

**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) Case No. ER-2019-0374
Service Provided to Customers in its)
Missouri Service Area)

EDESR MOTION FOR CLARIFICATION

COMES NOW the Empire District Electric SERP Retirees (EDESR) and for its Motion for Clarification respectfully states as follows:

1. On April 8, 2020, the Parties jointly filed its List of Issues in this case. Included in that list was Issue 45 concerning whether Empire should be required to externally fund its SERP benefits.

45. Retirement

a. Should Empire be required to externally fund, through a Rabbi Trust, its SERP benefits obligation?

2. On April 15, 2020, several parties filed a Global Stipulation. That stipulation, later objected to by Public Counsel, includes the following resolution for Issue 45 - the SERP Retirement Issue.

EDESR and the Company shall discuss with Staff and OPC, in or prior to July of 2020, the possibility of external funding (Rabbi Trust) of SERP benefits. If an agreement is reached between EDESR, the Company, Staff, and OPC in which: (1) EDESR, Staff, and OPC agree that, using reasonable assumptions, the annual costs and expenses of funds contributed by Empire using a Rabbi trust (including contributions to the trust) to provide benefits are essentially the same or less than the costs and expenses to customers of providing the alternate of SERP benefits from Empire's general funds and (2) none of these parties (EDESR, Staff, OPC) oppose the rate recovery of the Rabbi trust consistent with the Willis Towers Watson SERP funding analysis dated July 17, 2019 (but with currently approved weighted average cost of capital) in place of the SERP funded from general funds and will support said rate recovery in future

cases, Empire will fund SERP benefits via a Rabbi trust within 30 days of execution of the written agreement.

3. On April 16, 2020, Public Counsel filed its “Objection to Parts of the Global Stipulation and Agreement filed April 15, 2020.” As the title of the pleading implies, Public Counsel objected to certain portions of the stipulation and agreement. That said, however, Public Counsel did not object to certain other provision in the stipulation including the resolution of the SERP retirement issue.

4. On May 7, 2020, the Commission ordered the parties to “file a stipulation containing any issues no longer in dispute and the agreed upon solutions to those issues.”

5. On May 11, 2020, Empire District Electric, on behalf of all parties, filed a pleading in compliance with the Commission’s May 7, 2020 order. In that pleading, Empire indicated, *inter alia*, that “[b]y agreement of the parties participating in this proceeding, the following issues contained within the filed joint list of issues are no longer disputed issues in this proceeding:

Issue 45(retirement). These issues have been resolved pursuant to paragraphs 27-29 of the Stipulation, to which OPC did not object.

Thus, the resolution to the SERP retirement issue contained in the Global Stipulation was “no longer is dispute” and included an “agreed upon solution to th[at] issue.”

6. In its July 1, 2020 Report and Order, the Commission addressed each of the issues that were still in dispute in this case. That said, however, the Commission failed to approve the resolutions contained in the Global Stipulation for those issues that were “no longer in dispute.” As with any other stipulation, the resolution for the issues that were no longer in dispute requires an affirmative action by the Commission. Specifically, the Commission may either approve the unopposed resolution contained in

the Stipulation OR the Commission may, based upon the competent and substantial evidence in this case, reach its own independent decision.

7. Through this Motion for Clarification, EDESR asks that the Commission affirmatively approve the resolution for the EDESR retirement provision contained in the Global Stipulation and not opposed by Public Counsel or any other party.

WHEREFORE, EDESR respectfully requests that the Commission approve the resolution contained in the Global Stipulation for issue 45.

Respectfully submitted,

WOODSMALL LAW OFFICE

/s/ David Woodsmall

David L. Woodsmall Mo. Bar #40747

308 E. High Street, Suite 204

Jefferson City, Missouri 65101

(573) 797-0005

david.woodsmall@woodsmalllaw.com

ATTORNEY FOR THE EMPIRE

DISTRICT ELECTRIC SERP

RECIPIENTS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing pleading has been served by electronic means on all parties of record as reflected in the records maintained by the Secretary of the Commission through the EFIS system.

/s/ David Woodsmall
David Woodsmall

Dated: July 9, 2020