

**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

PUBLIC COUNSEL’S REQUEST FOR RULING ON EMPIRE’S OBJECTIONS

COMES NOW the Office of Public Counsel (Public Counsel) and requests the Commission to rule on The Empire District Electric Company’s objections to Public Counsel’s data request number 8049 that Public Counsel issued to Empire, as follows:

1. On December 24, 2019, Public Counsel issued to Empire, *inter alia*, the following data request:

8049. Please provide the following regarding the hedge agreement the parties have entered into for the Neosho Ridge Wind project:

- a. A copy of the hedge agreement;
- b. How Empire intends to account for the costs that are incurred and the revenues that are received through this agreement, including where they will be recorded (by major and minor account); and
- c. Each and every provision that is being made to ensure that these costs and revenues do not flow through Empire’s FAC.

Update this data request with the hedge agreements for each of the Missouri wind projects as each of those agreements becomes final.

2. By email received late January 2, 2020, Empire objected as follows:

Liberty-Empire objects to subparts (b) and (c) of OPC DR 8049 on the bases that they seek irrelevant information and are overly broad and unduly burdensome, in that no wind project costs are at issue in this case and the intended effective date of the hedges is July 1, 2021. Additionally, Liberty-Empire objects to subpart (c) on the basis that it is vague. If OPC is requesting information regarding FAC changes proposed in this case, clarification is needed regarding what exactly is being requested.

3. In subpart H of the fourth paragraph of its October 17, 2019, *Order Setting Procedural Schedule and Other Procedural Requirements*, the Commission directed:

Not less than two business days before each discovery conference, any party that has a discovery disagreement or concern involving another party shall file a brief statement describing that disagreement or concern and identifying any other parties involved. Such statement does not need to be a formal motion to compel. Any party may attend a discovery conference, but only those parties involved in an identified discovery disagreement must attend. If the parties do not identify any discovery disagreements or concerns as described herein, the presiding officer may cancel the conference.

4. In that same order the Commission set a discovery conference at 1:00 p.m., January 8, 2020, in 305 of the Governor's Office Building.

5. "Each and every provision that is being made to ensure that these costs and revenues do not flow through Empire's FAC" is not vague. In his direct testimony that Empire prefiled on August 14, 2019, Empire's witness Aaron Doll testifies, on page 3, as follows on the steps that Empire is making to assure revenues from the wind projects do not flow through Empire's FAC:

In the Company's current FAC Tariff, OSSR is defined as "Revenue from Off-System Sales (Excluding revenue from full and partial requirements sales to municipalities)." The proposed revision adds language further defining what is included in OSSR. OSSR includes sales from all generation assets of which all are currently included in rates and any sales from the assets that customers pay for are also credited back to customers. Future generation projects, such as the recently approved Wind Projects, will produce sales before the inclusion in rates of the associated generation costs. Therefore, in order to provide for equitable treatment of revenue in such situations, the Company proposes to modify the definition of OSSR to only include sales revenue received from generation projects that have been declared Commercially Operational and are being recovered through customer rates.

OPC's question merely asks for all the steps Empire is taking to assure that both costs and revenues from the "Wind Projects" do not flow through Empire's FAC.

6. If the Commission establishes Fuel Adjustment Clause tariff provisions in this case for Empire, they will be effective unless and until changed in a future Empire general electric rate case, *i.e.*, whatever Empire Fuel Adjustment Clause tariff provisions the Commission approves in this case will be effective prospectively. §386.266.5, RSMo.

WHEREFORE, the Office of the Public Counsel requests the Commission to take up and rule on The Empire District Electric Company's objections set forth above by overruling them at the discovery conference preset for 1:00 p.m., January 8, 2020, in 305 of the Governor's Office Building.

Respectfully,

/s/ Nathan Williams
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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 3rd day of January 2020.

/s/ Nathan Williams