

In the Matter of:

**THE APPLICATION OF THE EMPIRE DISTRICT ELECTRIC COMPANY**

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**VOLUME I EO-2018-0092**

*November 29, 2017*

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THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

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TRANSCRIPT OF PROCEEDINGS

Procedural Conference  
November 29, 2017  
Jefferson City, Missouri  
Volume 1

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In the Matter of the )  
Application of The Empire )  
District Electric Company ) File No. EO-2018-0092  
for Approval of its Customer )  
Savings Plan )

MICHAEL BUSHMANN, Presiding  
SENIOR REGULATORY LAW JUDGE

REPORTED BY:  
Angie D. Threlkeld, CCR  
TIGER COURT REPORTING, LLC

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A P P E A R A N C E S

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1 JUDGE BUSHMANN: The Commission has set this  
2 time for a procedural schedule -- excuse me, a procedural  
3 conference in the case captioned as In the Matter of the  
4 Application of The Empire District Electric Company for  
5 Approval of Its Customer Savings Plan, File Number  
6 EO-2018-0092. It's November 29th, 2017 at approximately  
7 1:30 p.m.

8 My name is Michael Bushmann. I'm the  
9 regulatory law judge in this matter.

10 Let's have Counsel make their entries of  
11 appearance. For The Empire District Electric Company.

12 MR. BOUDREAU: Let the record reflect the  
13 appearance of Dean Cooper and Paul Boudreau. Our contact  
14 information has been given to the court reporter.

15 JUDGE BUSHMANN: Commission staff.

16 MS. FORCK: For the staff of the Missouri  
17 Public Service Commission, Marcella Forck and Bob Berlin.  
18 And our information is on file with the court reporter.

19 JUDGE BUSHMANN: Office of the Public  
20 Counsel.

21 MR. WILLIAMS: For OPC is Hampton Williams  
22 and Ryan Smith. Our information has been filed with the  
23 court reporter.

24 JUDGE BUSHMANN: Missouri Division of Energy.

25 MR. POSTON: Marc Poston for Division of

1 Energy.

2 JUDGE BUSHMANN: And Midwest Energy Consumers  
3 Group has asked to be excused, and that request has been  
4 granted.

5 Anybody from Renew Missouri?

6 Sierra Club?

7 City of Joplin.

8 MR. ELLINGER: Mark Ellinger and Stephanie  
9 Bell on behalf of the City of Joplin. Our information  
10 has been submitted to the court reporter.

11 JUDGE BUSHMANN: Thank you.

12 Ameren Missouri?

13 And Dogwood Energy, LLC. Mr. Lumley, can you  
14 hear me? Sorry, I can't hear you. You're very faint.  
15 Can you speak up a little?

16 (Off the record.)

17 JUDGE BUSHMANN: You're a little faint, but I  
18 can still understand what you're saying and the court  
19 reporter can.

20 (Off the record.)

21 JUDGE BUSHMANN: So, first of all, I wanted  
22 to address intervention. There was an application to  
23 intervene filed by Dogwood Energy, LLC, and Empire filed  
24 a response stating that if Dogwood Energy was granted  
25 intervention that they will be filing a motion for a

1 protective order. And although Empire didn't  
2 specifically object to the intervention, I wanted to  
3 discuss that a little bit before granting it.

4 I wanted to find out from Empire whether  
5 there was some confidential information or testimony  
6 that's already in the -- been filed that you're worried  
7 about or whether you're anticipating that in the future  
8 that there will be discovery requests that would involve  
9 confidential information that would require a protective  
10 order.

11 MR. BOUDREAU: Well, Judge, I can't speak to  
12 the first part of your question. Mr. Cooper, if and when  
13 he shows up, might be able to better fill you in on that.

14 I think, as far as the second part, we'd have  
15 some concerns in terms of -- if there hasn't already been  
16 information filed, we'd be concerned about information  
17 being designated -- or being requested or revealed later  
18 on in the proceeding.

19 JUDGE BUSHMANN: The reason I'm asking about  
20 that, because if there was information and if it's right  
21 now that you are concerned about -- I notice that there  
22 was confidential testimony filed from two witnesses --  
23 then I could grant intervention with a delayed effective  
24 date. So that would give you an opportunity to file a  
25 motion before that intervention became effective. If

1 you're only worried about discovery going forward, then I  
2 can grant intervention right now, and you can still file  
3 your protective order whenever it became necessary. I  
4 didn't know if you had a position on that or...

5 MR. BOUDREAU: I'm not sure I'm in the best  
6 position to respond meaningfully to your questions, which  
7 are good questions. I just don't know --

8 JUDGE BUSHMANN: That you have the answer.

9 MR. BOUDREAU: -- that I have enough  
10 information available to answer in a meaningful way. I  
11 apologize for that.

12 JUDGE BUSHMANN: Mr. Lumley, did you have any  
13 response you wanted to make at this point?

14 MR. LUMLEY: If you can hear me, I think it  
15 would be you can certainly caveat granting our  
16 intervention on me not letting my clients look at that  
17 information (inaudible).

18 JUDGE BUSHMANN: Okay. Can you say that  
19 again a little louder?

20 MR. LUMLEY: I can try.

21 JUDGE BUSHMANN: That's better. Thank you.

22 MR. LUMLEY: My suggestion was that if you...

23 JUDGE BUSHMANN: Okay. I lost you entirely  
24 now.

25 MR. LUMLEY: Hello.



1 JUDGE BUSHMANN: Yeah, you're back again.  
2 Can you try one more time? We lost you in the middle  
3 there.

4 MR. LUMLEY: I was saying that if you grant  
5 the intervention and direct me not to share confidential  
6 information with my clients (inaudible).

7 JUDGE BUSHMANN: So you said if I was to  
8 grant the intervention but directed you not to share that  
9 information with Dogwood officers; is that what you're  
10 referring to?

11 MR. LUMLEY: Yes.

12 JUDGE BUSHMANN: Have any opinion about that,  
13 Mr. Boudreau?

14 MR. BOUDREAU: Well, of course the  
15 confidentiality rules changed --

16 JUDGE BUSHMANN: Yes.

17 MR. BOUDREAU: -- just recently. And what  
18 I'm not familiar with is whether or not in the filing of  
19 the information on behalf of my client -- and I apologize  
20 for not being more familiar -- if a request for  
21 protective order was filed along with that was --

22 JUDGE BUSHMANN: I don't believe it was.

23 MR. BOUDREAU: Okay. So that helps me. I  
24 think that -- I think a protective order along those  
25 lines would make some sense, in terms of making sure that

1 the information doesn't get in the hands of executives or  
2 others at Dogwood that shouldn't have it.

3 JUDGE BUSHMANN: Okay. So since there's some  
4 uncertainty, I think what I would prefer to do at this  
5 point, I will issue an order today granting intervention,  
6 but it will have a ten-day effective date. That way if  
7 there is an issue that's immediate, then Empire would  
8 need to file their motion for a protective order no later  
9 than, say, noon this Friday.

10 MR. BOUDREAU: Okay.

11 JUDGE BUSHMANN: And Dogwood Energy would  
12 have until noon on the following Monday to respond. That  
13 way if that issue is -- needs to be taken to agenda  
14 before the intervention order becomes effective, that  
15 would give the commissioners time to review the motion  
16 and the responses.

17 Mr. Lumley, do you have any objection to  
18 that?

19 MR. LUMLEY: No, sir. That's fine.

20 MR. BOUDREAU: Judge, I think that's  
21 something we can work with.

22 JUDGE BUSHMANN: Okay. So I will issue that  
23 order later today, granting intervention with a ten-day  
24 effective date. I won't say anything about the filing  
25 deadlines, but I just told you all what I expect. So...

1           The only other thing is we'll need a joint  
2 proposed procedural schedule. So I'd like Empire to file  
3 that on behalf of the parties no later than a week from  
4 today, December 6th.

5           MR. BOUDREAU: Okay.

6           JUDGE BUSHMANN: And that should just include  
7 the normal filing events. Probably ought to include a  
8 date for a stipulation of nondisputed material facts as  
9 well.

10           Are there any other issues that need to be  
11 brought up on the record from anybody before we go off  
12 the record?

13           MR. BOUDREAU: I don't believe so, Judge.

14           MR. ELLINGER: Did we check the calendar for  
15 hearing dates? We have a proposed schedule. Should we  
16 check the commission calendar to make sure --

17           JUDGE BUSHMANN: I have brought a copy of  
18 that for you guys to look at while you're discussing.

19           Anybody else?

20           MR. ELLINGER: Same for public hearings?

21           JUDGE BUSHMANN: Yes.

22           Hearing none, we'll be off the record.

23           (Off the record.)  
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CERTIFICATE OF REPORTER

I, Angie D. Threlkeld, a Certified Court Reporter, CCR No. 1382, the officer before whom the foregoing hearing was taken, do hereby certify that the foregoing hearing was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken, and further, that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.



Angie D. Threlkeld, CCR

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