

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

In the Matter of the Application of The)	
Empire District Electric, et al., for an)	File No. AO-2018-0179
Affiliate Transactions Rule Variance)	

**MOTION FOR CLARIFICATION, OR,
TO THE EXTENT REQUIRED, MOTION FOR RELIEF**

COME NOW the Applicants, and, for their Motion for Clarification, or, To the Extent Required, Motion for Relief, respectfully state as follows to the Missouri Public Service Commission (“Commission”):

1. The application for variance initiating this proceeding was filed on December 29, 2017, and the Applicants, Staff, and OPC began to work through the issues presented in the application. After a year of work, the parties agreed on and submitted a Proposed Procedural Schedule (EFIS Doc. 20, 12/5/2018). As requested by the parties, the Commission set an evidentiary hearing for March 4, 2019.
2. The Applicants and Staff were thereafter able to reach agreement on all issues, and the parties filed a motion requesting that some filing deadlines be amended, but that the evidentiary hearing remain set for March 4, 2019. To accommodate discovery by OPC within the proposed timeline, the parties’ agreement set forth dates for depositions and included a provision that the response time for all data requests shall be five calendar days to provide the requested information and three calendar days to object or notify that more than five calendar days will be needed to provide the requested information.
3. The Commission granted the motion to modify the procedural schedule (EFIS Doc. 25, 1/18/2019). The order set forth the revised filing deadlines and maintained the evidentiary hearing date of March 4, 2019. The order did not mention the parties’ data

request agreement, but did provide that the Commission would not order depositions and stated that “the parties may proceed with discovery as they see fit.”

4. Staff filed a motion to modify the procedural schedule (EFIS Doc. 33, 2/7/2019), requesting, among other things, that the hearing be continued until March 19, 2019. OPC also filed a motion to modify the procedural schedule (EFIS Doc. 34, 2/8/2019), requesting the adjustment of certain dates, but keeping the hearing on March 19, 2019. The Commission granted both motions, but stated that the hearing could not be scheduled for March 19, 2019, and requested available dates from the parties.
5. By order issued February 21, 2019, the Commission set the matter for hearing on April 24, 2019. By order issued March 7, 2019, the Commission rescheduled the hearing for April 25, 2019.
6. OPC served multiple sets of data requests on the Applicants at various times, all of which were responded to pursuant to the parties’ agreed upon expedited time deadlines, and OPC conducted two depositions of the Applicants’ witness Mark Timpe.
7. On April 5, 2019, OPC filed a motion to continue the hearing (which was set for April 25, 2019). On April 18, 2019, the Commission rescheduled the evidentiary hearing for June 27, 2019.
8. On May 22, 2019, OPC served 76 data requests on the Applicants, asking that the Applicants respond to the 76 data requests within five calendar days “as it agreed.” This would have objections and requests for additional time due this Saturday and responses due this holiday Monday.
9. As noted above, the parties agreed to data request deadlines of 3/5 calendar days as part of an agreement submitted on January 18, 2019, in order to allow for discovery following

the filing of the Staff-Applicants agreement and prior to the hearing date of March 4, 2019.

10. It is the position of the Applicants that the agreement for expedited data request response times is no longer in place, as the agreement was reached for the express purpose of allowing for discovery prior to the hearing date of March 4, 2019. Also, the data request agreement was never incorporated into a Commission order or otherwise ordered by the Commission. As such, the Applicants believe the Commission's rule on data request response times should be applicable to the 76 data requests served by OPC on May 22, 2019, and that the response time should be 20 calendar days to provide the requested information and 10 calendar days to object or notify that more than 20 calendar days will be needed to provide the requested information.
11. To the extent the Commission deems that the data request agreement of the parties continues to be enforceable, the Applicants request relief from the agreement. OPC previously served numerous sets of data requests, all of which were promptly responded to, and has twice deposed the Applicants' witness. These 76 new data requests were served long after the hearing was originally scheduled. Also, due to the press of other business, complications associated with the severe weather that just hit the Jefferson City and Joplin areas, and the length of the new set of data requests, the Applicants believe it would be unreasonable and unduly burdensome to require objections and requests for additional time by this Saturday and responses by this Monday. Instead, the Applicants respectfully request that the Commission direct that the Commission's rule on data requests be applicable and that the response time be 20 calendar days to provide the

requested information and 10 calendar days to object or notify that more than 20 calendar days will be needed to provide the requested information.

WHEREFORE, the Applicants request an order of the Commission directing that the Commission's rule on data request response times is applicable to the data requests served by OPC on May 22, 2019, and is otherwise applicable to data requests served in this proceeding. The Applicants request such other and further relief as is just and proper under the circumstances.

Respectfully submitted,

/s/ Diana C. Carter

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CERTIFICATE OF SERVICE

I hereby certify that the above document was filed in EFIS on this 23rd day of May, 2019, with notification of the same being sent to all parties of record.

/s/ Diana C. Carter