

In the Matter of the Application of)
Matt Mylott for a Change of Electric) File No. EO-2018-0118
Supplier from The Empire District Electric)
Company to White River Valley Electric)

COMES NOW The Empire District Electric Company (“Empire”), and in response to the Application for Change of Electric Service Provider (“Application”) filed herein by Matt Mylott (“Mr. Mylott” or “Customer”) and the *Order Directing Response* issued herein on December 27, 2017, by the Missouri Public Service Commission (“Commission”), Empire respectfully states as follows:

1. Empire admits the allegations of paragraphs 1 and 2 of the Application. Empire further states that it is a Kansas corporation with its principal office and place of business at 602 South Joplin Avenue, Joplin, Missouri, 64801. Empire is qualified to conduct business and is conducting business in Missouri, as well as in the states of Kansas, Arkansas and Oklahoma. Empire is engaged, generally, in the business of generating, purchasing, transmitting, distributing and selling electric energy in portions of those states. Empire also provides water service and natural gas distribution service in Missouri. Empire's Missouri operations are subject to the jurisdiction of the Commission as provided by law.

2. Empire admits the allegations of paragraphs 3 and 4 of the Application, although Empire denies that there is any basis to support the requested change in supplier pursuant to RSMo. 393.106.

3. With regard to paragraph 5 of the Application, Empire admits that the property currently has three buildings (or structures) located thereon, with two of the structures currently

being served by White River Valley Electric Cooperative Inc. (“White River”) and one of the structures currently being served by Empire. Empire also admits that Mr. Mylott desires to have 3-phase service extended to two of the buildings, one of which is currently served by White River and one of which is currently served by Empire. Empire is without sufficient information to admit or deny the remaining allegations of paragraph 5 of the Application.

4. With regard to paragraph 6 of the Application, Empire admits that Mr. Mylott recently purchased the subject property. Empire denies that there is any safety issue associated with two electric companies continuing to serve the various structures on the subject property and denies that there is any basis to support the requested change in supplier pursuant to RSMo. 393.106. Empire is without sufficient information to admit or deny the remaining allegations of paragraph 6 of the Application.

5. Empire denies all allegations of the Application not specifically admitted herein.

6. In further response, Empire states that it has the right, pursuant to RSMo. 393.106, to continue as the electric service provider for the structure on the property currently being served by Empire. Empire began providing permanent service to said structure in July of 2004. Empire further states that it stands ready, willing, and able to provide 3-phase service to the property.

7. Although Empire is sympathetic to Mr. Mylott’s situation and understands his desire to have only one electric company serving all of the structures on his entire tract of land, Mr. Mylott’s preference alone does not establish the necessary “public interest” for a requested change of supplier. This is in line with the Commission’s determination that a single-factor test should not be used. *See Smith v. Union Electric Company*, 2006 Mo. PSC Lexis 1624, Case No. EC-2007-0106, Opinion issued December 5, 2006. The Commission noted that the customer requesting the change of supplier bears the burden of proof and stated that it conducts a “case-by-

case analysis applying a ten-factor balancing test.” *Id.* The denial of the Application in this case is also supported by the Commission’s recent decision in File No. EO-2017-0277 (Report and Order issued December 20, 2017) (“Commission does not use a single factor test when determining whether an application for a change of electric suppliers should be granted, and has stated that customer preference does not suffice as the only basis for ordering a change in supplier”). Looking to the ten factors used by the Commission previously, Empire is not aware of any facts or circumstances that would make a change of supplier in the public interest in this case.

8. Empire is acting in the best interests of its customers, by seeking to enforce the protection afforded by RSMo. 393.106 and exercising its right to continue to serve the subject property. Empire’s remaining customers are financially harmed when customers leave the system, and Empire’s customers benefit economically from customer growth. Empire would like to continue serving the property and desires to establish a good provider-customer relationship with Mr. Mylott. Alternatively, Empire is hopeful that all parties will come to the table to discuss a mutually-agreeable territorial agreement pertaining to the subject property, while respecting the protections afforded by the anti-flip flop statute.

WHEREFORE, Empire respectfully requests that the Commission dismiss or deny the Application and grant such additional or further relief as is just and proper under the circumstances.

BRYDON, SWEARENGEN & ENGLAND, P.C.

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CERTIFICATE OF SERVICE

I hereby certify that the above and foregoing document was filed with EFIS on this 4th day of January, 2018, with notice of the same being sent to all counsel of record. A copy of this pleading was also sent by U.S. mail, postage prepaid, to the pro se applicant.

/s/ Diana C. Carter