

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

In the Matter of the Application of The Empire)
District Electric Company for Approval of)
Its Customer Savings Plan) **Case No. EO-2018-0092**

EMPIRE’S REVISED STATEMENT OF POSITION

COMES NOW The Empire District Electric Company (“Empire” or “Company”), and states the following to the Missouri Public Service Commission (“Commission”) as its Revised Statement of Position concerning the issues identified in the *Revised Joint List of Issues, List and Order of Witnesses, Order of Parties for Cross-Examination, and Order of Opening Statements*:

OVERVIEW

The origin of this case is Empire’s analysis of whether it can bring savings to its customers by taking advantage of the historically low cost of acquiring new wind generation using tax equity financing to maximize the use of federal tax incentives such as production Tax Credits (“PTCs”) and accelerated depreciation. This analysis, referred to as the “Generation Fleet Savings Analysis” (“GFSA”), is premised on Empire’s 2016 Integrated Resource Plan with an update to a few key factors.

The results of the initial GFSA showed that if instead of maintaining the status quo (i.e., the preferred plan under the 2016 IRP), Empire were to acquire up to 800 MW of wind generation located in or near its service territory through a tax equity partnership and retire the Asbury generation unit in 2019, Empire’s customers would save up to \$325 million in energy costs over the next 20 years and up to \$607 million over the next 30 years. Empire referred to this proposal as its Customer Savings Plan.

In order to determine whether its assumptions in the GFSA regarding the cost of wind generation were indicative of market prices to acquire wind generation, Empire issued a Notice

of Intent to potential bidders in October 2017, and thereafter issued a competitive Request for Proposal (“RFP”) to identify potential wind projects up to 800 MW of nameplate capacity to be constructed and sold to Empire through a build, own, and transfer transaction. The RFP required that this capacity could be satisfied through one project or multiple projects, with each project having a minimum nameplate capacity of 100 MW and a maximum nameplate capacity of 800 MW, where each project must: (a) achieve commercial operation in time to qualify for the maximum amount of the PTC’s, with full transfer of ownership to take place as set forth in the RFP Schedule; and, (b) each Project to be located within the SPP footprint with energy and capacity deliverable to the Empire service territory.

Empire received a significant number of bids, and after evaluating them, has determined that it can acquire wind generation in or near its service territory at prices that meet or beat the GFSA assumptions, thereby delivering substantial savings to customers.

NON-UNANIMOUS STIPULATION AND AGREEMENT

The Company’s current proposal is found in the Non-Unanimous Stipulation and Agreement filed with the Commission on April 24, 2018, as amended. That Stipulation, among other things, calls for Empire to acquire up to 600 MWs of Wind Projects that are located within the Southwest Power Pool footprint with energy and capacity deliverable to the EDE service territory. Empire was joined in that Stipulation by the Staff of the Commission, the Missouri Energy Consumers Group, the Division of Energy, and Renew Missouri Advocates. Although it has been objected to, the Stipulation remains the position of Empire in this case.

The Stipulation was an attempt by the Signatories to come together in a way that would try to find the sweet spot for a meaningful project that would provide near term benefits, future benefits, and protections for Empire’s customers. Empire believes that the provisions of the

Stipulation have accomplished these goals and identified a revised strategy for Empire's generation fleet that will bring customers significant savings for years to come as opposed to merely continuing with the status quo, which the Company has demonstrated will cost customers more over the long run. Simply put, the Stipulation is expected to bring \$169 million in present value savings to customers over the next twenty years, and reduce Empire's portfolio risk significantly.

The substantial savings result from Empire's ability to take advantage of expiring production tax credits and tax equity financing, cutting the capital cost of the wind in half. Risk is reduced as a result of the shift from a portfolio that is dominated by resources with substantial ongoing fuel costs to a portfolio with fewer ongoing fuel costs. Moreover, as you will hear from Empire, MECG, and Staff, the Stipulation contains important provisions to protect customers against downside market risk, which was extensively analyzed by Empire in this docket.

The plan set forth in the Non-Unanimous Stipulation and Agreement will produce significant benefit to customers. Empire's proposal to acquire wind generation at a significant discount using the tax equity partnership structure proposed in the plan will benefit customers through lower future energy costs without any negative impact to Empire's ability to provide those customers reliable service.

POSITION STATEMENTS

1. Does the Commission have authority to grant Empire's requests?

Empire Position: Yes. The Commission has the discretion to grant Empire's requests in this case. At a high level, the concept for which Empire seeks approval (essentially a regulatory plan) is not greatly different from the "Experimental Regulatory Plan" for Empire that was

approved in Commission Case No. EO-2005-0263, and which provided Empire an opportunity to participate in the construction of Iatan II.

Empire seeks orders regarding the accounting related to the Stipulation Plan. Section 393.140(8), RSMo, provides that the Commission shall have the power “to prescribe by order the accounts in which particular outlays and receipts shall be entered, charged or credited.” Section 393.140(8), does not contain any express standard for the exercise of this authority and therefore, it is within the Commission’s discretion. Moreover, the courts have recognized the Commission’s authority to issue such orders, and there is nothing in the Public Service Commission Law or the Commission’s regulations that would limit the grant of such orders to any particular set of circumstances. *State ex rel. Aquila, Inc. v. Public Service Comm’n of State*, 326 S.W.3d 20, 27 (Mo. App. 2010).

Also, the Commission has the authority to grant the waiver/variance from its affiliate transactions rules, as requested by Empire. Commission Rule 4 CSR 240-20.015(10) provides that variances from the standards in the affiliate transaction rule may be granted by the Commission.

2. Which of Empire’s requests, if any, should the Commission grant?

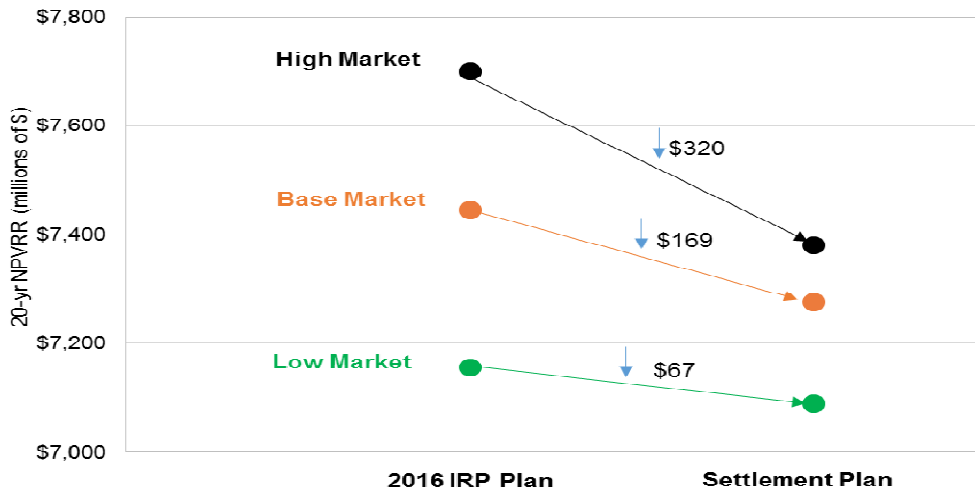
Empire Position: The Commission should approve the Non-Unanimous Stipulation and Agreement, as amended. The Stipulation Plan for Empire to acquire up to 600 MWs of Wind Projects that are located within the Southwest Power Pool footprint with energy and capacity deliverable to the EDE service territory presents a unique opportunity to bring significant savings to Empire’s customers over the next several decades

The results of Empire’s RFP process affirm and exceed the cost savings assumptions initially included in GFSA. Taking the actual RFP responses into account in conjunction with

the Stipulation Plan, identifies 20 year savings of \$169 million, and 30 year savings of \$295 million. (*McMahon Aff.*, para. 3)

Moreover, this projected savings comes with less risk than the status quo (i.e., the preferred plan under the 2016 IRP). The Company compared the 2016 preferred plan to the Stipulation Plan under the Base Market price, Low Market price, and High Market price scenarios. The following table summarizing that comparison is provided in the Affidavit of Empire witness McMahon (para. 5):

Figure 2: 20 Year Present Value Revenue Requirement Under Base, High, and Low Market



Not only is the cost lower in all three scenarios for the Stipulation Plan, but the spread between the cost in the three scenarios is much less for the Stipulation Plan, therefore indicating less risk for customers.

It is for this reason that it can be said that the Stipulation Plan does not create a greater risk for Empire’s customers – the greater risk for Empire’s customers comes from maintaining the status quo.

Swain Dir., all; Sur., all.
McMahon Dir., all; Sur., all; Aff., all.
Mertens Dir., all; Sur., all.

Mooney Dir., all; Sur., all.
Sager Dir., all.
Krygier Dir., all; Sur., all; Aff., all.
Wilson Dir., all; Sur., all.
Macias Dir., all.
Watson Dir., all.
North Aff., all.
Holmes Aff., all.

3. What requirements should be applied to the Asbury regulatory asset?

Empire Position: In accordance with the Non-Unanimous Stipulation and Agreement (para. 19), Empire agreed to proceed only with approval of the wind acquisition. Empire may revisit Asbury's operation in future Electric Utility Resource Planning filings. No regulatory asset is requested at this time.

Mooney Sur., p. 9-10.
Sager Dir., all.
Krygier Aff., para. 15-17.
McMahon Aff, para. 12.

4. Should Empire be required to make any additional filings in relation to the Customer Savings Plan? If so, what filings?

Empire Position: Empire should be required to make such filings as are described in paragraphs 14.c, 16, and 18.d of the Non-Unanimous Stipulation and Agreement in association with any wind acquisitions.

Krygier Sur., p. 8-11; Aff, para. 6.

5. Should the Commission impose any requirements in regard to tax equity financing? If so, what requirements?

Empire Position: Empire should be required to meet or exceed the parameters included in the Non-Unanimous Stipulation and Agreement (para. 18).

Mooney Dir, all; Sur., p. 3-8.

6. What conditions, if any, should be applied to the Asbury Employees?

Empire Position: In accordance with the Non-Unanimous Stipulation and Agreement (para. 19), Empire agreed to proceed only with approval of the wind acquisition. Thus, at this time, there is no need for conditions related to the Asbury employees.

Krygier Aff, para. 15-17.
Mertens Sur., p. 2-6.

7. Should the Commission require conditions related to any impacts on local property taxes? If so, what conditions?

Empire Position: In accordance with the Non-Unanimous Stipulation and Agreement (para. 19), Empire agreed to proceed only with approval of the wind acquisition. Thus, at this time, there is no need for conditions related to the Asbury property taxes.

Mertens Sur., p. 5.
Krygier Aff, para. 15-17.

8. Should there be any requirements associated with the Tax Cuts and Jobs Act of 2017? If so, what requirements?

Empire Position: Yes. In accordance with the Non-Unanimous Stipulation and Agreement (para. 24-26), Empire's proposal to make a tariff filing for new rates effective October 1, 2018, should be approved.

Krygier Sur., p. 11; Aff. Para. 18.
North Aff., all.

9. Should there be any requirements associated with potential impacts of the Wind Projects on wildlife? If so, what requirements?

Empire Position: No additional requirements related to conservation impacts are necessary. Impacts, if any, are taken into account during the extensive environmental and biological studies that will be completed before placement of turbines is finalized and construction is allowed to begin. Empire intends to follow the U.S. Fish and Wildlife Service's Land-Based Wind Energy Guidelines and other siting guidelines as applicable.

Mertens Sur., p. 12-13.

10. Should the Commission grant waivers of its affiliate transaction rules for the affiliate agreements associated with the CSP?

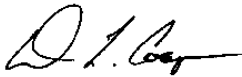
Empire Position: In accordance with the Non-Unanimous Stipulation and Agreement (p. 22), the listed agreements should receive a waiver from Commission Rule 4 CSR 240-20.015.

Mertens Dir., p. 19-21.

Mooney Dir., p. 8-19.

WHEREFORE, Empire respectfully requests that the Commission consider this Revised Statement of Positions.

Respectfully submitted,



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ATTORNEYS FOR THE EMPIRE DISTRICT ELECTRIC COMPANY

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was sent by electronic mail or by U.S. Mail, postage prepaid, on May 7, 2018, to the following:

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