

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

In the Matter of the Consideration of Adoption)
of the PURPA Section 111(d)(15) Interconnection)
Standard as Required by Section 1251 of the) Case No. EO-2006-0497
Energy Policy Act of 2005)

**THE RESPONSE OF THE EMPIRE DISTRICT ELECTRIC COMPANY TO
STAFF'S SUGGESTIONS REGARDING
FUTURE PROCEEDINGS**

The Empire District Electric Company ("Empire" or "Company"), through its undersigned counsel, hereby submits the following response to the *Suggestions Regarding Future Proceedings* filed by the Staff ("Staff") of the Missouri Public Service Commission ("Commission") on September 29, 2006. In that filing, Staff made the following proposals regarding this case and the interconnection standard in 16 U.S.C. § 2621(d)(15) that is under consideration herein:

- That a rulemaking docket should be opened as soon as possible for the purpose of considering revisions to 4 CSR 240-20.065 that pertain to interconnection;
- That a workshop docket should be opened for the purpose of considering possible revisions to Section 386.887, RSMo; and
- That the current case should be held open pending a decision by the Commission in the proposed ratemaking docket as to whether any changes to 4 CSR 240-20.065 should be adopted.

1. Background of the Federal Interconnection Standard

When Congress enacted the "Energy Policy Act of 2005" ("EPAAct 2005"), it included provisions that required each state utility regulatory authority to consider several standards related to electric energy and to determine if any or

all of the standards should be adopted for electric utilities over which the regulatory authority has jurisdiction.

(a) Consideration and determination. Each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated utility shall consider each standard established by subsection (d) and make a determination concerning whether or not it is appropriate to implement such standard to carry out the purposes of this title. . . . Nothing in this subsection prohibits any State regulatory authority or nonregulated electric utility from making any determination that it is not appropriate to implement any such standard, pursuant to its authority under otherwise applicable State law.

16 U.S.C. § 2621(a).

The Commission's obligations to consider and determine each of the standards enacted by Congress is set out in 16 U.S.C. §2621(c):

(1) The State regulatory authority (with respect to each electric utility for which it has ratemaking authority) or nonregulated electric utility may, to the extent consistent with otherwise applicable State law:

(A) implement any such standard determined under subsection (a) to be appropriate to carry out the purposes of this title, or

(B) decline to implement any such standard.

(2) If a State regulatory authority (with respect to each electric utility for which it has ratemaking authority) or nonregulated electric utility declines to implement any standard established by subsection (d) . . . such authority or nonregulated electric utility shall state in writing the reasons therefore.

The language quoted above shows that although Congress required each state to consider the federal standards, it did not require each state to adopt those standards. For regulated electric utilities, that decision is left to the discretion of the utility regulatory authority in each state.

Among the standards adopted in EPAAct 2005 was one pertaining to "interconnection," which the statute describes as follows:

Interconnection. Each electric utility shall make available, upon request, interconnection service to any electric consumer that the electric utility serves. For purposes of this paragraph, the term "interconnection service" means service to an electric consumer under which an on-site generating facility on the consumer's premises shall be connected to the local distribution facilities. Interconnection services shall be offered based upon the standards developed by the Institute of Electrical and electronics Engineers: IEEE Standard 1547 for Interconnecting Distributed Resources with Electric Power Systems, as they may be amended from time to time. In addition, agreements and procedures shall be established whereby the services are offered shall promote current best practices of interconnection for distributed generation, including but not limited to practices stipulated in model codes adopted by associations of state regulatory agencies. All such agreements and procedures shall be just and reasonable, and not unduly discriminatory or preferential.

16 U.S.C. § 2621(d)(15). The language of this section reflects Congress' desire to accomplish two objectives: 1) to make interconnection service available under agreements that are just, reasonable, and not unduly discriminatory; and 2) to assure that contracts and procedures for interconnection services reflect best practices for distributed generation, including a requirement that interconnection services be provided in a manner that complies with IEEE Standard 1547.

2. Interconnection in Missouri

Interconnection in Missouri is governed both by statute, Section 386.877, RSMo, and by Commission rule, CSR 240-20.065. The statute and the rule set out the requirements and procedures for interconnection between retail electric suppliers, including all electric utilities, and customer-generators. The rule even prescribes a form of interconnection agreement to be used between the retail electric supplier and the customer-generator. Empire currently offers

interconnection services within its serving area and does so in full compliance with all requirements of Section 386.877, RSMo, and the Commission's interconnection rule.

3. Further Action Suggested by Staff

Staff proposes that the Commission take the following actions with respect to the net metering standard under consideration in this docket: 1) open a rulemaking proceeding as soon as possible for considering what changes can and should be made to 4 CSR 240-20.065; 2) open an EW docket for the purpose of proposing revisions to Section 386.887, RSMo.; and 3) hold the current case open pending completion of the rulemaking docket.

Whether IEEE Standard 1547 should be adopted as part of Missouri's interconnection standard is a question that the Commission, in its discretion, can answer affirmatively or negatively. Although the use of the word "shall" in 16 U.S.C. § 2621(d)(15), which describes the federal interconnection standard, suggests that the Commission is required to adopt the IEEE standard, subsection (c) of the statute states that the Commission is free to "decline to implement any such standard."¹ So the Commission is free to terminate this case without any further proceedings if it chooses to do so. If, however, the Commission decides that its interconnection rule should be amended to include a requirement mandating compliance with IEEE Standard 1547, Empire will not oppose Staff's suggestions that a rulemaking proceeding be opened for that limited purpose and that this case be held open pending a Commission decision in that proceeding.

¹ 16 U.S.C. § 2621(c)(1)(B).

Empire does not believe the federal standard requires that Section 386.877, RSMo, also be amended. If, however, the Commission determines that the Missouri interconnection standard needs to be changed to incorporate IEEE Standard 1547, that can be accomplished through rulemaking alone. The Company, therefore, opposes Staff's recommendation that an EW docket also be opened. Any party that believes that Section 386.877, RSMo, must be or should be amended is free at any time to present those views to the state legislature. But there is no need for a formal docket, involving multiple parties, to consider such views or for the Commission to sponsor or put its imprimatur on a request for any such amendments.

WHEREFORE, for the reasons stated above, Empire urges the Commission to: 1) accept the Staff's suggestion that a rulemaking docket be opened for the purpose of considering changes to 4 CSR 240-20.065; 2) reject Staff's suggestion that an EW docket be opened to consider possible amendments to Section 386.887, RSMo; and 3) accept Staff's suggestion that this case be held open pending completion of the aforementioned rulemaking docket.

Respectfully submitted,



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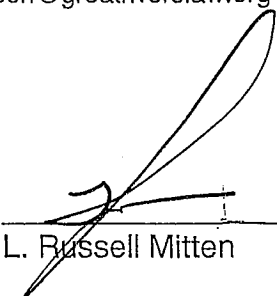
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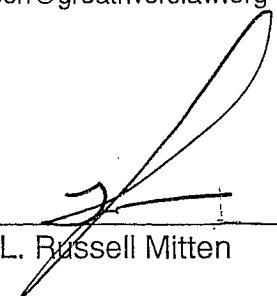
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