

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

In the Matter of the Application of The)
Empire District Electric Company for a)
Certificate of Convenience and Necessity) File No. EA-2019-0118
Related to Wind Generation Facilities in)
Kansas.)

EMPIRE’S APPLICATION
FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY
AND MOTION FOR WAIVER, IF NECESSARY

COMES NOW The Empire District Electric Company (“Empire” or “Company”), pursuant to Section 393.170.1, RSMo, and Missouri Public Service Commission (“Commission”) Rules 4 CSR 240-2.060 and 4 CSR 240-3.105, and, for its *Application for a Certificate of Convenience and Necessity*, respectfully states as follows to the Commission:

I. INTRODUCTION

1. Empire is a corporation duly organized and existing under the laws of the State of Kansas and is duly qualified and engaged in doing business in the states of Missouri, Kansas, Arkansas and Oklahoma. Empire owns and operates an electric utility system located in contiguous portions of the above-mentioned four states, which is used to serve approximately 172,000 total electric customers. Empire is an “electric corporation” and a “public utility” as those terms are defined in RSMo. 386.020 and is subject to the jurisdiction and supervision of the Commission as provided by law.

2. A certified copy of Empire’s Restated Articles of Incorporation, as amended and as filed in Case No. EF-94-39, is incorporated herein by reference in accordance with Commission Rule 4 CSR 240-2.060(1)(G). A certificate from the Missouri Secretary of State that Empire, a foreign corporation, is authorized to do business in Missouri was filed with the Commission in Case No. EM-2000-369 and is incorporated by reference in accordance with Commission Rule 4

CSR 240-2.060(1)(G). This information is current and correct. Empire has no pending actions or final unsatisfied judgments or decisions against it from any state or federal agency or court that involve customer service or rates. Empire’s annual report and assessment fees are not overdue.

3. Correspondence and other papers regarding this docket should be addressed to the undersigned counsel and the following:

Christopher D. Krygier Director, Rates and Regulatory Affairs Liberty Utilities 602 S. Joplin Ave. Joplin, MO 64801 417-625-6188 chris.krygier@libertyutilities.com	Angela Cloven Planning and Regulatory Specialist Liberty Utilities 602 S. Joplin Ave. Joplin, MO 64801 417-625-6514 angela.cloven@libertyutilities.com
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II. BACKGROUND

4. Empire previously undertook an analysis of whether it could bring savings to its customers by taking advantage of the historically low cost of acquiring new wind generation using tax equity financing to maximize the use of federal tax incentives such as the Production Tax Credits (“PTC”) and accelerated depreciation. This analysis formed the basis for Empire’s application in Case No. EO-2018-0092. The Commission issued its *Report and Order* in Case No. EO-2018-0092, on July 11, 2018, effective August 10, 2018. Among other things, the Commission found “that the millions of dollars in customer savings and the addition of renewable wind energy resulting from the CSP and the Joint Position could be of considerable benefit to Empire’s customers and the entire state” and determined “that Empire has shown by a preponderance of the evidence that certain provisions of the Customer Savings Plan as described above should be approved.”

5. Since the issuance of the *Report and Order* in Case No. EO-2018-0092, Empire

completed negotiations resulting from the Request for Proposals issued in October of 2017, and executed Purchase and Sale Agreements concerning two projects – Kings Point and North Fork Ridge – each comprising approximately 150 MW of wind generation. Those projects are the subject of Empire’s application in Commission File No. EA-2019-0010.

6. Subsequently, Empire has executed a Purchase and Sale Agreement (“PSA”) concerning the Neosho Ridge Wind Farm - comprising approximately 300 MW of wind generation (the “Wind Project”). The Wind Project is located in or near the Empire service territory in Neosho County, Kansas and will require minimal transmission upgrades in the Southwest Power Pool Integrated Marketplace. Pursuant to the PSA, Empire would acquire the ownership of a holding company owned by the wind developer, which in turn will own the Wind Project Company.

7. Therefore, Empire seeks a certificate of convenience and necessity, in accordance with Section 393.170.1, RSMo, authorizing Empire to acquire an interest in the holding company that owns the Wind Project Company that will be constructing and installing the Neosho Ridge Wind Project, as well as authorize Empire to own, operate, maintain, and otherwise control and manage the Wind Project to be constructed in Neosho County, Kansas, as described herein.

8. In addition to the authority requested from the Commission, Empire will also be required to obtain authority from the Kansas Corporation Commission (“KCC”)¹ and Arkansas Public Service Commission (“ARPSC”), and an order from the Federal Energy Regulatory Commission (“FERC”) pursuant to Section 203 of the Federal Power Act and Part 33 of FERC’s

¹ KCC authority is required for the generation tie line and to self-supply electricity.

regulations (18 C.F.R. Part 33) with respect to Empire’s acquisition of the holding company interests and, indirectly, the Wind Project.

9. Construction of the Wind Project will start in the latter part of 2019, which will allow for the Wind Project to be fully operational by the end of 2020, in order to qualify for 100% PTC eligibility. Empire will acquire its interest in the Wind Project through a holding company in January of 2021, at which time its tax equity partner will make its capital investment in the holding company, thereby becoming a joint owner with Empire.

III. WIND PROJECT

NEOSHO RIDGE WIND FARM

10. The Neosho Ridge Wind Farm will be constructed in Neosho County, Kansas,² approximately thirty miles west of the western boundary of Empire’s service territory. The point of interconnection is on the Neosho-to-Caney River 345 kV transmission line owned by Westar. Neosho Ridge will have a capacity of approximately 300 MW.

11. The Neosho Ridge Wind Farm will be constructed pursuant to a Purchase and Sale Agreement (“Neosho Ridge PSA”) between Neosho Ridge Wind JV, LLC (“Neosho Ridge LLC”) and Empire. A copy of the Neosho Ridge PSA is attached as **Schedule TM-1-HC** to the Direct Testimony of Todd Mooney. The estimated cost of the project is found in the Direct Testimony of Todd Mooney. **Schedule TM-1-HC** and the estimated costs have been identified as Highly

² Empire is requesting a CCN related to the Neosho Ridge project (which is located in Kansas) out of an abundance of caution, given that the Commission has issued its Order of Rulemaking in File No. EX-2018-0189, and Commission Rule 4 CSR 240-20.045 will likely become effective during the pendency of this Application. Empire is also aware of the appeal of the Commission’s Order of Rulemaking that has been assigned Case No. WD82182 by the Western District Court of Appeals. The timing and substance of any decision in that appeal may be considered by Empire in deciding how to proceed in regard to Neosho Ridge.

Confidential in accordance with Commission Rule 4 CSR 240-2.135(4), and the *Motion for Protective Order* filed concurrently with this Application. In the alternative, **Schedule TM-1-HC** and **the estimated costs** are identified as Confidential in accordance with Commission Rule 4 CSR 240-2.135(2)(A)4 and 6, as they contain market specific information and information representing strategies employed in contract negotiations.

12. A legal description and map of the area and route for the Neosho Ridge Wind Farm are attached to the Direct Testimony of Timothy N. Wilson.

13. The assets to be constructed as a part of the Neosho Wind Farm and a copy of the plans and specifications for the project are found in **Annex 5** to the Neosho Ridge PSA (**Schedule TM-1-HC**).

14. A list of all electric, gas, and telephone conduit, wires, cables, and lines of regulated and nonregulated utilities, railroad tracks, and each underground facility, as defined in section 319.015, RSMo, which the proposed construction will cross is attached to the Direct Testimony of Timothy N. Wilson as **Schedule TNW-3**.

15. In addition to the authority requested by this Application, Empire will be responsible for obtaining the KCC, ARPSC and FERC authority described above. Neosho Ridge LLC will be responsible for obtaining governmental consents or approvals prior to the Neosho Ridge PSA closing, as outlined in Section 4.5 of the PSA, with the exception of the Federal Aviation Administration Determination of No Hazard.

FINANCING

16. Empire will utilize a tax equity partner to finance a significant portion of the cost of the Wind Project. At the time of closing on the PSA, Empire will acquire 100% of the Class

B shares and its tax equity partner will acquire 100% of Class A shares in the holding company for the Wind Project (the “Wind Holdco”). The Wind Holdco will own 100% of the membership interests in the Wind Project Company that owns the Wind Project. Upon the closing on the PSA, the Wind Holdco will become a direct subsidiary of Empire. As a result, Empire, via the Wind Holdco, will acquire the Wind Project Company that owns the Wind Project. After approximately ten years of tax equity participation and Empire joint ownership of the Wind Project Company (through the Wind Holdco), Empire has the right to purchase the tax equity partner’s ownership interest in the Wind Holdco, at which point Empire would wholly own the Wind Project Company. Attached as **Schedule TM-5-HC** to the Direct Testimony of Todd Mooney is a Letter of Interest from a tax equity partner. **Schedule TM-5-HC** has been identified as Confidential in accordance with Commission Rule 4 CSR 240-2.135(2)(A) 4 and 6, as it contains market specific information and information representing strategies employed in contract negotiations.

17. Empire, through its indirect parent, Liberty Utilities Co., will contribute the remaining amount of capital necessary to acquire the Wind Holdco. Empire’s works, system and franchise will not be encumbered as a result of this transaction.

OPERATION AND MAINTENANCE

18. Empire will operate the Wind Project, scheduling and dispatching the Wind Project into the Southwest Power Pool (“SPP”), and they will be Empire’s Network Resources in accordance with the SPP tariff. The Wind Project Company will be an affiliate of Empire’s and will sell its power into the SPP Integrated Marketplace and will receive the revenues from those sales.

19. In the case of a significant, unplanned/forced outages of the Wind Project, Empire

will act in accordance with its general *Power Outage Recovery Plan* in order to restore/continue to provide safe and adequate service.

IV. THE PROJECTS ARE IN THE PUBLIC INTEREST

20. Although not required by statute, the Commission has frequently considered five factors (the *Tartan* factors) in CCN proceedings: (1) need for the service; (2) the applicant's qualifications to provide the proposed service; (3) the applicant's financial ability to provide the service; (4) the economic feasibility of the proposal, and; (5) promotion of the public interest. The Commission has the authority to grant a requested CCN when it is determined that construction is "necessary or convenient for the public service." Section 393.170.3, RSMo. "Necessity" does not mean essential or absolutely indispensable, but, instead, that the facility would be an improvement justifying its cost.

21. As detailed in the Direct Testimony of Empire witness Blake Mertens, there is a need for the Wind Project and it is in the public interest. The Wind Project will take advantage of real opportunities that exist today to add generation capacity to Empire's fleet at reduced cost given the availability of PTCs, which in turn will provide low cost energy for Empire's customers for years to come. Further, two of Empire's existing PPAs, representing all of Empire's current wind capacity and a total of 255 MWs, will expire after the proposed Wind Project come online in December of 2020 (Elk River wind farm in 2025 (150 MW) and Meridian Way wind farm in 2028 (105 MW). Lastly, the Wind Project satisfies the stated public policy objective of conserving natural resources and pursuing renewable energy sources as reflected in the State Energy Policy and the Renewable Energy Standards.

22. Moreover, as further described in the Direct Testimony of Empire witness Blake

Mertens, Empire is qualified to provide the proposed service and has the financial ability to construct and operate the Wind Project as proposed. Further, the Wind Project is economically feasible as outlined in the Direct Testimony of Empire witness Todd Mooney.

23. For the reasons stated above, the Wind Project will promote the public interest.

V. RELATIONSHIP WITH EMPIRE'S IRP

24. On October 17, 2018, Empire provided notice of a change of its 2016 preferred plan in accordance with Commission Rule 4 CSR 240-22.080 (File No. EO-2019-0106). Empire's new acquisition strategy includes the projects that are the subject of this case.

VI. MOTION FOR WAIVER, IF NECESSARY

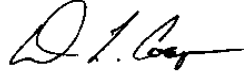
25. Commission Rule 4 CSR 240-20.045(6)(K), which will become effective on November 30, 2018, would require an applicant for an electric CCN to provide notice to all landowners directly affected by the requested CCN. As stated above, the CCN requested is for a location in the State of Kansas. No Missouri landowners will be directly affected by the requested CCN. Empire believes that in this circumstance, such notice of an application being filed before the Missouri Public Service Commission is unnecessary and, perhaps, confusing. Accordingly, to the extent that Commission Rule 4 CSR 240-20.045(6)(K) is deemed to apply to this application, Empire requests that a waiver from Commission Rule 4 CSR 240-20.045(6)(K) be granted for good cause.

26. All Direct Testimony documents identified in this Application are incorporated herein by such reference.

WHEREFORE, Empire respectfully requests that the Commission issue an order granting the CCNs requested herein, and issue such further orders as the Commission should find

reasonable and just.

Respectfully submitted,



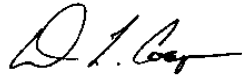
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**ATTORNEYS FOR THE EMPIRE DISTRICT
ELECTRIC COMPANY**

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 November 18, 2018, to the following:

Office of the General Counsel Governor Office Building staffcounsel@psc.mo.gov	Office of the Public Counsel Governor Office Building opc@ded.mo.gov
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AFFIDAVIT

State of Missouri)
) ss
County of Newton)

I, Blake A. Mertens, having been duly sworn upon my oath, state that I am the VP-Electric Ops of The Empire District Electric Company (Empire), that I am duly authorized to make this affidavit on behalf of Empire, and that the matters and things stated in the foregoing Application are true and correct to the best of my information, knowledge and belief.

Blake A. Mertens

Subscribed and sworn before me this 16 day of November, 2018.

Sherrig Blalock
Notary Public

Nov. 16, 2018
Commission Expires

