

**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 Service Provided to)
Customers in the Missouri Service)
Area of the Company.)

File No. ER-2012-0345

EMPIRE’S STATEMENT OF POSITION ON THE ISSUES TO BE HEARD

COMES NOW The Empire District Electric Company (“Empire” or “Company”), by and through counsel, and hereby files its Statement of Position on the issues to be heard at the September 10-11, 2012 evidentiary hearing on interim rates, as outlined in the *List of Issues, Order of Witnesses, Cross, and Openings* filed by the Staff on August 29, 2012, as was agreed-upon by the parties.

1. **Is Empire facing a financial emergency or near emergency that warrants the Commission authorizing it to implement an interim-subject-to-refund rate increase pending implementation of final general rates in this case?**

While Empire denies that the “financial emergency” standard must be applied in this case, the circumstances behind the interim request are of an emergency nature. Empire’s request for interim rate relief is driven by the May 22, 2011 Joplin tornado. As a result of the tornado, Empire faced extraordinary circumstances. The tornado severely impacted Empire’s operations, including the total destruction of a significant part of the Company’s facilities in and around Joplin. The tornado also resulted in the physical loss of thousands of Empire’s customers. The costs incurred by Empire in connection with the tornado and the revenue losses the Company experienced as a result of the significantly lower number of customers served created a set of circumstances that can be

fairly characterized as “extraordinary”, “extreme” and of an “emergency” nature. Fortunately, Empire and its shareholders were able to make financial and other sacrifices to ensure that the Company’s customers were able to continue to receive safe and reliable service. Empire’s rates, however, no longer can be considered to be just and reasonable. That is because the costs incurred in connection with the tornado (which are being deferred pursuant to an accounting authority order issued by the Commission in Case No. EU-2011-0387) and the losses in terms of customers served were not, and have yet to be, reflected in Empire’s ongoing cost of service and revenue requirement and further because Empire is not earning its allowed return. Empire’s proposed Interim Rider INT has been suspended and set for hearing. Empire submits that its Interim Rider, designed to begin to mitigate the financial impacts from this extraordinary event, is just and reasonable and, in accordance with § 393.150, RSMo, should be authorized by the Commission.

2. **Do Empire’s tornado recovery costs and post-tornado cost of service due to the May 2011 Joplin tornado warrant the Commission authorizing it to implement an interim-subject-to-refund rate increase pending implementation of final general rates in this case?**

Yes. As a result of these events and as explained above, Empire’s rates are no longer just and reasonable. Empire’s proposed Interim Rider is just and reasonable and should be authorized by the Commission pursuant to § 393.150, RSMo.

3. **Is there any other basis(es) that warrant(s) the Commission authorizing Empire to implement an interim-subject-to-refund rate increase pending implementation of final general rates in this case?**

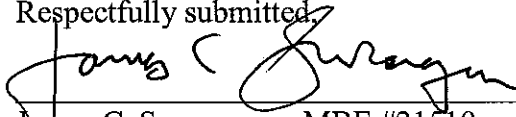
As explained above, as a result of the May 2011 Joplin tornado, Empire has requested the implementation of interim rates, which rates the Company believes to be just and reasonable and should be authorized by the Commission pursuant to § 393.150 RSMo.

4. If the answer to 1, 2 or 3 is “yes,” what should be the amount of the interim-subject-to-refund rate increase, and what conditions, if any, should the Commission impose on it?

Empire’s Electric Interim Rider INT, consisting of five (5) tariff sheets, is designed to increase the Company’s gross annual electric revenues by \$6.2 million, a just and reasonable interim increase under the circumstances presented, and represents about 21% of the Company’s overall revenue increase request of \$30.7 million. Rider INT should remain in effect until the “permanent” rates authorized by the Missouri Public Service Commission in Case No. ER-2012-0345 become effective. The revenue generated by Rider INT should be subject to refund. The Company should refund with annual simple interest equal to the Company’s short term interest rate, the amount, if any, by which the revenues produced by Rider INT exceed the aggregate revenues it is determined that the Company should receive under the permanent rates approved by the Commission in Case No. ER-2012-0345. Such refund, if any, should be made based upon the billing units of the customer to which the interim charges applied. In addition, if the requested interim relief is granted, the deferral of the tornado related costs authorized by the Commission in Case No. EU-2011-0387 case should be stopped.

WHEREFORE, Empire hereby submits the foregoing Statement of Position on the Issues with respect to its interim rate request.

Respectfully submitted,



James C. Swearngen MBE #21510

Dean L. Cooper MBE #36592

Diana C. Carter MBE #50527

BRYDON, SWEARENGEN & ENGLAND P.C.

312 E. Capitol Avenue

P. O. Box 456

Jefferson City, MO 65102

Phone: (573) 635-7166

Fax: (573) 634-7431

LRackers@brydonlaw.com

ATTORNEYS FOR THE EMPIRE
DISTRICT ELECTRIC COMPANY

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 4th day of September, 2012, to all parties of record.

