

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

In the Matter of the Application of The Empire)
District Electric Company for an Accounting) Case No. _____
Order Concerning Reclassification of Certain)
Transmission and Distribution Facilities.)

APPLICATION

COMES NOW The Empire District Electric Company (Empire) and, pursuant to Section 393.140, RSMo (2000), respectfully states as follows to the Missouri Public Service Commission (Commission):

EMPIRE

1. Empire is a Kansas corporation with its principal office and place of business at 602 Joplin Street, Joplin, Missouri 64801. Empire is engaged in the business of providing electrical and water utility services in Missouri to customers in its service areas. Empire is an “electrical corporation,” a “water corporation,” and a “public utility” as those terms are defined in § 386.020 RSMo. 2000, and is subject to the jurisdiction and supervision of the Commission as provided by law.

2. Empire has no pending or final unsatisfied judgments or decisions against it from any state or federal agency or court which involve customer service or its rates, which have occurred within the three years immediately preceding the filing of this Application. Empire has no overdue Commission annual reports or assessment fees. Empire’s documents of incorporation have been previously filed with the Commission in Case No. EF-94-39, and said documents are incorporated herein by reference in accordance with 4 CSR 240-2.060(1)(G). A Certificate of Authority from the Missouri Secretary of State to the effect that Empire, a foreign corporation, is duly authorized to do business in the State of Missouri was filed with the Commission in Case No. EM-2000-369, and is incorporated herein by reference.

3. Correspondence, communications, and orders in regard to this Application should be directed to the undersigned counsel, and to:

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COMMISSION AUTHORITY

4. Section 393.140(4), RSMo provides, in part, that the Commission shall “[h]ave power, in its discretion, to prescribe uniform methods of keeping accounts, records and books, to be observed by . . . electrical corporations . . . engaged in the manufacture, sale or distribution of . . . electricity for light, heat or power It may also, in its discretion, prescribe, by order, forms of accounts, records and memoranda to be kept by such persons and corporations.”

5. Section 393.140(8) further provides that the Commission shall “[h]ave power to examine the accounts, books, contracts, records, documents and papers of any such corporation or person, and have power, after hearing, to prescribe by order the accounts in which particular outlays and receipts shall be entered, charged or credited.”

FERC ACTION

6. The Southwest Power Pool (SPP) exercises functional control over all of Empire’s transmission assets. Attachment AI of the SPP Open Access Transmission Tariff (OATT) modified the definition of Transmission Facilities to be used by SPP to provide transmission service under its tariff. Attachment AI was approved by the Federal Energy Regulatory Commission (FERC) on September 30, 2005, in Docket No. ER05-1285-000 (112 FERC P61,355).

7. Section IV of Attachment AI directed Transmission Owners to file within three years from the FERC's acceptance of the new definition, requests based on Attachment AI criteria with appropriate regulatory authorities for a determination as to which facilities are Transmission Facilities. In Order No. 888, the FERC indicated that it would give deference to determinations made by state public utility commissions regarding the distinction between local distribution and transmission. *Promoting Wholesale Competition Through Open-Access Non-Discriminatory Transmission Services by Public Utilities*, Order No. 888, Docket Nos. RM95-8-000 and RM94-7-001, 61 Fed. Reg. 21,540, at 21,627 (May 10, 1996). Empire, therefore, believes that the state regulatory commissions having jurisdiction over Empire's operations are appropriate regulatory authorities as referenced by the Attachment AI. Empire is making similar filings in each of the states in which it operates (Oklahoma, Kansas, Arkansas and Missouri).

REQUEST

8. Empire's transmission system includes approximately 22 miles of 345 kV lines, 434 miles of 161 kV lines, 744 miles of 69 kV lines and 82 miles of 34.5 kV lines. Empire has reviewed its transmission and distribution facilities in light of the new SPP OATT transmission facilities definition.

9. In completing this review, Empire utilized the following criteria to determine which of Empire's facilities are Transmission Facilities as defined in the SPP OATT¹:

Criteria for Inclusion of Facilities

Transmission Facilities shall include all facilities that meet the following criteria:

1. All existing non-radial power lines, substations, and associated facilities, operated at 60 kV or above, plus all radial lines and associated facilities operated at or above 60 kV that serve two or more eligible customers not Affiliates of each other. Rate treatment for transmission upgrades completed after October 1, 2005 will be determined pursuant to Section 1.3 (h) of this Tariff. For the purpose of

¹ FERC Electric Tariff, Fifth Revised Volume No. 1, Sheet No. 1134.

the application of this criterion, “open loops” are radial lines. At such time an existing radial is incorporated into a looped transmission circuit that existing radial would be eligible for inclusion in rates on the same basis as the remainder of the facilities in the loop.

2. All facilities that are utilized for interconnecting the various internal zones to each other as well as those facilities that interconnect SPP with other surrounding entities.

3. Control equipment and facilities necessary to control and protect facilities qualifying as Transmission Facilities.

4. For substations connected to power lines qualifying as Transmission facilities, where power is transformed from a voltage higher than 60 kV to a voltage lower than 60 kV, facilities on the high voltage side of the transformer will be included with the exception of transformer isolation equipment.

5. The portion of the direct-current interconnections with areas outside of the SPP region (DC ties) that are owned by a Transmission Owner in the SPP region, including those portions of the DC tie that operate at a voltage lower than 60 kV.

6. All facilities operated below 60 kV that have been determined to be transmission pursuant to the seven (7) factor test set forth in FERC Order No. 888, 61 Fed Reg. 21,540, 21,620 (1996), or any applicable successor test.

To determine which of its facilities operated below 60 kV are Transmission Facilities, Empire applied the seven factor test adopted by FERC. In Order No. 888, FERC identified seven indicators of whether a facility used for retail wheeling would be an interstate transmission facility subject to federal jurisdiction or a local delivery facility subject to state commission jurisdiction. The seven indicators are:

1. Local distribution facilities are normally in close proximity to retail customers.

2. Local distribution facilities are normally radial in character.

3. Power flows into local distribution facilities; it rarely, if ever, flows out.

4. When power enters a local distribution facility, it is not re-consigned or transported on to some other market.

5. Power entering a local distribution facility is consumed in a comparatively restricted geographical area.
6. Meters are based at the transmission/local distribution interface to measure flows into the local distribution system.
7. Local distribution facilities will be of reduced voltage.

10. Empire has reviewed its transmission and distribution facilities in light of the new definition of Transmission Facilities in the SPP OATT, and has prepared a document summarizing that analysis which is attached hereto as **Appendix A**. As a result of this review, certain of Empire's transmission lines that are currently accounted for as transmission assets should be accounted for as distribution assets under the new definition. These facilities are identified in **Appendix A, Attachment B – Table**.

11. Further analysis indicates that the potential reclassifications related to plant placed in service prior to January 1, 2008, are immaterial in relation to the total net book value of the assets in the various jurisdictions in which Empire operates. The net effect of these reclassifications would be to reduce the net book value of Empire's transmission assets from \$131,451,671 to \$ 128,570,699, or a reduction of 2.19%. The net book value of distribution assets would increase from \$372,955,759 to \$375,836,731, or an increase of 0.77% (See **Appendix A, Attachment A-Table**). The estimated change in net investment in the various jurisdictions ranges from a decline of 0.74 percent to an increase of 1.26 percent. All else remaining unchanged, the reclassification could provide approximate reductions in the annual revenue requirement of \$87,000 (-0.03%) for Missouri and \$27,000 (-0.23%) for Oklahoma, while providing approximate increases to the annual revenue requirement of \$94,000 (0.44%) for Kansas and \$52,000 (0.47%) for Arkansas. The reclassification could provide an overall annual total company retail revenue requirement increase of around 0.01 percent. (See **Appendix B** attached hereto).

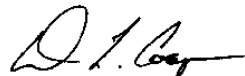
12. In addition, the administrative cost associated with the reclassification outweighs its value. To perform and maintain the reclassification for substation assets and maintain the records for transmission and distribution re-classifications for assets placed in service prior to January 1, 2008, Empire estimates that it would be required to incur, at a minimum, 400 man hours of one-time professional accounting expenses and 160 man hours annually of professional accounting expenses, excluding the time and costs necessary to address the reclassifications in a future rate case proceeding.

13. Because of the immaterial nature of the reclassification and the administrative cost associated therewith, Empire asks the Commission accept Empire's determinations and authorize Empire not to perform any reclassification of these pre-January 1, 2008 transmission and distribution assets. Empire further asks the Commission to issue an order authorizing Empire to utilize the criteria described herein to classify transmission and distribution assets placed in service on and after January 1, 2008.

WHEREFORE, Empire respectfully requests the Commission to issue an order: (1) granting Empire accounting authority to make no changes to the current classification of investment in transmission and distribution facilities recorded on Empire's books and records prior to January 1, 2008; 2) accepting, as reasonable, Empire's methodology used to determine which of its transmission and distribution assets are Transmission Facilities and the resulting determinations by Empire regarding transmission and distribution assets placed in service prior to January 1, 2008, described herein; 3) authorizing Empire to utilize the SPP criteria and definition to classify transmission and distribution assets placed in service after January 1, 2008;

and, 4) granting such further relief as the Commission shall find to be reasonable and just.

Respectfully submitted,



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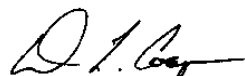
ATTORNEYS FOR THE
EMPIRE DISTRICT ELECTRIC COMPANY

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing Joint Application was served by electronic mail this 1st day of December, 2008, upon the following:

Office of the Public Counsel
Governor State Office Building, 6th Floor
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opsservice@ded.mo.gov

Office of the General Counsel.
Missouri Public Service Commission
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VERIFICATION

STATE OF MISSOURI)
)ss
COUNTY OF Jasper)

I, MIKE PALMER, state that I am employed by The Empire District Electric Company (Empire) as VP-COMMERCIAL OPS.; that I have read the above and foregoing document; that the statements contained therein are true and correct to the best of my information, knowledge and belief; and, that I am authorized to make this statement on behalf of Empire.

Mike Palmer

Subscribed and sworn to before me this 1st day of December, 2008.

Patricia A Settle

