**BEFORE THE PUBLIC SERVICE COMMISSION**

**OF THE STATE OF MISSOURI**

In the Matter of a Working )

Case Regarding Electric ) Case No. EW-2016-0123

Vehicle Charging Facilities )

**EMPIRE’S RESPONSES TO STAFF QUESTIONS**

COME NOW The Empire District Electric Company and The Empire District Gas Company (collectively, “Empire”), by and through counsel, and respectfully submit these responses to the questions contained in Attachment B to the Agenda for Workshop and Request for Comments filed herein on January 15, 2016, by the Staff of the Missouri Public Service Commission (“Staff”):

**QUESTIONS FOR ELECTRIC UTILITIES**

1. **What is the Missouri Public Service Commission’s role in regulation of electricity from a charging station to an electric vehicle? Please provide legal justification for your response.**

Empire is not aware of a Missouri statute or court ruling directly on point. At this time, it appears that the role of the Commission would be in the regulation and prescription of rates for electricity from the electric vehicle (“EV”) charging station, if the EV charging service is offered by a public utility as an above-the-line utility service. *See State ex rel. Utility Consumers Council of Missouri, Inc. v. Public Service Commission*, 585 S.W.2d 41 (Mo. banc 1979) (the scope of the Commission’s authority is limited to those activities necessary to supervise, regulate, and control the public utilities within its jurisdiction).

1. **What is the Missouri Public Service Commission’s role in regulation of electricity from a utility to a charging station? Please provide the legal justification for your response.**

If EV charging is offered by a public utility as an above-the-line utility service, the Commission has full authority to regulate and prescribe rates for electricity from the charging station. *See State ex rel. Utility Consumers Council of Missouri v. Public Service Commission*, 585 S.W.2d 41 (Mo. Banc 1979) (the Commission has authority to supervise, regulate, and control public utilities within its jurisdiction). The owners/operators of EV charging stations are retail customers of the electric utility authorized to serve the area where a vehicle charging station is located, and the Commission’s role in regulating electricity from a utility to an EV charging station would involve determining service terms and conditions and the setting of just and reasonable rates.

1. **Are Investor Owned Utilities (“IOU”) the only entities that can provide electricity to electric vehicles via a charging station? What other entity(ies) can provide electricity to electric vehicles via charging stations? Is the answer dependent on whether the entity(ies) charges for the electricity? Please provide the legal justification for your response.**
   1. **Is there a legal restriction which would prevent any company other than the local IOU electric company from providing electricity to an EV charging station?**
   2. **Is the local IOU electric company obligated by law to provide electricity to EV charging stations?**
   3. **What impact do the responses provided above in sub-bullets a and b have on EV charging stations that are installed and operated as of this date?**

An IOU with a CCN from the Commission has the exclusive right to provide retail electric service to customers within the IOU’s certificated area. Similarly, an IOU with a CCN from the Commission must serve all customers within the utility’s certificated area without unreasonable discrimination. *State ex rel. Federal Reserve Bank of Kansas City v. Public Service Commission*, 191 S.W.2d 307 (Mo. App. 1945). Empire believes these legal requirements pertain to EV charging stations that are installed and operated as of this date.

Empire has not attempted to answer the question of whether or under what circumstances an entity other than a certificated IOU could provide electricity to an EV charging station.

1. **Is each charging station a distinct electric utility?**

Empire is not aware of any existing charging stations within its certificated territory that would fall within the definition of an “electric utility.” Empire submits that the facts necessary to determine whether an EV charging station is a distinct public utility will vary from case to case.

1. **How will there be accessibility to electric vehicles for low-income ratepayers? At what point in time would accessibility to electric vehicles for low-income ratepayers occur?**

Empire is unable to answer these questions and believes that these issues are outside the Commission’s jurisdiction, as EVs are a device that use electricity. It is Empire’s position that the Commission has full authority to prescribe terms of service and rates for electricity provided by its IOUs, but cannot regulate the accessibility of devices that use that electricity.

1. **How many EV charging stations are there in your company’s service territory?**
   1. **Who owns the charging stations(s)?**
   2. **Who operates the charging station(s)?**
   3. **Does the EV owner pay for the electricity used to charge the vehicle?**

Empire does not know the number of charging stations that are within its service territory, but Empire knows there are some charging stations, and believes there are less than fifty in its service territory. For each charging station that Empire is aware of within its service territory, the station is owned and operated by the owner of the property on which the charging station is located. To Empire’s knowledge, none of these owners charge for the use of the charging station.

1. **What are other states doing to fund the development and installation of EV charging stations? Is cost recovery allowed through a utility’s rates? Please include a reference to any legal authority that explicitly authorizes the method of funding or recovery.**

Empire has not conducted a search of regulatory commission activities related to EV charging stations, although Empire is generally aware of some actions being taken in other states to incentivize the purchase of EV s. Until 2015, Georgia had the most aggressive tax incentive program of any state, offering a $5000 tax credit to individuals and business that chose to buy or lease alternative fuel motor vehicles. However, in the summer of 2015, Georgia ended the tax credit completely. Since then, new registrations of EVs have fallen 90%. California and Tennessee offer similar programs giving tax credits or dealer rebates of $2500 for BEV (Battery Electric Vehicle) and $1500 for PHEV (Plug in Hybrid Electric Vehicle). Illinois tax rebate covers 80% of the cost premium up to $4000 for EV purchases. North Carolina offers HOV lane access and emissions inspection waiver for EVs. There are numerous other incentives in all but 20 states.

1. **Based on the current generation mix of your utility, will carbon emissions, NOx or SOx increase or decrease if electric vehicle adoption increases? Please explain.**

Empire is unable to answer this question with any specificity. Empire’s carbon, NOx and SOx emissions are directly related to the amount of sales, both on and off-system it incurs, as well as the type of generation that is used for said sales. Depending on Empire’s generation mix, an increase in use of electricity, could increase emissions. EVs, however, have their own environmental benefits.

1. **Who should pay for the equipment, installation and maintenance for the EV charging station network?**

Empire has not done the research and evaluation necessary to answer this question as it applies to all equipment, installation, and maintenance of all EV charging stations. Empire submits that the answer would vary from case to case based upon the specific facts and circumstances.

1. **How are other countries promoting public use of EV charging stations?**

Empire has not conducted a search regarding if or how other countries are promoting the public use of EV charging stations.

**QUESTIONS FOR NATURAL GAS UTILITIES**

1. **Does your utility own or operate compressed natural gas (CNG) facilities for vehicular use? If so, please state the number of CNG facilities, who can access them (e.g. open to the public), and if they are included as a regulated activity.**

Empire does not own or operate any CNG facilities.

1. **Is your Company aware of other entities that own or operate CNG facilities in your service territory? If so, please provide an estimate of the number of CNG facilities and who can access them (e.g. open to the public).**

Empire is not aware of any other entity owning or operating a CNG facility in its service territory.

1. **Please state the Company’s current assessment of the CNG vehicle market, including potential and likely future growth.**

From Empire’s observations, other than companies owning CNG fleets, there will be very low growth potential until an infrastructure accessible to the public is in place.

1. **Is the Company aware of actions that other states have done to promote the adoption of CNG vehicles? If so, please describe.**

Empire has not conducted a search regarding actions taken by other states to promote the adoption of CNG vehicles, but Empire is aware that Oklahoma has state tax credits available for CNG stations.

1. **Is the Company aware of any state policies that promote or inhibit the further adoption of CNG vehicles in Missouri? If so, please describe.**

No, Empire is not.

Respectfully submitted,

BRYDON, SWEARENGEN & ENGLAND P.C.

By:

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