

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION

In the Matter of The Empire District)	
Electric Company's 2013 Triennial)	Case No. EO-2013-0547
Compliance Filing Pursuant to 4 CSR 240-22.)	

**DOGWOOD ENERGY, LLC'S FIRST DATA REQUESTS TO
THE EMPIRE DISTRICT ELECTRIC COMPANY**

COMES NOW Dogwood Energy, LLC ("Dogwood") and submits its First Set of Data Requests to The Empire District Electric Company ("Empire") in this proceeding pursuant to the rules of the Missouri Public Service Commission ("PSC"):

1. Produce copies of all responses to the RFP that Empire issued for construction of the Riverton Unit 12 conversion project described in the integrated resource planning materials Empire has submitted to the PSC (herein the "Riverton Unit 12 conversion project").
2. When were the responses described in Data Request 1 received by Empire?
3. When were the responses described in Data Request 1 first reviewed by Empire?
4. Produce copies of bid tabulation(s) produced by Empire summarizing the responses described in Data Request 1.
5. Produce copies of evaluations and recommendations developed by Empire in connection with the process of selecting the successful bidder from the responses described in Data Request 1.
6. Identify who made the decision selecting the successful bidder from the responses described in Data Request 1.
7. When was the decision made selecting the successful bidder from the responses described in Data Request 1?
8. Who was the successful bidder selected by Empire from the responses described in Data Request 1?
9. Provide copies of any summaries of the process of negotiating the contract with the successful bidder identified in response to Data Request 8.
10. Produce a copy of the contract entered into by Empire for construction of the Riverton

Unit 12 conversion project.

11. When did Empire sign the contract described in Data Request 10?

12. When had all parties signed the contract described in Data Request 10?

13. Does the cost range of \$165,000,000 to \$175,000,000 stated on page 7 of Empire's 10-28-2013 MPSC Environmental Regulations Overview, Case No. EW-2012-0065 (Update), include any costs besides the cost of construction pursuant to the contract described in Data Request 10? If so, please identify and itemize all such component costs.

14. When did Empire first determine that the cost of the Riverton Unit 12 conversion project would be in the range of \$165,000,000 to \$175,000,000 rather than the estimate of \$125,300,000 provided in Empire's 2012-2029 IRP submitted to the PSC?

15. Can the cost of the Riverton Unit 12 conversion project exceed the range of \$165,000,000 to \$175,000,000? If so, identify the remaining variables that could cause such a result, provide current estimates of the probability and range of potential impact of each such variable, explain the manner in which such estimates were determined, and identify who determined such estimates.

16. Does Empire currently expect the cost of the Riverton Unit 12 conversion project will exceed the range of \$165,000,000 to \$175,000,000? If so, explain why.

17. Can the cost of the Riverton Unit 12 conversion project be less than the range of \$165,000,000 to \$175,000,000? If so, identify the remaining variables that could cause such a result, provide current estimates of the probability and range of potential impact of each such variable, explain the manner in which such estimates were determined, and identify who determined such estimates.

18. Does Empire currently expect the cost of the Riverton Unit 12 conversion project will be less than the range of \$165,000,000 to \$175,000,000? If so, explain why.

19. What are the variables that set the range of \$165,000,000 to \$175,000,000 for the Riverton Unit 12 conversion project? Provide current estimates of the probability and range of potential impact of each such variable, explain the manner in which such estimates were determined, and identify who determined such estimates.

20. Does Empire currently have an expectation as to a final cost of the Riverton Unit 12 conversion project within the range of \$165,000,000 to \$175,000,000? If so, identify that expected final cost, the basis for such expectation, and who determined it.

21. Provide the most current available information concerning the anticipated heat rate of Riverton Unit 12 after completion of the Riverton Unit 12 conversion project, including evaluation and explanation of probability of high, mid-range and low values.

22. Provide any and all natural gas price forecasts currently in use at Empire, and any and all such forecasts used at Empire within the past 12 months, for any resource planning, strategic planning, budgeting, power purchasing or sales, or any other business purpose. In addition, please explain the purposes and use of each such forecast, provide any reports developed utilizing and/or based on such forecasts, and provide any memoranda, emails or other written documentation evaluating the accuracy and/or reliability of each such forecast.

Respectfully submitted,

CURTIS, HEINZ,
GARRETT & O'KEEFE, P.C.

/s/ Carl J. Lumley

Carl J. Lumley, #32869
130 S. Bemiston, Suite 200
Clayton, Missouri 63105
(314) 725-8788
(314) 725-8789 (Fax)
clumley@lawfirmemail.com

Attorneys for Dogwood Energy, LLC

CERTIFICATE OF SERVICE

A true and correct copy of the foregoing document was either mailed, faxed, or emailed this 2d day of December 2013, to counsel of record in this proceeding.

/s/ Carl J. Lumley

LAW OFFICES
BRYDON, SWEARENGEN & ENGLAND
PROFESSIONAL CORPORATION

DAVID V.G. BRYDON (1937-2012)
JAMES C. SWEARENGEN
WILLIAM R. ENGLAND, III
JOHNNY K. RICHARDSON
GARY W. DUFFY
PAUL A. BOUDREAU
CHARLES E. SMARR
DEAN L. COOPER

312 EAST CAPITOL AVENUE
P.O. BOX 456
JEFFERSON CITY, MISSOURI 65102-0456
TELEPHONE (573) 635-7166
FACSIMILE (573) 635-3847
dcooper@brydonlaw.com

BRIAN T. MCCARTNEY
DIANA C. CARTER
SCOTT A. HAMBLIN
JAMIE J. COX
L. RUSSELL MITTEN
ERIN L. WISEMAN

COUNSEL
GREGORY C. MITCHELL

December 12, 2013

Mr. Carl Lumley
Curtis, Heinz, Garrett & O'Keefe
130 S. Bemiston, Suite 200
Clayton, MO 63105

**RE: The Empire District Electric Company's 2013 Triennial Compliance Filing
Pursuant to 4 CSR 240-22 – MoPSC File No. EO-2013-0547**

Dear Carl:

I am writing with regard to Dogwood Energy, LLC's First Set of Data Requests to The Empire District Electric Company served herein on December 2, 2013. Empire objects to these data requests as follows:

Empire objects to data requests 1-20 on the basis of relevance. The IRP rules establish a process to allow the Missouri Public Service Commission (the "Commission") to gather "information to allow it to determine whether the electric utility's IRP filing complies with the requirements" of the IRP rules. *Final Order Regarding AmerenUE's 2008 Integrated Resource Plan*, MoPSC Case No. EO-2007-0409, 2009 Mo. PSC LEXIS 531. As stated by the Commission in its order implementing the IRP rules, "the focus of the rules should appropriately be on the planning process itself rather than on the particular plans or decisions that result from the process." *Order of Rulemaking*, Missouri Register, Vol. 18, No. 1, Page 91 (January 4, 1993). Data requests 1-20 are not designed to illicit information to aid the Commission in determining whether or not Empire's IRP filing complies with the IRP rules, and they are not designed to illicit information regarding Empire's planning process for the future. Instead, these data requests seek irrelevant information with regard to Empire's past specific decisions with regard to the Riverton Unit 12 conversion project. As explained by the Commission in its *Order of Rulemaking*, "management flexibility . . . and planning decision-making should appropriately and wisely be left to each individual utility." Missouri Register, Vol. 18, No. 1, Page 84 (January 4, 1993).

Empire also objects to data requests 1-22 on the basis that data requests in general are not proper or appropriate for use in this proceeding by a stakeholder such as Dogwood Energy. *See Notice Regarding Data Requests*, MoPSC Case No. EW-2013-0425, March 27, 2013 ("The use

Mr. Carl Lumley
Curtis, Heinz, Garrett & O'Keefe
Page 2 of 2
December 12, 2013

of data requests in Commission cases is governed by Commission Rule 4 CSR 240-2.090(2). That rule states that '[p]arties may use data requests as a means for discovery.' The rule then goes on to describe how 'parties' to whom data requests are presented are to answer those requests." "Since this is not a contested case . . ., there is no legal basis for MIEC's service of data requests . . ."); *see also Final Order Regarding AmerenUE's 2008 IRP*, MoPSC Case No. EO-2007-0409, 2009 Mo. PSC LEXIS 531 (IRP proceedings are not contested cases).

If you have any questions regarding these objections, please do not hesitate to contact me.

Sincerely,

BRYDON, SWEARENGEN & ENGLAND P.C.

By: 

Dean L. Cooper