

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

In the Matter of The Empire District Electric	)	
Company's 2015 Annual Update Report Filing	)	File No. EO-2015-0216
Pursuant to 4 CSR 240-22.080(3)	)	

**MISSOURI DEPARTMENT OF ECONOMIC DEVELOPMENT – DIVISION OF  
ENERGY'S COMMENTS IN RESPONSE TO THE EMPIRE DISTRICT ELECTRIC  
COMPANY'S 2015 INTEGRATED RESOURCE PLAN ANNUAL UPDATE FILING**

COMES NOW the Missouri Department of Economic Development – Division of Energy (“DE”)<sup>1</sup> by and through counsel, pursuant to the Public Service Commission’s (“Commission”) Integrated Resource Plan (“IRP”) rules at 4 CSR 240-22.080(3)(D), and submits its comments on The Empire District Electric Company’s (“Empire” or “the Company”) 2015 Annual Update Report Filing (“Update Report”).<sup>2</sup>

1. Empire submitted its 2015 Update Report in Case No. EO-2015-0216 on March 13<sup>th</sup>, 2015, followed by an update meeting on April 29<sup>th</sup>, 2015 and the submission of a summary report of this meeting on May 8<sup>th</sup>, 2015.<sup>3</sup>

2. While Empire also submitted a 2014 Update Report (Case No. EO-2014-0243), hosted an update meeting on that report, submitted a summary report of that meeting, and

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<sup>1</sup> Effective August 29, 2013, Executive Order 13-03 transferred, “,, all authority, powers, duties, functions, records, personnel, property, contracts, budgets, matters pending, and other pertinent vestiges of the Division of Energy from the Missouri Department of Natural Resources to the Missouri Department of Economic Development ....”

<sup>2</sup> Missouri Public Service Commission Case No. EO-2015-0216, *In the Matter of The Empire District Electric Company's 2015 Annual Update Report Filing Pursuant to 4 CSR 240-22.080(3)*, 2015 Integrated Resource Plan Annual Update Report, March 13<sup>th</sup>, 2015.

<sup>3</sup> Missouri Public Service Commission Case No. EO-2015-0216, *In the Matter of The Empire District Electric Company's 2015 Annual Update Report Filing Pursuant to 4 CSR 240-22.080(3)*, Integrated Resource Plan – 2015 Annual Update Workshop Summary Report, May 8<sup>th</sup>, 2015.

responded<sup>4</sup> to DE's comments<sup>5</sup> on the Company's 2014 Update Report, none of DE's identified deficiencies in its comments on the 2014 Update Report has been sufficiently addressed in the 2015 Update Report, update meeting on the 2015 Update Report, or summary report of that meeting.

3. Under the Commission's rules at 4 CSR 240-22.080(3)(B), Empire is required to definitively address whether or not any changes have occurred to its "current resource acquisition strategy:"

... The depth and detail of the annual update report shall generally be **commensurate with the magnitude and significance of the changing conditions** since the last filed triennial compliance filing or annual update filing. **If the current resource acquisition strategy has changed** from that contained in the most-recently-filed triennial compliance filing or annual update filing, the annual update report **shall describe the changes .... If the current resource acquisition strategy has not changed**, the annual update report **shall explicitly verify that the current resource acquisition strategy is the same** as that contained in the most-recently filed triennial compliance filing or annual update filing. (Emphasis added.)

4. DE deficiency 1 (page 2, paragraph 2) described how Empire did not analyze the potential for distributed generation ("DG") technologies – particularly combined heat and power

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<sup>4</sup> Missouri Public Service Commission Case No. EO-2014-0243, *In the Matter of The Empire District Electric Company's 2014 IRP Annual Update Being Filed Pursuant to Rule 4 CSR 240-22.080*, Empire's Response to the Missouri Department of Economic – Development Division of Energy Comments, May 30<sup>th</sup>, 2014.

<sup>5</sup> Missouri Public Service Commission Case No. EO-2014-0243, *In the Matter of The Empire District Electric Company's 2014 IRP Annual Update Being Filed Pursuant to Rule 4 CSR 240-22.080*, Missouri Department of Economic Development – Division of Energy Comments in Response to The Empire District Electric Company's 2014 Integrated Resource Plan Annual Update Filing, May 21<sup>st</sup>, 2014.

(“CHP”), solar, and wind – in its 2014 Update Report; DE recommended that the Company perform sector-specific analyses using “selected proven technologies” while factoring the “reliability and resilience” benefits of CHP into its considerations.<sup>6</sup> However, Empire includes no mention of CHP in its 2015 Update Report, and its assessment of other DG resources is cursory. The 2015 Update Report discusses the Company’s existing wind power purchase agreements from Kansas sources,<sup>7</sup> but the Report only briefly references the fact that all ten of the Company’s net-metered wind resources are in Missouri and that eight of these resources are Residential.<sup>8</sup> While addressing one of the Special Contemporary Issues as ordered by Commission,<sup>9</sup> Empire also mentions that 37 of its 41 net-metered solar photovoltaic (“PV”) customers are in Missouri and that 35 of its net-metered solar PV customers are Residential.<sup>10</sup> While the Company indicates that it provides service to poultry processing plants and feed mills and that it has determined the existence of landfills in or near its service area, the Company states only that it “will conduct a more detailed analysis” of these three resource types (and DG wind) in its 2016 triennial IRP filing.<sup>11</sup>

Given the lack of detail provided by Empire in this Update Report, DE is concerned with the Company’s promise to perform an adequate analysis of its DG resource potential in the future. This is particularly true given that the Company’s assessment of net-metered solar PV in its 2015 Update Report acknowledges that, “... solar prices have been declining and will need to be updated in future studies”<sup>12</sup> while, at the same time, the Company claims (regarding its appeal

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<sup>6</sup> DE Comments on 2014 Update Report, pages 2-3.

<sup>7</sup> 2015 Update Report, pages 27-28, 30, 36, and 37.

<sup>8</sup> *Ibid*, page 30.

<sup>9</sup> *Ibid*, pages 43-45.

<sup>10</sup> *Ibid*, page 44.

<sup>11</sup> *Ibid*, page 30.

<sup>12</sup> *Ibid*, page 44.

of the Missouri Supreme Court’s decision of the Company’s solar rebate exemption under the Renewable Energy Standard, or “RES”):

It is Empire’s understanding that this [appeal] process could take several months.

This will impact the 2016 IRP’s 20-year study period; but it is not expected to have a significant cost impact on the current preferred plan. Empire will reconsider DG, including supply-side and demand-side solar, with updated planning assumptions in its next IRP filing.<sup>13</sup>

However, the Missouri Supreme Court issued its final decision on April 2<sup>nd</sup>, 2015 (after the filing of the 2015 Update Report),<sup>14</sup> and the Company received approval for revised tariff sheets with an effective date of May 16<sup>th</sup>, 2015.<sup>15</sup> Even with these rapid developments and the Company’s contradictory assertions regarding the costs of DG solar PV, it indicated in its update meeting that it did not intend to revise its 2015 Update Report to account for its solar rebate tariff filing, which will have a cost impact on Empire’s current preferred plan; however, it did state that it would file a revised RES compliance plan.<sup>16</sup>

We request that the Company update this filing – or its 2016 triennial IRP at the latest – with the outcome of the Missouri Supreme Court’s decision and the Company’s tariff filings and approvals; we also request that the Company update either this filing or its 2016 triennial IRP with an analysis of DG solar PV which takes declining costs and recent legal developments into account. For the reasons indicated previously, we further request that Empire update, at the very

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<sup>13</sup> *Ibid.*

<sup>14</sup> Missouri Public Service Commission Case No. ET-2015-0285, *In the Matter of the Solar Rebate and Net Metering Tariff Sheets of The Empire District Electric Company*, Motion for Expedited Treatment and Approval of Tariff Sheets, May 5<sup>th</sup>, 2015, page 3.

<sup>15</sup> *Ibid.*, Order Approving Expedited Tariff, May 6<sup>th</sup>, 2015.

<sup>16</sup> Integrated Resource Plan – 2015 Annual Update Workshop Summary Report, page 3.

latest, its 2016 triennial IRP with DG potential analyses for CHP, wind, and other resources, including those mentioned by the Company in its 2015 Update Report.

5. DE deficiency 2 (page 3, paragraph 2) stated that the Company did not address the issue of generating plant efficiency improvements in its 2014 Annual Update, as agreed to by the Company “for subsequent IRPs.”<sup>17</sup> DE further recommended that Empire examine the potential to reduce the parasitic loads on its generating plants.<sup>18</sup> While the Company has indicated some of the steps which it has taken – such as the Asbury turbine retrofit<sup>19</sup> and the Riverton 12 conversion<sup>20</sup> – Empire performed no analyses of the potential for additional future supply-side efficiency gains in its 2015 Update Report. Since even a modest gain in plant efficiencies through parasitic load reductions would lead to substantial energy savings, DE reiterates the need for the Company to perform an analysis within the current filing (or, at the latest, in its 2016 triennial IRP) exploring various measures to increase supply-side efficiency.

6. DE deficiency 3 (page 3, paragraph 3) indicated the need for Empire to analyze its demand- and supply-side options for compliance with federal environmental regulatory developments, in particular carbon pollution standards such as the Clean Power Plan, the Cross-State Air Pollution Rule (“CSAPR”), and the regulation of coal combustion residuals (“CCRs”). However, the information provided by the Company in its 2015 Update Report with respect to these three particular issues is scattered and insufficient. Empire provides no substantive information regarding potential compliance options under the proposed Clean Power Plan, stating only that, “State and industry representatives including Empire continue to evaluate potential

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<sup>17</sup> DE Comments on 2014 Update Report, page 3.

<sup>18</sup> *Ibid.*

<sup>19</sup> 2015 Update Report, page 11.

<sup>20</sup> *Ibid.*, pages 12-13.

paths forward if the rule is finalized as proposed by the EPA.”<sup>21</sup> The initial discussion of CSAPR compliance states that the Company plans to purchase emissions allowances at a cost that Empire predicts to be “economically beneficial,” despite the admission that the markets did not exist at the time of the 2015 Update Report’s creation.<sup>22</sup> Even with this planned reliance on emissions trading, the Company later indicates costs related to air pollution control equipment, some of which are not disaggregated from other environmental regulatory costs.<sup>23</sup> Similarly, Empire states that the costs of ash disposal will shift depending on the final rules for CCR disposal, even while acknowledging that the final rules were released on December 19<sup>th</sup>, 2014 and indicating that the Company, “... expect[s] resulting costs to be recoverable in rates.”<sup>24</sup> At the same time, Empire states that it will update a “preliminary estimate” for converting to dry ash handling at its Asbury Power Plant based on the final rule and that it has received a preliminary permit from the State of Missouri; the Company also indicates interests in coal ash impoundments aside from Asbury,<sup>25</sup> and – in the same section discussing compliance with numerous other environmental measures – provides some details on costs which, in whole or in part, are related to CCRs.<sup>26</sup>

The information provided by the Company in its 2015 Update Report regarding its environmental compliance is incomplete and unclear. DE requests that Empire provide additional information in the current filing – or, at the very latest, in its 2016 triennial IRP – to clarify both its current and planned compliance actions regarding the issues described above.

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<sup>21</sup> *Ibid*, page 3.

<sup>22</sup> *Ibid*, page 4.

<sup>23</sup> *Ibid*, pages 41-43.

<sup>24</sup> *Ibid*, page 6.

<sup>25</sup> *Ibid*, pages 6-7.

<sup>26</sup> *Ibid*, pages 41-43

7. DE deficiency 4 (page 4, paragraph 2) explained that the Company failed to identify “all significant decision makers” as applicable to potential demand-side resources, either in conjunction with stakeholders or in its 2014 Update Report.<sup>27</sup> As per 4 CSR 240-22.050(1):

The utility **shall identify** a set of **potential demand-side resources** from which demand-side candidate resource options will be identified **for the purposes of developing the alternative resource plans required by 4 CSR 240-22.060(3)**. A potential demand-side resource consists of a demand-side program designed to deliver one (1) or more energy efficiency and energy management measures or a demand-side rate. The utility shall select the set of potential demand-side resources and **describe and document its selection—**

(A) **To provide broad coverage of— ...**

2. **All significant decision-makers, including at least** those who choose building design features and thermal integrity levels, equipment and appliance efficiency levels, and utilization levels of the energy-using capital stock .... (Emphasis added.)

This identification was not provided in the 2014 Update Report, nor has it been provided in the 2015 Update Report. DE requests that the Company provide this information in this filing as per the Commission’s rules, or provide this information in its 2016 IRP at the very latest.

8. DE is concerned with many of the other details the Company has (or has not) included with respect to its Demand-Side Management (“DSM”) programs. The 2015 Annual Update discusses the Company’s Missouri Energy Efficiency and Investment Act (“MEEIA”)

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<sup>27</sup> DE Comments on 2014 Update Report, pages 4-5.

portfolio proposal at length,<sup>28</sup> acknowledging the “uncertainty” of the proposal’s status.<sup>29</sup> Empire also includes a table indicating the budgets of the Company’s then-current DSM portfolio<sup>30</sup> while also stating that, “Due to an inadequate cost recovery mechanism, Empire has requested permission to terminate the existing demand-side programs in Case No. ER-2014-0351.”<sup>31</sup> However, the Annual Update was filed prior to the Global Stipulation and Agreement in Empire’s rate case (ER-2014-0351).<sup>32</sup> While this Stipulation and Agreement has not yet been approved by the Commission, it would require the Company to, “... continue its current energy efficiency programs, at current funding levels and with the current recovery mechanism, until Empire has an approved MEEIA or until the effective date of rates in Empire’s next general rate case.”<sup>33</sup> Under the same Global Stipulation and Agreement, the Company’s Low-Income Weatherization program would also continue at an annual funding level of \$225,000 (with roll over), subject to the conditions that, “On a going forward basis, the low-income weatherization program is not a ‘demand side measure’ or program ... Costs for this program are built into and will be recovered through the agreed-upon revenue requirement [i.e., base rates].”<sup>34</sup>

The 2015 Update Report also includes a response to one of the Commission’s Special Contemporary Issues which required Empire to, “Review the impact of foreseeable emerging

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<sup>28</sup> 2015 Annual Update, pages 13-14, 30, and 31-34. Materials on pages 33-34 have been deemed “HIGHLY CONFIDENTIAL in [their] entirety.”

<sup>29</sup> *Ibid*, pages 13-14.

<sup>30</sup> *Ibid*, page 32.

<sup>31</sup> *Ibid*, page 35.

<sup>32</sup> Missouri Public Service Commission Case No. ER-2014-0351, *In the Matter of The Empire District Electric Company for Authority to File Tariffs Increasing Rates for Electric Service Provided to Customers in the Company’s Missouri Service Area*, Global Stipulation and Agreement, April 3<sup>rd</sup>, 2015.

<sup>33</sup> *Ibid*, page 6.

<sup>34</sup> *Ibid*.



energy efficiency technologies throughout the 20-year planning period.”<sup>35</sup> With regard to this section, DE agrees in part with the Company that one of the “unpredictable barriers” new technologies may face is “consumer and market acceptance” and that, “Public policy plays an important role in driving technology development ....”<sup>36</sup> While DE further recognizes that the Company’s response is intended to be a “review,” we are also concerned that the Company’s summary falls far short of the level of analysis needed to attain increased innovation and cost-effectiveness through its continuing DSM portfolio, much less increased savings or significant movement towards a MEEIA portfolio. DE also notes that public policy can only go so far towards promoting energy efficient technologies in a regulatory environment under which both MEEIA and non-MEEIA DSM portfolios focus on utility-provided programs; thus, while it may be true that, “Policy factors such as new or modified legislation or regulations at the state or federal levels have significant impacts of the introduction of new technologies and how they are treated in an analysis,”<sup>37</sup> such legislation and regulations should not be exclusively relied upon for determining baseline energy savings. To this end, the Company should provide more detail on exactly how, “... the [2013] portfolio design accounted for changes in equipment standards ...” and, “... incremental costs were reduced for certain technologies to reflect expected changes in costs and pricing as technologies mature and market penetration increases,”<sup>38</sup> particularly as these analyses relate to Empire’s future plans for its analyses of DSM potential.

Due to these observations and concerns, DE requests that Empire update either its current filing or, at the very latest, its 2016 triennial IRP to reflect the terms to which it agreed in the Global Stipulation and Agreement regarding the continuation of its current DSM programs and

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<sup>35</sup> 2015 Annual Update, pages 38-40.

<sup>36</sup> *Ibid*, page 38.

<sup>37</sup> *Ibid*.

<sup>38</sup> *Ibid*, page 39.

the changes to its Low-Income Weatherization program. DE further requests that the Company include a more detailed analysis of emerging energy efficiency technologies which indicates how it plans to factor new efficiency standards, equipment costs, and market penetration and saturation rates into its next DSM portfolio; again, this analysis should be included either in Empire's current filing or, at the very latest, in its 2016 triennial IRP.

9. DE therefore requests that the Company provide the following in either the current filing or, at the very latest, in its 2016 triennial IRP:

- An acknowledgement of the Missouri Supreme Court's decision regarding the Company's previous exemption from the RES provision involving solar rebates, in addition to the Company's revised RES compliance plan, net metering tariff, and solar rebate tariff;
- A thorough analysis of the potential for DG resources in its Missouri jurisdiction, including CHP, solar PV, wind, and other resources mentioned in the 2015 Annual Update;
- An analysis of measures by which Empire could increase plant efficiencies, particularly through the reduction of parasitic loads;
- A complete and clear analysis and description of the Company's compliance plans with respect to recent and upcoming federal environmental regulations, especially carbon pollution rules, CSAPR, and the regulation of CCRs;
- An identification of "all significant decision makers" with respect to potential demand-side resources, as per 4 CSR 240-22.050(1)(A)(2);
- An acknowledgement of the facts that (under the terms of the Global Stipulation and Agreement in ER-2014-0351) the Company's DSM portfolio will continue as

it stands, with the exception that the Low-Income Weatherization program will become a separate program recovered through base rates;

- A more detailed analysis of emerging energy efficiency technologies which indicates how the Company will factor new efficiency standards, equipment costs, and market penetration and saturation rates into its next DSM portfolio; and,
- An analysis of the potential change in the Company's load profile resulting from increased electric vehicle penetration, with consideration of relevant federal and state incentives (as per DE's suggested Special Contemporary Issue in EO-2015-0042).<sup>39</sup> The discussion of electric vehicles provided in the 2015 Annual Update lacks sufficient detail to draw conclusions on this topic.<sup>40</sup>

WHEREFORE, the Missouri Department of Economic Development – Division of Energy respectfully submits these comments.

Respectfully submitted,

/s/ Alexander Antal  
Alexander Antal  
Associate General Counsel  
Missouri Bar No. 65487  
Department of Economic Development  
P.O. Box 1157  
Jefferson City, Missouri 65102  
Phone: 573-522-3304  
Fax: 573-526-7700  
Alexander.antal@ded.mo.gov  
**Attorney for Missouri Division of Energy**

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<sup>39</sup> Missouri Public Service Commission Case No. EO-2015-0042, *In The Matter of a Determination of Special Contemporary Resource Planning Issues to be Addressed by The Empire District Electric Company in its Next Triennial Compliance Filing or Next Annual Update Report*, Missouri Department of Economic Development – Division of Energy Suggested Special Contemporary Resource Planning Issues for The Empire District Electric Company, September 15<sup>th</sup>, 2014, page 2.

<sup>40</sup> 2015 Annual Update, pages 40-41.

### **CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been served electronically on all counsel of record this 8<sup>th</sup> day of June, 2015.

/s/ Alexander Antal  
Alexander Antal