

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

In the Matter of The Empire District Electric)
Company's Application for Variance) File No. _____
Concerning Commission Rule 4 CSR 240-22.080)

In the Matter of a Determination of Special)
Contemporary Resource Planning Issues to be)
Addressed by The Empire District Electric) File No. EO-2012-0040
Company in its Next Triennial Compliance Filing)
or Next Annual Update Report)

APPLICATION FOR VARIANCE

COMES NOW The Empire District Electric Company ("Empire" or "Company"), by and through the undersigned counsel, and in support of its Application for Variance ("Application") concerning Missouri Public Service Commission ("Commission") Rule 4 CSR 240-22.080 and Empire's integrated resource planning ("IRP"), respectfully states as follows:

1. Empire is a Kansas corporation with its principal office and place of business at 602 South Joplin Avenue, Joplin, Missouri, 64802. Empire is qualified to conduct business and is conducting business in Missouri, as well as in the states of Kansas, Arkansas, and Oklahoma. Empire is engaged, generally, in the business of generating, purchasing, transmitting, distributing and selling electric energy in portions of said states. Empire also provides water service in Missouri. Natural gas distribution service in Missouri is provided by Empire's subsidiary, The Empire District Gas Company. Empire's Missouri operations are subject to the jurisdiction of the Commission as provided by law.

2. A certified copy of Empire's Restated Articles of Incorporation, as amended, was filed in Case No. EF-94-39 and 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. Communications in regard to this Application should be addressed to the undersigned counsel and:

Mr. Todd Tarter
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4. Rule 4 CSR 240-22.080(1) provides that "(e)ach electric utility which sold more than one (1) million megawatt-hours to Missouri retail electric customers for calendar year 2009 shall make a filing with the commission every three (3) years on April 1. Pursuant to this Rule, Empire's next Chapter 22 triennial compliance filing is scheduled for April 1, 2013. The filing scheduled for April 1, 2013, will be Empire's first triennial compliance filing under the new IRP rules which became effective as a result of the rulemaking process in File No. EX-2010-0254.

5. On September 3, 2010, Empire submitted its 2010 Chapter 22 compliance filing ("September 2010 filing") in Case No. EO-2011-0066 (under the prior IRP rules). On January 3, 2011, the Staff of the Commission ("Staff"), the Missouri Department of Natural Resources ("MDNR"), and Dogwood Energy, LLC ("Dogwood") submitted reports identifying alleged deficiencies and concerns with Empire's September 2010 filing. Certain parties to Case No. EO-2011-0066 (Empire, Staff, OPC, MDNR, and Dogwood) entered into a Nonunanimous Stipulation and Agreement (the "IRP Stipulation") which was filed in Case No. EO-2011-0066

on April 1, 2011. On April 27, 2011, the IRP Stipulation was approved by the Commission. The IRP Stipulation is attached hereto as Exhibit A.

6. Paragraph seven of the IRP Stipulation provides that the signatories to that agreement agree to focus their time and resources on Empire's next Chapter 22 triennial compliance filing (scheduled for April 1, 2013), provided that Empire agrees to certain conditions. Pursuant to those agreed-upon conditions in the Commission-approved IRP Stipulation, Empire shall:

a. confer with the other signatories in a Stakeholder Advisory Group process on specific aspects of the Commission's revised Chapter 22 rules and associated documentation for purposes of the April 2013 filing;

b. work with the Stakeholder Advisory Group to request the Commission's approval to implement new demand-side programs, including the demand-side programs in Empire's preferred resource plan in the September 2010 filing;

c. reaffirm that specific provisions from File No. EE-2010-0246 shall apply to Empire's April 2013 filing;

d. consider and incorporate relevant provisions of the Commission's MEEIA rules into its development of planning objectives and resource acquisition strategy for its April 2013 filing; and

e. take certain actions regarding the alleged deficiencies and concerns expressed regarding Empire's September 2010 filing and Empire's filing scheduled for April, 2013.

7. The IRP Stipulation further provides that the Stakeholder Advisory Group process described therein "is intended to assist Empire in its selection of analytic methods and to

facilitate Empire's collection and use of new data for its April 2013 filing." Paragraph eight of the IRP Stipulation further provides:

The Stakeholder Advisory Group shall fulfill the stakeholder group functions set forth in 4 CSR 240-22.050(3)(F) and 4 CSR 240-22.080(5) of the Commission's revised Chapter 22 rules and any additional functions set forth in this agreement. . . . Parties to File Nos. ER-2011-0004 and EO-2011-0066 shall have the opportunity to elect to join the Stakeholder Advisory Group.

The Stakeholder Advisory Group Process is attached to the IRP Stipulation as Appendix A and is included in the attachment hereto.

8. Rule 4 CSR 240-22.080(3) provides that "(b)eginning in 2012, on or about April 1 of every year in which the utility is not required to submit a triennial compliance filing, each electric utility shall host an annual update workshop with the stakeholder group." This provision was added to the IRP rules, effective in June of 2011, as part of the rulemaking in File No. EX-2010-0254. The newly amended rule 22.080(3) further provides as follows:

(A) The purpose of the annual update workshop is to ensure that members of the stakeholder group have the opportunity to provide input and to stay informed regarding the —

1. Utility's current preferred resource plan;
2. Status of the identified critical uncertain factors;
3. Utility's progress in implementing the resource acquisition strategy;
4. Analyses and conclusions regarding any special contemporary issues that may have been identified pursuant to 4 CSR 240-22.080(4);
5. Resolution of any deficiencies or concerns pursuant to 4 CSR 240-22.080(16); and
6. Changing conditions generally.

Empire seeks a variance from Rule 22.080(3) and (3)(A) and requests that the Commission issue an order waiving the requirement that Empire host an annual update workshop pursuant to Rule 4 CSR 240-22.080(3) and 3(A) on or about April 1, 2012. In lieu thereof, Empire shall continue to hold meetings pursuant to the IRP Stipulation described above and shall work with its stakeholders as part of the Stakeholder Advisory Group process to, among other things, analyze

any special contemporary issues ordered by the Commission pursuant to 4 CSR 240-22.080(3)(C) for inclusion in its 2013 triennial compliance filing.

9. Rule 4 CSR 240-22.080(3)(B) provides that the utility “shall prepare an annual update report with both a public version and a highly-confidential version to document the information presented at the annual update workshop and shall file the annual update reports with the commission no less than twenty (20) days prior to the annual update workshop.” Empire seeks a variance from this provision, 22.080(3)(B), and requests that the Commission issue an order waiving the requirement that Empire prepare an annual update report in 2012 as outlined in 4 CSR 240-22.080(3)(B). Instead, Empire shall prepare an update summary report by April 1, 2012, to be presented to the Stakeholder Advisory Group formed pursuant to the IRP Stipulation and at a meeting held pursuant to the IRP Stipulation. This update summary report shall cover Empire’s current preferred resource plan, the status of the identified critical uncertain factors, Empire’s progress in implementing the resource acquisition strategy, status of or results of analyses and conclusions regarding any special contemporary issues identified by the Commission pursuant to 4 CSR 240-22.080(4) for inclusion in Empire’s next triennial compliance filing, and changing conditions generally.

10. Rule 4 CSR 240-22.080(3)(C) provides that the utility “shall prepare a summary report that shall list and describe any action items resulting from the workshop to be undertaken by the utility prior to next triennial compliance filing or annual update filing. The summary shall be filed within ten (10) days following the workshop.” Rule 22.080(3)(D) further provides that “(s)takeholders may file comments with the commission concerning the utility’s annual update report and summary report within thirty (30) days of the utility’s filing of the summary report.” Empire seeks a variance from these provisions, 22.080(3)(C) and 22.080(3)(D), and Empire

requests that the Commission issue an order waiving the requirement that Empire prepare a summary report as outlined in Rule 4 CSR 240-22.080(3)(C).

11. Further, Rule 4 CSR 240-22.080(4) requires each of Missouri's electric utilities to analyze and document special contemporary issues in its next triennial compliance filing or next annual update report. Empire seeks a waiver of this provision to the extent it would require Empire to analyze and document the items identified in the list of special contemporary issues to be issued by this Commission in File No. EO-2012-0040 as part of Empire's next annual update report (scheduled for April of 2012). Instead, through the Stakeholder Advisory Group process, Empire shall analyze and document the items set forth in the Commission's list of special contemporary issues in File No. EO-2012-0040 for inclusion in Empire's next triennial compliance filing (scheduled for April 1, 2013).¹

12. The IRP Stipulation and the Stakeholder Advisory Group Process described therein are fulfilling the specific objectives set forth in 4 CSR 240-22.080(3)(A). In particular, all stakeholders are being given the opportunity to provide input and to stay informed regarding Empire's current preferred resource plan, the status of identified critical uncertain factors, Empire's progress in implementing the resource acquisition strategy, the resolution of any deficiencies or concerns and changing conditions generally with regard to Empire's IRP.

13. Additionally, according to 4 CSR 240-22.010(2), the "fundamental objective of the resource planning process at electric utilities shall be to provide the public with energy services that are safe, reliable, and efficient, at just and reasonable rates, in compliance with all

¹ Empire intends to file comments in response to the special contemporary resource planning issues suggested by Staff and MDNR in Commission Case No. EO-2012-0040. Empire does not believe all of the issues suggested by Staff and MDNR are appropriate for inclusion in the list to be prepared by the Commission in that case. Empire's specific objections will be set forth in its comment filing to be made on or before October 1, 2011, in Case No. EO-2012-0040.

VERIFICATION

STATE OF MISSOURI)
)
COUNTY OF COLE)

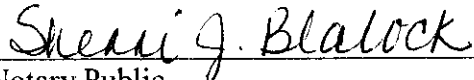
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Todd W. Tarter, having been duly sworn upon his oath, states that he is the Manager of Strategic Planning for The Empire District Electric Company and that the matters and things stated in the foregoing application are true and correct to the best of his information, knowledge and belief.



Todd W. Tarter

Subscribed and sworn to before me, a notary public, on this 29 day of September, 2011.



Notary Public

My Commission expires: NOV. 16, 2014.

