

**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**

**STAFF REVISED POSITION STATEMENT**

**COMES NOW** the Staff of the Missouri Public Service Commission (“Staff”), and states its revised positions regarding the previously filed revised list of issues.<sup>1</sup>

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

Staff Position: Through the Non-Unanimous Stipulation and Agreement, the Signatories, including Staff, ask the Commission to find that “given the information presented in Case No. EO-2018-0092, and considering that EDE must make decisions prospectively, rather than in reliance on hindsight, the decision to acquire up to 600 MWs of Wind Projects under the terms of the Stipulation is reasonable.”<sup>2</sup>

The “Stipulation does not constitute a contract with the Commission.”<sup>3</sup>

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

Staff Position: As the Non-Unanimous Stipulation and Agreement is a reasonable resolution to all of the issues in the case, the Commission should make the following findings and grant the following requests:

a) The Commission should find that the terms of the Non-Unanimous Stipulation and Agreement are reasonable and binding upon the signatory parties, without making any finding of prudence.

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<sup>1</sup> To the extent the Commission does not approve the terms of the Non-Unanimous Stipulation and Agreement in its entirety, Staff’s positions on individual issues remain as previously filed.

<sup>2</sup> Non-Unanimous Stipulation and Agreement, par. 14(e).

<sup>3</sup> Id. at par. 9.

- b) Pursuant to Section 393.240.2, and paragraph 14(f) of the Non-Unanimous Stipulation and Agreement, the Commission should approve the depreciation rate of 3.33% for FERC accounts 341 through 346.
- c) Pursuant to 4 CSR 240-20.015, the Commission should approve the specific affiliate transactions contained in paragraph 22 of the Non-Unanimous Stipulation and Agreement.

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

Staff Position: As part of the Non-Unanimous Stipulation and Agreement, the Signatories agreed that Asbury shall not be retired at this time, but acknowledge that its future operations shall be determined at the discretion of Empire management.<sup>4</sup> Since Asbury will no longer be retired under the Non-Unanimous Stipulation and Agreement, the issues related to the Asbury regulatory asset are moot.

4. *Should Empire be required to make any additional filings in relation to the CSP? If so, what filings.*

Staff Position: Pursuant to the Non-Unanimous Stipulation and Agreement, Empire shall make the following filings:

- (a) notice of the execution of any purchase agreements for certain Wind projects;<sup>5</sup>
- (b) notice of the execution of any future agreement with tax equity partners;<sup>6</sup> and
- (c) copies of orders from the Oklahoma, Kansas and Arkansas commissions approving the Empire acquisition of Wind Projects.<sup>7</sup>

In addition, the Signatories have agreed that Empire should file for a Commission certificate of convenience and necessity for the wind projects and, to the extent necessary, Commission approval, under Section 393.190, to encumber its

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<sup>4</sup> Id. at par 19(a).

<sup>5</sup> Id at paragraph 14(c).

<sup>6</sup> Id at paragraph 18(d).

<sup>7</sup> Id at paragraph 23.

franchise, works or system necessary or useful in the performance of its duties to the public.<sup>8</sup>

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

Staff Position: Staff supports the Non-Unanimous Stipulation and Agreement as it relates to tax equity financing.<sup>9</sup>

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

Staff Position: As part of the Non-Unanimous Stipulation and Agreement, the Signatories agreed that Asbury shall not be retired at this time.<sup>10</sup> Since Asbury will no longer be retired under the Non-Unanimous Stipulation and Agreement, this issue is moot.

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

Staff Position: As part of the Non-Unanimous Stipulation and Agreement, the Signatories agreed that Asbury shall not be retired at this time.<sup>11</sup> Since Asbury will no longer be retired under the Non-Unanimous Stipulation and Agreement, this issue is moot.

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

Staff Position: Staff supports the Non-Unanimous Stipulation and Agreement as it relates to the Tax Cuts and Jobs Act of 2017.<sup>12</sup> The issues remaining in File No. ER-2018-0228 are the appropriate allocation of the rate reduction to individual

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<sup>8</sup> Id at paragraph 16(a).

<sup>9</sup> Id. at para. 18.

<sup>10</sup> Id. at para. 19.

<sup>11</sup> Id.

<sup>12</sup> Id. at para. 24 – 26.

customer classes and the design of rates intending to provide the benefit of the corporate tax rate reduction to customers.

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

Staff takes no position on this issue, but reserves the right to take a position on this issue at a later time, based upon the evidence presented at the evidentiary hearing.

10. *Should the Commission grant waivers of its Affiliate Transactions Rules for the affiliate agreements associated with the CSP?*

Staff Position: Staff supports the Non-Unanimous Stipulation and Agreement as it relates to waivers of the Affiliate Transactions Rules for the affiliate agreements associated with the CSP.<sup>13</sup>

**WHEREFORE**, the Staff files this *Staff Revised Position Statement*.

Respectfully submitted,

**/s/ Marcella L Forck**

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### **CERTIFICATE OF SERVICE**

I hereby certify that true and correct copies of the foregoing were mailed, electronically mailed, or hand-delivered to all counsel of record this 7th day of May, 2018.

**/s/ Marcella L. Forck**

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<sup>13</sup> *Id.* At para. 22.