

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

In the Matter of The Empire District)	
Electric Company's Amendment of)	<u>Case No. ET-2008-0223</u>
its P.S.C. Mo. No. 5 Section 4 Sheets)	Tariff No. YE-2008-0408
No. 12-16c (Net Metering Rider))	

PUBLIC COUNSEL'S RESPONSE TO ORDER DIRECTING FILING

COMES NOW the Office of the Public Counsel and for its Response to Order Directing Filing states as follows:

1. In Case No. ER-2006-0315, in an order issued on December 4, 2007 and effective December 14, 2007, the Commission approved the following relevant tariff sheets for service on and after December 14, 2007:

P.S.C. Mo. No. 5, Section 4

3rd Revised Sheet No. 12, Canceling 2nd Revised Sheet No. 12
3rd Revised Sheet No. 13, Canceling 2nd Revised Sheet No. 13
3rd Revised Sheet No. 14, Canceling 2nd Revised Sheet No. 14
4th Revised Sheet No. 15, Canceling 3rd Revised Sheet No. 15
5th Revised Sheet No. 16, Canceling 4th Revised Sheet No. 16

2. On January 3, 2008, in this case, The Empire District Electric Company filed the following tariff sheets:

P.S.C. Mo. No. 5, Section 4

4th Revised Sheet No. 12 Cancelling 3rd Revised Sheet No. 12
5th Revised Sheet No. 13 Cancelling 4th Revised Sheet No. 13
4th Revised Sheet No. 14 Cancelling 3rd Revised Sheet No. 14
5th Revised Sheet No. 15 Cancelling 4th Revised Sheet No. 15
6th Revised Sheet No. 16 Cancelling 5th Revised Sheet No. 16
Original Section 4, Sheet No. 16a
Original Section 4, Sheet No. 16b
Original Section 4, Sheet No. 16c

3. On January 9, 2008, Public Counsel filed a motion in this case to suspend Tariff File No. YE-2008-0408 because of the numbering problem with Sheet 13 of Section

4.¹ When it filed its revised tariff sheets on January 3, 2008, Empire filed them as though some different version of Sheet 13 of Section 4 than the one approved by the Commission on December 4, 2007 was in effect. Empire could not have filed 5th Revised Sheet No. 13 to cancel 4th Revised sheet No. 13 because 4th Revised Sheet No. 13 was already canceled by the Commission's order of December 4, 2007, and 3rd Revised Sheet No 13 was re-approved for service on and after December 14, 2008.

4. On January 15, 2008, in Case No. ER-2006-0315, the Commission issued an Order of Clarification, in which it acknowledged that some of the tariff sheets expressly approved in its December 4, 2007 order were approved in error. The Commission did not identify which tariff sheets were approved in error.

5. On January 18, 2008, in this case, the Commission issued an Order Directing Filing in which it ordered Public Counsel to file a pleading stating whether the numbering issue had been resolved. Public Counsel files this pleading in response.

6. If the effect of the January 15, 2008, order in Case No. ER-2006-0315 (as it relates to this case) was to: A) vacate the section of Ordered Paragraph 2 of the Commission's December 4, 2007 order that approved P .S .C. Mo. No. 5, Section 4, 3rd Revised Sheet No. 13, Canceling 2nd Revised Sheet No. 13; and B) to allow P .S .C. Mo. No. 5, Section 4, 4th Revised Sheet No. 13, Canceling 3rd Revised Sheet No. 13 to remain in effect, then there is no longer a numbering issue with respect to Tariff File YE-2008-0408. If such is not the intended effect of the December 4, 2007 order, then the

¹ Public Counsel's January 9 motion was not clear that the problem – as it relates to this case – is limited to Sheet 13 and does not affect the rest of the sheets that make up Tariff File No. YE-2008-0408.

numbering issue still exists and should be resolved before Tariff File YE-2008-0408 is approved.

WHEREFORE, Public Counsel respectfully submits this Response to Order Directing Filing.

Respectfully submitted,

OFFICE OF THE Public Counsel

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 23rd day of January 2008:

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