

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

In the Matter of the Application of The	)	
Empire District Electric Company for	)	
Authority to Sell Approximately 35 Miles	)	File No. _____
Of a 161 kV Transmission Line to	)	
Westar Energy Inc.	)	

**APPLICATION AND, IF NECESSARY,  
MOTION FOR WAIVER**

Comes now The Empire District Electric Company (“Empire” or “Applicant”) pursuant to Section 393.190.1, RSMo, and 4 CSR 240-2.060, 4 CSR 240-3.110, and 4 CSR 240-4.020(2)(B), and for its application to the Missouri Public Service Commission (hereinafter “Commission”) for authority to sell approximately 35 miles of a 161 kV transmission line to Westar Energy Inc., states as follows to the Missouri Public Service Commission (Commission):

**APPLICANT**

1. Empire is a Kansas corporation with its principal office and place of business at 602 S. 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 said states. Empire also provides water service in Missouri. Empire’s Missouri operations are subject to the jurisdiction of the Commission as provided by law. Through a wholly-owned subsidiary, The Empire District Gas Company, Empire provides natural gas utility service throughout a number of Missouri counties subject to the jurisdiction of the Commission.

2. A certified copy of Empire's Restated Articles of Incorporation, as amended, was filed in Case No. EF-94-39 and is incorporated herein by reference in accordance with Commission rule 4 CSR 240-2.130(2). A Certificate from the Missouri Secretary of State that Empire, a foreign corporation, is authorized to do business in Missouri was filed with the Commission in Case No. EM-2000-369 and is incorporated by reference in accordance with Commission rule 4 CSR 240-2.130(2). This information is current and correct. Other than complaint cases currently on file with the Commission, Empire has no pending or final unsatisfied judgments or decisions against it from any state or federal agency or court that involve customer service or rates and that have occurred within the three years immediately preceding the filing of this Application. Empire's annual report and assessment fees are not overdue.

3. All communications, notices, orders and decisions respecting this Application should be addressed to the undersigned counsel and:

Scott Keith  
The Empire District Electric Company  
P.O. Box 127  
602 S. Joplin Avenue  
Joplin, Missouri 64802  
(471) 625-4266

### **BACKGROUND**

4. Prior to Southwest Power Pool's (SPP) provision of network transmission service, it was necessary for Empire to have a "contract path" for transmission in order to import Empire's share of the energy produced by the Iatan I power plant. Iatan I, and the transmission path to get there, was located outside of Empire's certificated area. Part of the path crossed Kansas Gas & Electric (KG&E, and now, Westar Energy Inc. (Westar)) service territory in Kansas. KG&E had a similar need for a transmission line

to be built within Empire's Kansas certificated area in order to serve KG&E's Southeast Kansas retail customers.

5. On August 30, 1978, Empire and KG&E signed a 30-year contract, renewable in 5-year increments, titled "Agreement Respecting Certain Eastern Kansas Transmission Installations" (Agreement), which allowed both companies to benefit from transmission lines to be built in the other's Kansas service territory (a copy of the Agreement is attached as **Appendix A-HC**<sup>1</sup>). The fundamental terms of the Agreement required each company to build a transmission line in their own certificated area in the State of Kansas and lease the use of that line to the other party. The terms of the Agreement further provided that after the initial 30-year term, either party could exercise a unilateral option to purchase the line that it had been leasing at net book value.

6. The line constructed by Empire for lease to KG&E was a 161 kV line that extended from the Litchfield Substation to the east, to the Neosho (Kansas) Plant to the west (the "Litchfield Transmission Line"). A map of the Litchfield Transmission Line is provided as **Appendix B**. System Operating Instructions for this line consistent with the Agreement were provided on April 3, 1980, effective April 1, 1980. (See **Appendix A-HC**)

### **REASON FOR APPLICATION**

7. Late in the first quarter of 2013, Westar (the successor to KG&E) notified Empire of its interest in evaluating the purchase options for the Litchfield Transmission Line under the Agreement. As mentioned above, the terms of such a purchase were included in the 1980 agreement. The purchase price would be the initial cost of the line,

---

<sup>1</sup> Appendix A-HC is identified as Highly Confidential because it contains market-specific information and strategies employed, to be employed, or under consideration in contract negotiations

less depreciation plus applicable (depreciated) expenses at the time of sale (net book value).

8. Westar and Empire have entered into a Letter of Intent (LOI) setting forth the process for Westar to purchase the Litchfield Transmission Line.<sup>2</sup> A copy of the LOI is attached as **Appendix C-HC**<sup>3</sup>. Westar will not be subject to the jurisdiction of the Commission subsequent to its purchase of the Litchfield Transmission Line.

### **SALE IS NOT DETRIMENTAL TO THE PUBLIC INTEREST**

9. The proposed sale of the Litchfield Transmission Line is not detrimental to the public interest. At the time of construction of the high voltage line (161 kV), KG&E also built (and has owned) a 12kV line located beneath Litchfield Transmission Line (on the same poles). This under built line has created a large number of North American Electric Reliability Corporation (NERC) clearance violations (approximately 200) between the 161kv line and the 12kV line. Fixing these clearance concerns is complicated by the fact that Empire does not own the 12kV under built line. Empire can avoid any direct cost associated with the remediation of these violations with the sale of the Litchfield Transmission Line.

10. On July 14, 2014, Empire submitted a letter to the SPP Regional Entity (SPP RE) requesting a 36 month extension to address the clearance issues and/or sell the line to Westar, with the provision that Westar would remediate the problems within that same extension period. The extension (until July 17, 2017) was granted by the SPP RE on July 16, 2014.

---

<sup>2</sup> Empire, at this time, is not planning to exercise its right to purchase the transmission line it leases from Westar.

<sup>3</sup> Appendix C-HC is identified as Highly Confidential because it contains market-specific information and strategies employed, to be employed, or under consideration in contract negotiations.

11. Empire's sale of the Litchfield Transmission Line will not impact its ability to provide safe and adequate service to its customers. From a rate perspective, the sale will both allow Empire to avoid any future expenditures associated with this line and reduce its rate base for ratemaking purposes.

### **ADDITIONAL INFORMATION**

12. The sale of the subject asset will have no impact on the tax revenues of any Missouri political subdivision. (4 CSR 240-3.110(1)(F))

### **CONTINGENT REQUEST FOR WAIVER**

13. This matter is not likely to be a contested case within the meaning of Commission Rule 4 CSR 240-4.020(2) because previous applications addressing the same issues presented in this filing have generally not become contested proceedings. However, in the event that the Commission nevertheless concludes that the filing of this Application is likely to be a contested case, Applicant request a waiver of the sixty (60) day notice for good cause shown as permitted by Commission rule 4 CSR 240-4.020(2)(A).

14. The reason for this request relates to the nature of the underlying sale transaction. It would serve no purpose to wait sixty days before filing the Application. Accordingly, to the extent that the Commission may find it to be applicable, Empire requests a waiver from the provisions of Commission Rule 4 CSR 240-4.020(2) to allow for the filing of this Application.

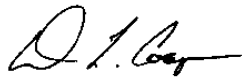
WHEREFORE, Empire respectfully requests that the Commission grant Empire's application and issue an order that:

(A) authorizing Empire to sell the assets identified herein;

(B) authorizing Empire to perform in accordance with the terms described in the Agreement Respecting Certain Eastern Kansas Transmission Installations and the Letter of Intent; and to take any and all other actions which may be reasonably necessary and incidental to the performance of the sale; and,

(C) granting such other relief as may be deemed necessary and appropriate to accomplish the purposes of the Agreement Respecting Certain Eastern Kansas Transmission Installations, the Letter of Intent, and the Application and to consummate related transactions in accordance with the Agreement.

Respectfully submitted,



Dean L. Cooper MBE #36592  
BRYDON, SWEARENGEN & ENGLAND P.C.  
312 E. Capitol Avenue  
P. O. Box 456  
Jefferson City, MO 65102  
(573) 635-7166 voice  
(573) 635-3847 facsimile  
Email: dcooper@brydonlaw.com

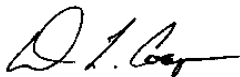
ATTORNEYS FOR THE EMPIRE DISTRICT  
ELECTRIC COMPANY

### **CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the foregoing document was sent by electronic mail, on January 23, 2015, to the following:

Nathan Williams  
Office of the General Counsel  
[nathan.williams@psc.mo.gov](mailto:nathan.williams@psc.mo.gov)  
[staffcounsel@psc.mo.gov](mailto:staffcounsel@psc.mo.gov)

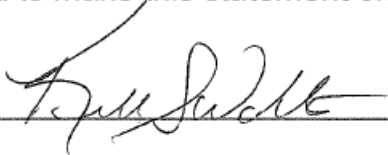
Office of the Public Counsel  
[opcservice@ded.mo.gov](mailto:opcservice@ded.mo.gov)



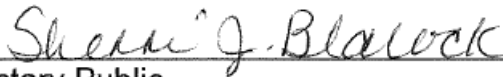
VERIFICATION

STATE OF MISSOURI     )  
                                      )  
COUNTY OF Newton     )     ss

I, Kelly S. Walters, state that I am the Vice President of The Empire District Electric Company (Empire); that I have read the above and foregoing document; that the statements contained therein are true and correct to the best of my information, knowledge and belief; that Empire has appropriate authority to take the proposed action; and, that I am authorized to make this statement on behalf of Empire.



Subscribed and sworn to before me this 23 day of January, 2015.

  
Notary Public

My Commission Expires:

Nov. 16, 2018  
(SEAL)

