

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of The Empire District Electric Company's)
Application Concerning Demand-Side Programs) **File No. EO-2012-0206**
and a Demand-Side Program Investment Mechanism)

ORDER SETTING PROCEDURAL SCHEDULE

Issue Date: April 3, 2012

Effective Date: April 3, 2012

On February 28, 2012, The Empire District Electric Company ("Empire") filed an application seeking approval of demand-side programs and for authority to establish a Demand Side Management Investment Mechanism tracker. The Commission convened a procedural conference on March 12, 2012 and directed the parties to file a proposed procedural schedule.

On March 19, 2012, the parties filed a jointly proposed procedural schedule. Additionally, the parties have requested a variance from Commission Rule 4 CSR 240-20.094(3), which requires the Commission to "approve, approve with modification acceptable to the electric utility, or reject" Empire's application within 120 days of its filing. The parties assert that good cause exists for a 63-day extension of time to allow a better opportunity to complete a thorough review of Empire's application.

The Commission will adopt the proposed schedule with modifications and additions. This order also addresses specific procedural guidelines the parties have agreed to, and additional guidelines for the filing of testimony and exhibits. Further, for the reasons cited by the parties, the Commission finds good cause to grant the requested variance from the 120-day time limitation for the Commission to issue its decision.

THE COMMISSION ORDERS THAT:

1. The parties' request for a variance from Commission Rule 4 CSR 240-20.094(3) is granted. The Commission approves an extension of the deadline for a final Commission decision by 63 days, or until August 29, 2012.

2. An evidentiary hearing is scheduled for July 10-11, 2012, beginning at 8:30 a.m. The hearing will be held in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri.

3. Discovery conferences may be requested at any time by contacting the Regulatory Law Judge and shall be requested without delay if a dispute occurs. A discovery conference is scheduled for June 25, 2012 to be held, beginning at 9:00 a.m., in Room 305, of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. The scheduled discovery conference may be waived by the parties. Waiver of the conference constitutes a waiver of any discovery dispute as of the date set for the conference.

4. All hearings and conferences set in this order will be held in a building that meets accessibility standards required by the Americans with Disabilities Act. Any person requiring additional accommodations to participate in any hearing shall call the Missouri Public Service Commission's Hotline at 800-392-4211 (voice) or Relay Missouri at 711 before the hearing.

5. The following procedural schedule is established:

Rebuttal Testimony & Exhibits	- May 30, 2012
Surrebuttal Testimony & Exhibits	- June 15, 2012
Last Day to Serve Discovery Requests	- June 22, 2012

Issues List, Witnesses List, Order of Witnesses, Order of Cross-Examination Order of Opening Statements	- June 22, 2012
Discovery Conference	- June 25, 2012
Position Statements	- June 29, 2012
Evidentiary Hearing	- July 10-11, 2012 beginning at 8:30 a.m.
Transcript Expedited	- July 13, 2012
Initial Post-Hearing Briefs	- July 23, 2012
Proposed Orders (In lieu of Reply Briefs) including Proposed Findings of Fact and Proposed Conclusions of Law	- August 3, 2012

6. The parties shall comply with the following additional procedural requirements:
 - A. All parties shall provide copies of testimony (including schedules), exhibits and pleadings to other counsel by electronic means and in electronic form contemporaneously with the filing of such testimony, exhibits or pleadings where the information is available in electronic format. Parties shall not be required to put information that does not exist in electronic format into electronic format for purposes of exchanging it. Electronic materials shall not be provided in any form that prevents forwarding or further electronic distribution of materials.
 - B. If either highly confidential or proprietary information must be included in data request questions, the parties shall follow Commission Rule 4 CSR 240-2.135 for properly designating such information.
 - C. Counsel for each party shall receive electronically from each other party, an electronic copy of the text of all data request "descriptions" served by that party on another party in the case contemporaneously with service of the request. If the description contains highly confidential or proprietary information, or is voluminous, a hyperlink to the EFIS record of that data request shall be considered a sufficient copy.
 - D. If a party desires the response to a data request that has been served on another party, the party desiring a copy of the response must request a copy of the response from the party answering the data request – in this manner the party providing a response to a data request has the opportunity to object to providing the response to another party and is

responsible for copying information purported to be highly confidential or proprietary.

- E. Data requests, objections, or notifications respecting the need for additional time to respond shall be sent via e-mail to counsel for the other parties.
- F. Counsel may designate other personnel to be added to the service list but shall assume responsibility for compliance with any restrictions on confidentiality.
- G. If responding to a Staff data request, the responding party shall record the response in EFIS and send an email notification to Staff Counsel that such party has filed the response. For all other parties, data request responses will be served on counsel for the requesting party, unless waived by counsel, and on the requesting party's employee or representative who submitted the data request and shall be served electronically, if feasible and not be voluminous as defined by Commission rule.
- H. The response time for all data requests shall be 10 calendar days to provide the request information, and 5 business days to object or notify that more than 10 calendar days will be needed to provide the requested information.
- I. If a data request has been responded to, a party's request for a copy of the response shall be timely provided.
- J. If a data request is submitted after 5:30 p.m., the time to object or respond to that data request shall begin to run on the next business day.
- K. All data requests and responses are subject to the discovery cutoff date provided in this schedule. No exceptions will be made without the approval of the Regulatory Law Judge.
- L. Workpapers that were prepared in the course of developing a witness' testimony should not be filed with the Commission but should be submitted to each party within 2 business days following the filing of the particular testimony without further request. Workpapers containing highly confidential or proprietary information should be appropriately marked. Since workpapers for certain parties may be voluminous and generally not all parties are interested in receiving workpapers or a complete set of workpapers, a party shall be relieved of providing workpapers to those parties indicating that they are not interested in receiving workpapers or a complete set of workpapers.

- M. If there are no workpapers associated with testimony, the party's attorney shall notify the other parties within the time period allowed for providing workpapers.
- N. Where workpapers or data request responses include models or spreadsheets or similar information originally in a commonly available format where inputs or parameters may be changed to observe changes in inputs or outputs, if available in that original format, the party providing the workpaper or response shall provide this type of information in that original format with formulas intact. Electronic materials shall not be provided in any form that prevents forwarding or further electronic distribution of materials.
- O. Documents filed in EFIS are considered properly served by serving the same on counsel of record for all other parties via e-mail contemporaneously with the EFIS filing.
- P. Testimony shall be prefiled as defined in Commission Rule 4 CSR 240-2.130. All parties must comply with this rule, including the requirement that testimony be filed on line-numbered pages.
- Q. The parties shall agree upon and Staff shall file a list of the issues to be heard, the witnesses to appear on each day of the hearing, the order in which they will be called, and the order of party cross-examination for each witness. The list of issues shall be stated with particularity. If the parties are unable to agree to an issues list, each party shall file a separate issues list.
- R. Each party shall file a simple and concise statement summarizing its position on each disputed issue.
- S. All pleadings, briefs, and amendments shall be filed in accordance with Commission Rule 4 CSR 240-2.080. Briefs shall follow the same list of issues as filed in the case and must set forth and cite the proper portions of the record concerning the unresolved issues that the parties believe require decision by the Commission. However, for purposes of this case, 4 CSR 240-2.080(11), with respect to pleadings and briefs, is waived.
- T. All parties shall bring an adequate number of copies of exhibits that they intend to offer into evidence at the hearing. If an exhibit has not been prefiled, the party offering it must bring, in addition to the copy for the court reporter, copies for the five Commissioners, the Presiding Judge, and all counsel.
- U. The parties shall pre-number their hearing exhibits sequentially with individual party designation as follows:

- a.) Empire Exhibit No. 1, Empire Exhibit No. 2, Empire Exhibit No. 3, etc.
- b.) MDNR Exhibit No. 1, MDNR Exhibit No. 2, MDNR Exhibit No. 3, etc.
- c.) Ameren Mo. Exhibit No. 1, Ameren Mo. Exhibit No. 2, etc.
- d.) Walmart/Sam's Exhibit No. 1, Walmart/Sam's Exhibit No. 2, etc.
- e.) MEUA Exhibit No. 1, MEUA Exhibit No. 2, MEUA Exhibit No. 3, etc.
- f.) Renew Mo. Exhibit No. 1, Renew Mo. Exhibit No. 2, etc.
- g.) OPC Exhibit No. 1, OPC Exhibit No. 2, OPC Exhibit No. 3, etc.
- h.) Staff Exhibit No. 1, Staff Exhibit No. 2, Staff Exhibit No. 3, etc.

V. Each party shall prepare a comprehensive exhibit list before the evidentiary hearing with the listed exhibits numbered sequentially as directed in paragraph U. Copies of the exhibit lists shall be provided to the Commissioners, the Regulatory Law Judge and the Court Reporter at the beginning of the hearing.

W. In the event that the parties reach a settlement of all of the issues, such settlement shall not be grounds for a continuance of the hearing unless the agreement is final, has been submitted to the Commission in writing, and there are no objections to the agreement.

15. This order shall become effective immediately upon issuance.

BY THE COMMISSION

(S E A L)



Steven C. Reed
Secretary

Harold Stearley, Deputy Chief Regulatory
Law Judge, by delegation of authority
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 3rd day of April, 2012.