

**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 Tariff            )  
Increasing Rates for Electric Service Provided to         )  
Customers in the Missouri Service Area of the Company    )     **File No. ER-2010-0130**

**FILING IN COMPLIANCE WITH  
COMMISSION ORDER DATED NOVEMBER 24, 2009**

COMES NOW the City of Joplin (City), by and through counsel, and in response to the Commission's order dated November 24, 2009, in this case states:

**I. Good Cause for Filing Application Out of Time**

Good cause, in the context of out-of-time actions, is a "mistake or conduct that is not intentionally or recklessly designed to impede the judicial process." *Wilderman v. Drawbond*, 267 S.W.3d 772, 775 (Mo. App. 2008).

In the present case, the undersigned counsel inadvertently read the third full paragraph on page 3 of the Commission's Suspension Order in this case which provided for Applications to Intervene to be filed within twenty (20) days of the date of such order, and calculated November 24, 2009, as the deadline to file applications to intervene. Counsel overlooked the conflicting, and controlling, November 20, 2009, deadline recited in ordered paragraph 2. Counsel's mistake or conduct was neither intentionally nor recklessly designed to impede the process of this case.

The City's Application to Intervene in this case was filed on the next business day after the November 20, 2009, deadline recited in ordered paragraph 2 of the Suspension Order; was not done with intent to delay; and no party will be prejudiced by the delay should the Commission grant the City's Application to Intervene.

The City of Joplin respectfully asks the Commission to consider its Application out of time and to grant said Application.

## **II. Interest Different Than the Public Generally**

As noted in the City's Application to Intervene, Empire District Electric Company (Empire) operates in part under a franchise granted by the City and various parts of its plant occupy City right-of-way. The City has an interest in insuring that both capital and operational expenditures within the City are adequate to provide reliable service under the franchise. Issues such as storm recovery, right-of-way maintenance, and safety issues specific to the City of Joplin may be detrimentally affected by revenue and rate design activity in the pending case. The City of Joplin's interest in this matter is different from those of other parties, from that of the general public, and are not represented by any such parties. In addition, the City has an interest in the allocation of any increased revenue requirement that might disproportionately or otherwise unreasonably affect its citizens and Empire's customers within its city limits. These specific interests are not represented by the general public nor by any other party to this proceeding. Such interests might be detrimentally affected without the City's participation in this case.

Intervention is proper for a party with these different and unique interests as intervention has been broadly approved by Missouri courts. See, e.g. *State ex rel. Consumers Public Service v. Public Service Commission*, 180 S.W.2d 40, 46 (Mo. banc 1944) and *State ex rel. Brink's Incorporated v. Public Service Commission*, 535 S.W.2d 582, 584-5 (Mo. App. 1976). Thus, intervention should be granted for the City of Joplin.

### III. Public Interest

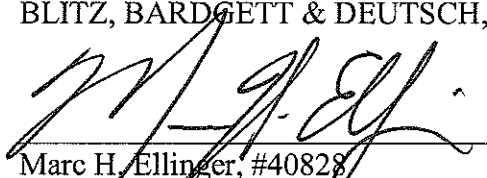
Participation by the City of Joplin in this case will serve the public interest by providing the Commission with a more complete record, as well as providing the Commission with the perspective of a municipality served by Empire.

**WHEREFORE**, having addressed the items specified in the Commission's Order of November 24, 2009, the City of Joplin respectfully renews its Application to Intervene in this case.

Respectfully submitted,

BLITZ, BARDGETT & DEUTSCH, L.C.

By:



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**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing Filing in Compliance with Commission Order Dated November 24, 2009 was sent to each of the following parties of record via electronic transmission this 25<sup>th</sup> day of November, 2009:

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