

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

In the Matter of The Empire District Electric)
Company of Joplin, Missouri for Authority)
to File Tariffs Increasing Rates for Electric) Case No. ER-2011-0004
Service Provided to Customers in the)
Missouri Service Area of the Company.)

**EMPIRE’S REPLY SUGGESTIONS IN SUPPORT OF ITS MOTION
TO ESTABLISH ADMISSIBILITY OF TESTIMONY AND EXHIBITS**

COMES NOW The Empire District Electric Company (“Empire” or “Company”), by and through the undersigned counsel, and for its Reply Suggestions in further support of its Motion in the captioned-matter, respectfully states as follows:

1. The statements made by Praxair, Inc., Explorer Pipeline Company, and Enbridge Pipeline Company (the “Industrials”) in their “Opposition” raise non-existent issues and otherwise miss the mark. By its Motion, Empire is requesting the Commission establish the admissibility of the following as part of this Case No. ER-2011-004:

All of the evidence admitted into the record in Case No. ER-2010-0355, including all live testimony (including cross examination and Commissioner questions and responses thereto), the parts of all pre-filed testimony and schedules which were admitted into the record, and all other exhibits, concerning the Iatan 1 and 2 and common issues.

2. Empire is not seeking any order of the Commission at this time with regard to evidence concerning Staff’s alleged imprudence on the part of Empire. Contrary to the statements made by the Industrials, Empire’s request is not based “on a perception that the parties in this proceeding should be estopped from other arguments or contentions because of the ER-2010-0355 record.” To the contrary, Empire expects that all parties will be able to provide evidence, or additional evidence, and to conduct cross-examination, or additional cross-

examination, with regard to any alleged imprudence on the part of KCPL or Empire. By its motion, Empire is simply seeking to avoid unnecessary duplication of evidence and re-litigation.

3. Empire in no manner wishes to interfere with the due process rights of any party to this proceeding, and the granting of Empire's Motion will in no way limit any party's ability to present additional evidence in the form of pre-filed surrebuttal testimony and/or live cross-examination.

4. At this time, Empire is not asserting collateral estoppel against any party in this proceeding, and, to Empire's knowledge, no party is attempting to assert collateral estoppel against Empire or KCPL.

5. Empire has not asked the Commission to take administrative notice of the KCPL record concerning the Iatan 1 and 2 and common issues and KCPL's alleged imprudence. Instead, Empire seeks an order of this Commission establishing the admissibility of said evidence as a part of the evidentiary record in this proceeding – to be subject to counterevidence and cross-examination as allowed by law.

6. Empire's motion is not an attempt to evade Empire's burden of proof.

WHEREFORE, Empire requests an order of this Commission admitting into the evidentiary record in this case the evidence from Case No. ER-2010-0355 as set forth in Empire's Motion to Establish Admissibility. Empire seeks such other and further relief as the Commission deems just and proper under the circumstances.

Respectfully submitted,

BRYDON, SWEARENGEN & ENGLAND P.C.

By:

/s/ Diana C. Carter

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ATTORNEYS FOR THE EMPIRE DISTRICT
ELECTRIC COMPANY

Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to all counsel of record on this 28th day of March, 2011.

/s/ Diana C. Carter