

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

In the Matter of the Application of The Empire District Electric)
Company and The Empire District Gas Company for) **File No. AO-2012-0062**
Approval of Their Cost Allocation Manual)

STAFF REPORT

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”) and submits this Staff Report in response to the Missouri Public Service Commission’s August 5, 2016, Order Accepting Joint Proposal Regarding Certain Procedural Matters. In this regard, the Staff respectfully states as follows to the Missouri Public Service Commission (“Commission”):

1. The July 29, 2016, Joint Proposal Regarding Certain Procedural Matters of The Empire District Electric Company (“Empire Electric”) and The Empire District Gas Company (“Empire Gas”) (collectively, “Empire”), the Staff, and the Office of the Public Counsel (“OPC”) (collectively, the “Parties”) by and through their respective counsel, among other things, suggested that an Early Technical Settlement Conference be ordered for August 11, 2016, to identify the items in dispute. The Joint Proposal Regarding Certain Procedural Matters suggested that at the conclusion of this early Technical Settlement Conference, the Parties may be able to file portions of a proposed CAM all Parties can support and a list of the portions of a proposed Electric CAM that need to be resolved by the Commission. The Parties noted that direct testimony and responsive testimony would need to be filed in support of the Parties’ positions concerning the disputed portions of the proposed Electric CAM that need to be (a) resolved by the Commission, (b) an evidentiary hearing held before the Commission, and (c) briefs submitted to the Commission based on the testimony filed and the hearing held. The Parties then proposed the remainder of a schedule in this regard which the Commission adopted directing a list of areas of agreement and non-agreement on August 25, 2016.

2. The Commission's August 5, 2016 Order Accepting Joint Proposal Regarding Certain Procedural Matters directed that an early technical conference occur on August 11, 2016, in Room 310 in the Commission's offices and in Ordered item "1." directed "The Joint Proposal Regarding Certain Procedural Matters is adopted, and the parties are ordered to comply with the Joint Proposal."

3. The early technical conference occurred on August 11, 2016, attended by Empire, the Staff, and Public Counsel, and general discussion was engaged in by the Parties. Empire requested an identification of the Staff's areas of disagreement. The Staff said it could provide such a list in writing if desired by the Parties which was concurred in by the Parties. On August 15, 2016, the Staff e-mailed such a list to the Parties indicating it was as complete as possible under the circumstances.

4. At the moment the principal areas of disagreement between the Staff and Empire Electric and Empire Gas are as follows below in no particular order. Items "h" and "i" were not on the list e-mailed to Empire and Public Counsel on August 15, 2016, but they are reflected in the draft CAM provided to Empire and Public Counsel by the Staff on February 8 of this year. The Staff also has sought to clarify its list:

- a. Staff asserts that Empire Gas needs to comply with the Commission's gas affiliate transactions rule, 4 CSR 240-40.015, file a gas CAM and a gas affiliate transactions report or obtain waivers for non-compliance with the gas affiliate transactions rule. (For purposes of the items that follow, the Empire Gas CAM should follow all the components of the Empire Electric CAM, including customer information, to ensure compliance with the gas affiliate transactions rule.)
- b. In the context of the GPE - KCPL - Aquila acquisition case (EM-2007-0374), the Commission granted a limited waiver to KCPL and Aquila so that transactions between KCPL and Aquila could occur at cost rather than the higher or lower of cost or market consistent with the Commission's electric affiliate transactions rule, 4 CSR 240-20.015. Empire Electric and Empire Gas have no such waiver. As a consequence, the Staff asserts that Empire Electric

and Empire Gas must conduct their affiliate transactions consistent with the market and costs provisions of the electric and gas affiliate transactions rules or obtain waivers.

- c. Staff opposes the use of the Modified Massachusetts Formula for general allocation utilized by Empire Electric and Empire Gas as being inequitable to electric customers and causing inadequate cost assignment to Empire Gas.
- d. Staff opposes a general allocator that includes shared costs or assets in the determination of the Empire Electric allocation factor. Staff supports removing all shared costs from the determination of the allocation factors.
- e. Staff asserts that Empire Electric does not charge Empire Industries the higher of cost or market price for services Empire Electric provides to Empire Industries. Staff asserts that Empire Electric does not pay Empire Industries the lower of cost or market price for services Empire Industries supplies to Empire Electric. Staff asserts that Empire Electric shows preferential treatment to Empire Industries by not allowing third party vendor opportunities to provide services provided by Empire Industries. Staff contends that the services Empire Electric purchases from Empire Industries need to be put out for bid to establish market prices for services Empire Industries provides to Empire Electric.
- f. Staff asserts that the electric and gas affiliate transactions rules require that there should be contracts for information, assets, goods, and services provided and received between affiliated entities, and if no contract exists, then there should be a record of an explanation why there is no contract.
- g. Staff asserts that Empire Electric should utilize more direct time reporting by employees working on affiliate activities and reduce its reliance on the general allocation method for cost assignment to affiliates. Staff asserts that general allocation methods are relied upon by Empire Electric or Empire Gas instead of more accurate direct assignment of costs. Staff contends that market value is not determined, thus transactions cannot be shown to be in compliance with the MoPSC electric and gas affiliate transactions rules regarding the relationship of cost and market.
- h. Staff asserts that Empire Electric must have a formal training, review, and audit programs regarding Empire Electric's compliance with the MoPSC affiliate transactions rules to provide reasonable assurance that Empire Electric and Empire Gas are complying with the MoPSC's affiliate transactions rules.

- i. Staff asserts that Empire Electric needs to designate an officer in charge of enforcement to ensure compliance with the MoPSC affiliate transactions rules. This individual must have the authority over compliance with an affiliate transaction group charged with oversight responsibilities regarding Empire Electric's and Empire Gas' overall compliance with the MoPSC's electric and gas affiliate transactions rules.

WHEREFORE, the Staff respectfully submits this Staff Report in response to the Missouri Public Service Commission's August 5, 2016 Order Accepting Joint Proposal Regarding Certain Procedural Matters.

Respectfully submitted,

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Attorney for the Staff of the
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was sent via electronic mail on this 25th day of August, 2016, to all counsel of record.

/s/ Steven Dottheim