

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

In the Matter of The Empire District )  
Electric Company's Request for )  
Authority to File Tariffs Increasing )  
Rates for Electric Service Provided )  
to Customers in its Missouri )  
Service Area )

**Case No. ER-2019-0374**

**STAFF'S RESPONSE**

**COMES NOW** the Staff of the Missouri Public Service Commission, by and through counsel, and for its *Response* in this matter hereby states:

1. The Commission issued a *Report and Order* in this matter on July 1, 2020. Several parties filed *Motions* asking the Commission to clarify certain elements of that *Order* and two parties filed *Applications for Rehearing*. The Commission ordered Staff to respond to two specific points made in those filings. One, in response to Empire District Electric Company's (Empire or Company) request for clarification in regards to the River 12 operations and maintenance (O&M) tracker, and one in response to the Office of the Public Counsel's (OPC) *Application for Rehearing* in regards to the excess accumulated deferred income tax (ADIT) resulting from the Tax Cuts and Jobs Act (TCJA).

2. Staff has discussed the Riverton 12 O&M tracker with the Company and agrees with the \$7,478,634 tracker baseline amount prior to application of jurisdictional allocations that Empire proposes in its *Motion*. This number does not affect the revenue requirement, but instead is used to compare future tracked costs.

3. In regards to OPC's allegations regarding the excess ADIT resulting from the TCJA, Staff on page 56 of its *Direct Report* proposed a five-year amortization of the amount and is under the understanding that this was the treatment that the Commission references in its *Order* on page 91, footnote 366. The list of issues filed in this case included issue number 12, which stated:

Tax Cuts and Jobs Act of 2017 federal income tax rate reduction from 35% to 21% impact for the period January 1 to August 30, 2018

*a. How should the Commission treat the 2017 TCJA regulatory liability the Commission established in ER-2018-0366 when setting rates for Empire in this case?*

Staff has consistently defined "treat" to encompass both a dollar amount to be applied to an issue as well as whether that amount is to be annualized, normalized, recovered in base rates, etc. Additionally, OPC contributed issues to the *Joint Issues List*, which it had identified as necessary for the Commission to decide. Further, OPC filed its position statements and three briefs in in this matter, in which it had every opportunity to respond to Staff's position regarding the proposed five-year amortization and for OPC to propose an alternative amortization period if it disagreed. Staff considers this matter to have been determined by the Commission in its *Order* in favor of Staff's recommended five-year amortization.

4. Staff would include that it also agrees with Empire that clarification is needed of the language in the *Report and Order* concerning the AFUDC issue; specifically regarding the Commission's intended scope for quantifying any retrospective adjustment to be made to Empire's rate base.

5. Finally, Staff would ask that the Commission in its consideration of the filing of compliance tariffs by Empire, permits a minimum of 14 days between the filing of the tariffs and the requirement for party responses to those tariffs, to allow Staff adequate time to ensure that the numerous issues in this case have been properly addressed by the tariffs. Throughout the duration of the proceeding, there has been some difficulty in communication with the Company and in obtaining data. This has continued into the discussions of the *Order* as well. Staff's request is simply to make sure that there is enough time to allow for potential discussions regarding the compliance tariffs.

**WHEREFORE**, Staff prays that the Commission will accept Staff's *Response*; permit at least 14 days for Staff to respond to Empire's filed compliance tariffs; and grant such other and further relief as the Commission considers just in the circumstances.

Respectfully submitted,

**/s/ Whitney Payne**

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served by electronic mail, or First Class United States Postal Mail, postage prepaid, on this 15<sup>th</sup> day of July, 2020, to all counsel of record.

**/s/Whitney Payne**