

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

In the Matter of a Working Case to Draft a Rule to)
Revise Commission Rule 4 CSR 240-3.105) **File No. EW-2014-0239**

**STAFF MOTION FOR COMMISSION ORDER DIRECTING RESPONSES
AND SCHEDULING A WORKSHOP**

COMES NOW the Staff of the Missouri Public Service Commission ("Staff"), by and through undersigned counsel of the Staff Counsel's Office, and files a Staff motion for a Commission Order regarding a proposed revision of Commission Rule 4 CSR 240-3.105, relating to filing requirements for electric utility applications for certificates of convenience and necessity. The Staff requests a Commission Order (a) directing interested persons and entities to file on or before, Friday, May 23, 2014, proposed language and/or responses to the Commission Order, and (b) scheduling a workshop for Wednesday, June 4, 2014, starting at 10:00 a.m., in Conference Room 315 of the Governor Office Building in Jefferson City, both as requested below. In support of the requested Commission Order, the Staff states as follows:

1. On January 8, 2014, Dogwood Energy, LLC filed a Rulemaking Petition with the Commission asking the Commission to amend Rule 4 CSR 240-3.105 to clarify that electric utilities must obtain advance approval from the Commission before acquiring electric plant built by others as a regulated asset in Missouri or another state, before undertaking major renovation projects of its existing electric plant in Missouri or another state, such as to increase capacity, extend the life of the plant, or comply with environmental regulations, and before constructing electric plant in another state.

2. Also on January 8, 2014, the Commission issued in File No. EX-2014-0205 an *Order Directing Staff To Investigate And File Recommendation*,

in which it additionally ordered any other interested person or entity wishing to offer a recommendation regarding Dogwood's Rulemaking Petition, to file a written comment no later than February 14, 2014, the deadline it set for the filing of the Staff recommendation. The Staff filed its recommendation on February 14, 2014. Union Electric Company, d/b/a Ameren Missouri, Kansas City Power & Light Company, KCP&L Greater Missouri Operations Company, and the Empire District Electric Company also filed written comments.

3. The Commission subsequently on March 5, 2014, in File No. EX-2014-0205 issued an *Order Denying Petition For Revision Of Commission Rule 4 CSR 240-3.105* ("*Order Denying Petition*"). The Commission stated at page 4 in its *Order Denying Petition* that the Commission finds that Dogwood's Rulemaking Petition raises serious concern whether its proposal is consistent with the Commission's authority and whether Dogwood's proposal would impose an unnecessary regulatory burden on the utilities.

4. The Commission indicated at page 5 in its *Order Denying Petition* that before it gets to its own review of Rule 4 CSR 240-3.105 for possible revisions, it wants the Staff to submit a revised rule for the Commission's consideration no later than August 29, 2014. The Commission stated at pages 2 and 4 that, in addition to the four issues identified by the Staff and set out in the *Order Denying Petition*, which were raised by Dogwood in its Rulemaking Petition, it will review whether to require competitive bidding for renovation or construction of electric plant (which was also raised by Dogwood in its Rulemaking Petition). Finally, the Commission noted that the Staff or any interested person or entity may raise any other issue it believes should be brought to the Commission's attention.

5. The Staff now requests a Commission Order directing the filing of, on or before Friday, May 23, 2014, by Dogwood, the Staff, or any other interested person or entity, proposed language for the revision of Rule 4 CSR 240-3.105, addressing:

(a) Legal issues raised by Dogwood's Rulemaking Petition, identified by the Staff in its February 14, 2014 filing, and set out in the Commission's *Order Denying Petition* in File No. EX 2014-0205:

- (i) Whether separate certificates of convenience and necessity (CCNs) should be required for each generating unit at a multi-unit site in particular if there is more than a lapse of two years between the end of construction of one unit and the beginning of construction of the next unit (Issue 1);
- (ii) Whether separate CCNs should be required for substantial renovation/ refurbishment of an existing unit which changes the principal fuel used, increases the capacity of the unit, extends the life of the unit, or appreciably changes the emissions, noise level, or traffic from or at the plant (Issue 2);
- (iii) Whether separate CCNs should be required for the construction of a generating unit in a state other than Missouri that will be treated in rate base and operating expense for the purpose of setting Missouri rates for Missouri native load (Issue 3); and
- (iv) Whether separate CCNs should be required for acquiring electric plant built by others in Missouri or another state to be treated in rate base and operating expense for the purpose of setting Missouri rates for Missouri native load. (Issue 4)

(b) Policy issue raised by Dogwood's Rulemaking Petition:

- (i) Whether competitive bidding should be required for renovation or construction of electric plant¹ (Issue 5); and

¹ The Commission's *Order Denying Petition* did not mention that Dogwood in Exhibit 1 to its Rulemaking Petition proposed language that raised the policy issue whether 4 CSR 240-3.105 should be amended to include language that the Commission may appoint an independent and unbiased monitor to evaluate the costs and supporting information of reasonable alternative solutions obtained through competitive bidding procedures prior to ruling on the application by an electric utility for a certificate of convenience and necessity authorizing construction of electric plant.

(c) Other issues option:

(i) An interested entity may bring to the Commission's attention any other issue it believes should be brought to the Commission's attention. (Issue 6)

(d) The Commission's Order should note that if any interested person or entity would like to respond or comment on any of the filings made on or before May 23, 2014, the interested person or entity may do so by making a filing in File No. EW-2014-0239 prior to the workshop that is scheduled for June 4, 2014, as addressed in paragraph 8 below.

6. The Staff also requests that if, in the alternative, interested persons or entities believe no revision of Rule 4 CSR 240-3.105 is advisable in regards to any of the aforementioned issues, the Commission's Order direct that they explain why there should be no such revision of Rule 4 CSR 240-3.105. For example, a certain proposed revision may not be deemed by an interested person or entity to be lawful, or if lawful, not appropriate for inclusion in Rule 4 CSR 240-3.105 because Rule 4 CSR 240-3.105 deals with legal matters rather than policy matters, and, as a consequence, it is some other Commission rule that should be revised, such as a rule in 4 CSR 240, Chapter 22.

7. The Staff also requests that the Commission's Order direct that those persons and entities filing responses provide in their filings (a) legal authority and (b) citations to legal authority. The Staff is interested in any legal authority that an entity can cite in support of its position that particular proposed language is literally or inferentially required by law, or in support of its position that a proposed revision is literally or inferentially not required by law. The Staff requests that if Dogwood makes any of the same proposals it made in its Rulemaking Petition and Dogwood has legal authority that it did not previously provide, it do so in any new filing, and that it and any

other commenter provide more detailed legal citations than merely referring to the name of a State, as Dogwood did in paragraph 24, page 10 of its Rulemaking Petition.

8. The Staff further requests that the Commission's Order direct the convening of a workshop of interested persons and entities to be scheduled for Wednesday, June 4, 2014, starting at 10:00 a.m., in Conference Room 315 of the Governor Office Building² in Jefferson City, to discuss the filings that are made by interested persons or entities in File No. EW-2014-0239 on or before Friday, May 23, 2014, and anything submitted or desired to be filed in response to the May 23, 2014, filings prior to the workshop on June 4, 2014, in response. The Staff requests that the Commission arrange for a telephone port for those interested persons and entities that would like to participate by telephone rather than in person on June 4, 2014.

WHEREFORE the Staff requests the Commission issue an Order (1) directing interested entities to file on or before Friday, May 23, 2014, proposed language or responses to a Commission Order regarding a proposed revision of Commission Rule 4 CSR 240-3.105 and (2) scheduling a workshop for Wednesday, June 4, 2014, starting at 10:00 a.m., in Conference Room 315 of the Governor Office Building in Jefferson City.

² The Staff has already reserved Conference Room 315 in the Governor Office Building in Jefferson City for the workshop scheduled for June 4, 2014.

Respectfully submitted,

/s/ Steven Dottheim

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing *Staff Motion For Commission Order Directing Responses And Scheduling A Workshop* have been transmitted electronically to all Commission-certificated electric utilities in the State of Missouri, and to all parties in the most recent triennial 4 CSR 240-Chapter 22 filing for each electric utility this 17th day of April, 2014. For Union Electric Company, d/b/a Ameren Missouri that is File No. EO-2011-0271, for The Empire District Electric Company that is File No. EO-2013-0547, for Kansas City Power & Light Company that is File No. EO-2012-0323, and for KCP&L Greater Missouri Operations Company that is File No. EO-2012-0324.

/s/ Steven Dottheim