

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

In the Matter of The Empire District)	
Electric Company for Authority to)	<u>File No. ER-2014-0351</u>
File Tariffs Increasing Rates for)	Tracking No. YE-2015-0074
Electric Service Provided to Customers)	
In the Company's Missouri Service Area)	

**STAFF RESPONSE TO ORDER SETTING DEADLINE FOR
OBJECTIONS TO APPLICATION FOR WAIVER**

COMES NOW the Staff of the Missouri Public Service Commission, through the undersigned counsel, and respectfully states as follows:

1. On January 26, 2015, The Empire District Electric Company ("Empire") filed a pleading titled *Application for Waiver* (the "Application") in this case.

2. On January 27, 2015, the Commission issued, by delegation of authority, an *Order Setting Deadline for Objections to Application for Waiver* (the "Order") in which it ordered that any objections to Empire's Application be filed no later than February 4, 2015.

3. In paragraphs number 3 and 4 of its Application, Empire states as follows:

3. Empire is requesting a partial **variance** from the heat rate testing requirements of Rule 4 CSR 240-3.161(3), with regard to its Asbury Unit 1. When this rate case proceeding was initiated, Empire was preparing to enter a planned outage at Asbury Unit 1 in order to tie in the new air quality control system ("AQCS") and replace major components of the steam turbine. Both of these projects impact the unit heat rate, making results of a heat rate test conducted before the outage irrelevant.

4. Following its return to service, Asbury Unit 1 will undergo a period of tuning of the AQCS, followed by testing to determine whether the AQCS and steam turbine meet the guarantees provided by the respective contractors. Tuning and testing will require operating at multiple loads, making performance of a heat rate test during this period impractical. Empire will perform a heat rate test on Asbury Unit 1 as soon as feasible

following the completion of tuning and testing and submit the results to the Commission and all parties hereto.
(Emphasis added)

4. Although paragraph 3 of Empire's Application refers to a "partial variance," the remainder of the Application, and the Commission's Order, uses the term "waiver." Since "waivers" are sometimes considered to be of a permanent nature while "variances" are considered to be of a temporary, one-time only nature, Staff feels the need to file this response to clarify Staff's position concerning the Application.

5. Under the circumstances of this case, as set forth in Empire's Application, Staff does not object to Empire receiving a temporary, one-time variance *for purposes of this case* from the requirement of Rule 4 CSR 240-3.161(3)(Q) with regard to heat rate testing *on Asbury Unit 1, on the condition that* Empire is ordered to "perform a heat rate test on Asbury Unit 1 as soon as feasible following the completion of tuning and testing and submit the results to the Commission and all parties hereto" as Empire represented it would in its Application as set forth above.¹ However, Empire should not be granted a permanent waiver of the requirement of Rule 4 CSR 240-3.161(3) for Asbury Unit 1 based on the reasons given by Empire in support of the Application. Further, Staff respectfully requests that the Commission's order on Empire's Application be very specific on this point to avoid any potential confusion in the future on this matter.

WHEREFORE Staff submits this response to clarify its position regarding Empire's Application and respectfully requests the Commission issue an order on Empire's Application as set forth above.

¹ Staff believes this is what Empire intended in its Application; however, the Application was not entirely clear, so Staff felt compelled to file this response to clarify its position on the matter.

Respectfully submitted,

/s/ Jeffrey A. Keevil

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to all counsel of record this 2nd day of February 2015.

/s/ Jeffrey A. Keevil