

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

In the Matter of The Empire District Electric)
Company's 2012 Update Summary Report) File No. EO-2012-0294
Being Filed Pursuant to Rule 4 CSR 240-22.080.)

EMPIRE'S RESPONSE TO COMMENTS AND STAFF REPORT

COMES NOW The Empire District Electric Company ("Empire" or "Company"), by and through the undersigned counsel, and hereby responds to the Revised Staff Report, Comments of Dogwood Energy, LLC ("Dogwood"), and Comments of the Missouri Department of Natural Resources ("MDNR") filed by the parties herein. In this regard, Empire respectfully states as follows to the Missouri Public Service Commission ("Commission"):

1. Empire's "2012 Update Summary Report" was filed on March 20, 2012, pursuant to Commission Rule 4 CSR 240-22.080(3), the Agreement entered into by Empire and the other parties to Commission File Nos. EE-2012-0095 (annual update variance request) and EO-2012-0040 (special contemporary resource planning issues for annual update), and the Commission's order approving said Agreement.

2. The 2012 Update Summary Report was discussed at a stakeholder meeting on March 27, 2012 (the "Stakeholder Update Session"). Notice of this Stakeholder Update Session was filed herein on March 15, 2012, and provided to the members of the Stakeholder Advisory Group formed pursuant to the stipulation reached in File No. EO-2011-0066 (Empire's last IRP proceeding), as well as to all parties to Commission File Nos. EO-2012-0040 (special contemporary resource planning issues), EE-2012-0095 (annual update variance request), ER-2011-0004 (Empire's last general rate case), and EO-2011-0066.

3. Pursuant to the Order Approving Agreement issued by the Commission on December 21, 2011, effective January 5, 2012, in File Nos. EE-2012-0095 and EO-2012-0040,

stakeholders were permitted to file comments with the Commission pursuant to Rule 4 CSR 240-22.080(3) regarding Empire's 2012 Update Summary Report and the Stakeholder Update Session within 30 days of the date of the Stakeholder Update Session. Staff filed its Revised Staff Report herein on April 23, 2012. Dogwood and MDNR each filed their Comments on April 26, 2012.

4. By the Commission's Order Approving Agreement issued on December 21, 2011, effective January 5, 2012, in File Nos. EE-2012-0095 and EO-2012-0040, Empire was granted a variance from Rule 22.080(3)(C)¹ with regard to any additional filing by Empire. In its Revised Staff Report, however, Staff requested that Empire make an additional filing herein to outline Empire's commitment and plan on certain issues. MDNR and Dogwood joined in this request.

5. All indications from the Stakeholder Update Session were that Empire's 2012 Update Summary Report, Empire's presentation, and the discussion at the Stakeholder Update Session were all very informative and helpful and were appropriate for the IRP annual update process. The Staff's report claiming deficiencies on the part of Empire came as a surprise to Empire.

6. Empire prepared and filed its 2012 Update Summary Report and conducted the Stakeholder Update Session pursuant to Commission Rule 4 CSR 240-22.080(3), the Agreement entered into by Empire and the other parties to Commission File Nos. EE-2012-0095 and EO-2012-0040, and the Commission's order approving said Agreement, with no deficiencies on the part of Empire and no further filings being required herein.

¹ Rule 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" and file it with the Commission within ten days following the workshop.

7. In its Revised Staff Report, Staff alleges two deficiencies on the part of Empire. First, Staff asserts that Empire failed “to robustly explore the cost effectiveness of performing its load analysis and load forecast at the class cost-of-service level.” In this regard, Staff references a condition of waiver approved in File No. EE-2010-0246 (application for variance for Empire’s 2010 IRP and request for clarification concerning selected provisions of the resource planning rule) and a portion of the agreement entered into in File No. EO-2011-0066, in which Empire agreed to consider a new forecast method for its 2013 IRP filing. The agreement reads, in relevant part, as follows:

After the completion of the September 2010 IRP, Empire has agreed to provide the Missouri Public Service Commission Staff with a plan that addresses the feasibility of changing the Company’s forecasting method for the IRP filing that will follow the September 2010 filing. This plan will include a proposed time line and cost estimate that can be used for further discussions. The plan will consider the use of economic variables; forecasting at the class cost of service level; and the requirements in the Load Analysis and Forecasting rule that will be in place at the time of the IRP filing that is subsequent to the September 2010 filing.

8. At the first Advisory Group quarterly meeting held on June 30, 2011, in Jefferson City, Missouri, Empire presented a technical paper on this issue, thereby fulfilling Empire’s commitment to consider a new load forecasting approach which would include forecasting at the class cost of service level. Empire presented a revenue class level load forecasting methodology that included using an approach to meet the revised IRP rules related to the use of statistically adjusted end-use forecasting for the residential and commercial classes and included economic variables and the cost of electricity. Based on the revised IRP rules and input from its consultant, Empire presented a complete revision to the Company’s 2010 IRP approach and met all of the stakeholder requests except for forecasting at the class cost of service level. All parties at the meeting agreed with the new approach presented by Empire. At that Advisory Group quarterly meeting, the only comment from Staff on this issue was that Staff would further

consider if the class cost of service issue was a concern for Staff and report back in subsequent quarterly meetings. Staff mentions in its Revised Report that Empire forecasted at the revenue class level. This is true, and this forecast process is based on the technical presentation Empire made to the IRP Advisory Group on June 30, 2011.

9. The IRP Stakeholder Advisory Group met three additional times since that first meeting, and the load forecast process was on the agenda and discussed at each of those meetings. In order to meet the timeline for successful completion of its next IRP, Empire and its consultant moved forward with the new load forecasting methodology that was presented to all stakeholders on June 30, 2011. Empire continued to update the group on the load forecast progress based on the agreed upon process. Staff, however, did not mention its concern about the class cost of service level until the IRP Advisory Group meeting that took place after the Stakeholder Update Session on March 27, 2012 – after Empire and its consultant had completed the initial IRP forecast.

10. Staff also asserts in its Revised Report that the response to a Staff question from Empire’s consultant from Itron, Inc. regarding the revenue class level forecast was not sufficient analysis of why major class level forecasting was considered and not pursued. The Itron consultant did not speak during the Stakeholder Update Session. Instead, he spoke during the Stakeholder Advisory Group Meeting which followed on that same date (regarding Empire’s triennial compliance filing to be filed in 2013). It was not this consultant’s purpose to provide any analysis on how Empire was forecasting at the class level. As mentioned, Empire’s commitment in this regard was fulfilled on June 30, 2011.

11. Staff asserts that “Empire has not included in its Chapter 22 filings load forecasts at the major class level as defined by 4 CSR 240-22.020(37) or a detailed analysis of why major

class level forecasting was considered and not pursued.” Staff further asserts that if “Empire prefers to forecast at a class level other than the major classes, i.e. class cost-of-service classes, in its triennial filing, it should have already filed for a variance to do so and provided a detailed analysis sufficient to support its variance request.” Empire, however, *did* perform the load forecast at the class cost of service level in the 2007 IRP, but found that the added granularity of rate class level forecasting increased the difficulty due to customers switching rate classes and provided no advantage with respect to forecasting accuracy. As Empire explained in the 2010 IRP, the Company preferred to keep the forecast method consistent with the internal budgeting approach. However, after the IRP rules were revised, and pursuant to the aforementioned agreement, Empire agreed to consider the feasibility of changing the load forecast method. Empire does not believe that a variance is required to utilize this approach in its 2013 IRP, due to the flexibility of the revised rules and the communications within its IRP Stakeholder Advisory Group.

12. In its Revised Staff Report, Staff also asserts that Empire failed “to utilize a 20 year planning horizon for its capacity planning.” To adequately expand the planning horizon for the IRP annual update to 20 years, however, would essentially convert the annual update into a triennial compliance filing. The IRP annual update should be an update based on the Company’s normal ongoing business planning process – it should not impose additional requirements, force the utility to hire consultants or employ another costly alternative, or require the utility to go through the entire IRP process on an annual basis.

13. Pursuant to Commission Rule 4 CSR 240-22.080(3)(A), the annual update process is to ensure that members of each stakeholder group have the opportunity to provide input and stay informed regarding: a utility’s current preferred resource plan; status of the

identified critical uncertain factors; the utility's progress in implementing the resource acquisition strategy; analyses and conclusions regarding any identified special contemporary issues; resolution of any deficiencies or concerns; and changing conditions generally. As acknowledged by Staff on page three of its Revised Report attachment, Empire's 2012 Update Summary Report and the Stakeholder Update Session achieved these overall goals.

14. Although MDNR commended Empire for "providing an update report and update session that communicated the major changes" and for providing the information "at a level of depth and detail that was appropriate," MDNR asserts in its Comments that Empire should have also considered and analyzed the potential impact of two bills currently on file in the Missouri General Assembly (HB14878 and SB759) and federal proposals now being considered by the U.S. Congress, including the Clean Energy Standard Act introduced on March 1, 2012.

15. As MDNR points out, Empire did provide a detailed analysis of the potential impact of an initiative petition to amend RSMo. Chapter 393 which is currently being circulated in Missouri. As noted by Empire at the Stakeholder Update Session, this is a changing landscape, and even the particular legislative proposals mentioned by MDNR in its Comments are being modified. Instead of expanding the discussion to attempt to address a myriad of changing proposals, Empire focused its time and resources and provided a detailed analysis of the potential impact on the initiative petition to amend Chapter 393.

16. In its Comments, Dogwood asserts that Empire "should obtain more comprehensive information on its supply alternatives, fully examine purchase power and other supply alternatives, and improve its assessment of integration of intermittent supply sources such as wind and its overall risk evaluation process." Specifically, Dogwood is interested in Empire's

