Markets will utilize an External Resource Pseudo-Tie in accordance with Attachment AO. In addition to the responsibilities outlined in Attachment AO, the Market Participant registering the External Resource will be responsible for registering and performing all responsibilities that are required of Resources in the Energy and Operating Reserve Markets.
- (8) A Market Participant wishing to offer Demand Response Load as a Demand Response Resource in the Energy and Operating Reserve Markets must include in its application and registration a certification that participation in the Energy and Operating Reserve Markets by its Demand Response Resource is not precluded under the laws or regulations of the relevant electric retail regulatory authority. Consistent with Section 2.8.1 of this Attachment, an aggregator of retail

customers wishing to offer Demand Response Load in the form of a Demand Response Resource on behalf of one or more retail customers must also include in its application and registration a certification that participation of each retail customer is either: (1) not precluded by the laws or regulations of the relevant electric retail regulatory authority if the customer is served by a utility that distributed more than 4 million MWh in the previous fiscal year; or (2) affirmatively permitted by the laws or regulations of the relevant electric retail regulatory authority if the customer is served by a utility that distributed 4 million MWh or less in the previous fiscal year. Demand Response Resources must meet all application, registration and technical requirements applicable to the Energy and Operating Reserve Markets. The Transmission Provider is not responsible for interpreting the laws or regulations of a relevant electric retail regulatory authority and shall be required only to verify that the Market Participant has included such a certification in its application materials. The Transmission Provider is not liable or responsible for Market Participants participating in the Energy and Operating Reserve Markets in violation of any law or regulation of a relevant electric retail regulatory authority including state-approved retail tariff(s).

- (9) An aggregator of retail or wholesale customers offering Demand Response Load of one or more end-use retail customers or wholesale customers as a Demand Response Resource in the Energy and Operating Reserve Markets must be a Market Participant, satisfying all registration and certification requirements applicable to Market Participants as well as certification consistent with Section 2.8 of this Attachment, as required.
- (10) All Variable Energy Resources must register as a Dispatchable Variable Energy Resource except for (1) a wind-powered Variable Energy Resource with an interconnection agreement executed on or prior to May 21, 2011 and that commenced Commercial Operation before October 15, 2012 or (2) a Qualifying Facility exercising its rights under PURPA to deliver its net output to its host utility or (3) a non-wind powered Variable Energy Resource registered on or prior to January 1, 2017 and with an interconnection agreement executed on or prior to January 1, 2017. Variable Energy Resources included in (1) and (3) above may

register as Dispatchable Variable Energy Resources if they are capable of being incrementally dispatched by the Transmission Provider. A Qualifying Facility exercising its rights under PURPA to deliver its net output to its host utility may register as a Dispatchable Variable Energy Resource if it is capable of being incrementally dispatched by the Transmission Provider and will be subject to the Dispatchable Variable Energy Resource market rules including Uninstructed Resource Deviation charges. Any Resource that has previously registered as a Dispatchable Variable Energy Resource shall not subsequently register as a Non-Dispatchable Variable Energy Resource.

- (11) A Market Participant that is selling firm power to the load asset under a bilateral contract may, with the agreement of the buyer, register all or a portion of the buyer's load as its load asset. For purposes of this Section 2.2(11) of this Attachment AE, the sale of firm power shall refer to power sales deliverable with firm transmission service, with the supplier assuming the obligation to serve the buyer's load with both capacity and energy. For the purposes of Section 2.11.1 of this Attachment AE, such registration of the buyer's load by the seller shall be accounted for by including such load in the seller's Reported Load and not including such load in the buyer's Reported Load, as described under Section 2.11.1(A)(1) of this Attachment AE, and such associated bilateral contracts shall not be included in either the buyer's or seller's net resource capacity described under Section 2.11.1(A)(4) of this Attachment AE.
- (12) A Transmission Owner providing firm transmission service under a GFA eligible for GFA Carve Out must request removal of congestion and marginal loss charges and designate the GFA Responsible Entity within the timeframe set forth in Section 2.2 (1) of Attachment AE.
- (13) A GFA Responsible Entity shall provide to the Transmission Provider the information necessary to administer the GFA Carve Out. The required information shall include the following:
 - (a) Resource Settlement Location;
 - (b) Load Settlement Location;
 - (c) The maximum MW capacity contracted under the GFA Carve Out;

- (d) The identification of the GFA in Attachment W; and
 - (e) Any other information reasonably required by the Transmission Provider.
- (14) Market Participants with assets interconnected to the Transmission System that are not participating in the Energy and Operating Reserve Markets must pseudo-tie the Resource or load out of the SPP Balancing Authority Area in accordance with Attachment AO. Such assets shall continue to be registered in the Integrated Marketplace for the purposes of accounting for congestion and loss charges between the Resource Price Node and the applicable External Interface Settlement Location as described under Sections 8.6.23 and 8.6.24 of this Attachment AE.
- (a) To the extent that the SPP Balancing Authority or associated external Balancing Authority can no longer maintain the Resource pseudo-tie for reliability reasons, the Market Participant representing the pseudo-tied Resource must immediately reduce the output of the pseudo-tied resource to the available pseudo-tie capability after receiving notification from the affected Balancing Authority of the reduced capability. A Market Participant shall not generate any energy in excess of the available pseudo-tie capability after receiving such notification and shall not be compensated in the Energy and Operating Reserve Markets settlement for any energy generated in excess of the available pseudo-tie capability.
- (15) Western-UGP shall provide to the Transmission Provider the information necessary to administer the FSE. The required information shall include the following:
- (a) Resource Settlement Locations;
 - (b) Load Settlement Locations;
 - (c) The maximum MW capacity contracted under the FSE;
 - (d) The identification of the FSE Statutory Load Obligations as described in the SPP-Western-UGP NITSA; and
 - (e) Any other information reasonably required by the Transmission Provider.
- (16) The Transmission Provider shall establish FSE Transfer Points consistent with the FSE transmission service power flow impacts.

- (17) A Market Participant registering a Staggered Start Resource shall attest that the Resource meets the Staggered Start Resource definition in this Attachment AE. The attestation shall contain sufficient detail regarding the specific circumstances of the Resource to demonstrate that it meets the definition of a Staggered Start Resource. A Market Participant that has registered a Staggered Start Resource shall change the registration status no later than thirty (30) business days from the date the Resource ceases to meet the Staggered Start Resource definition.