

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

In the Matter of a Determination of Special)
Contemporary Resource Planning Issues to)
Be Addressed by The Empire District)
Electric Company in its Next Triennial)
Compliance Filing or Next Annual Update)
Report)

File No. EO-2012-0040

Missouri Department of Natural Resources’ Response to Empire’s Motion to Strike

COMES NOW Missouri Department of Natural Resources (“MDNR”), by and through undersigned counsel, and for its response to The Empire District Electric Company’s (Empire) Motion to Strike filed on October 12, 2011 with the Missouri Public Service Commission (Commission.) respectfully states as follows:

1. Rule 4 CSR 240-22.080(4)(c) requires that the Public Service Commission issue an order by November 1 “containing a list of special contemporary issues shall be issued by the commission for each utility to analyze and document in its next triennial compliance filing or annual update report.” The rule explicitly states that the Commission should not be “limited to only the filed suggested special contemporary issues.”

2. Rule 4 CSR 240-22.080(4)(a) allows “utilities, staff, public counsel and parties to the last triennial compliance filings” to “file suggested special contemporary issues for each utility to consider.”

3 . Rule 4 CSR 240-22.080(4)(b) allows the “utilities, staff, public counsel, and parties to the last triennial compliance filings” to “file comments regarding the special contemporary issues filed on September 15” not later than October 1.

4. On September 15, 2011 MDNR filed “Suggested Special Contemporary Resource Planning Issues” for each electric utility. Other parties filed suggested issues as well.

5. On September 30, 2011 MDNR filed “Comments Regarding Suggested Issues” which indicated support for 13 suggested issues filed by other parties. MDNR supported these 13 issues as relevant for the planning processes for all four utilities. Some of these issues were general issues included in each utilities’ docket, while others were originally directed at only certain utilities. MDNR’s comments in response to other parties was timely filed, consistent with the rule and intended to assist the Commission in determining the contemporary issue lists for each company, including Empire.

6. Empire’s Motion to Strike MDNR’s September 30 Comments requests that the Commission refuse to consider the issues raised in MDNR’s September 30 Comments or in the alternative, Empire requests leave to file additional comments.

7. The Motion to Strike should not be granted. The suggested contemporary issues addressed in MDNR’s September 30 Comments are relevant to the Commission’s determination of the issues Empire should address to meet its responsibility to consider and analyze evolving electric resource planning issues in a timely manner. The rule states that “The purpose of the special contemporary issues lists is to ensure that evolving regulatory, economic, financial, environmental, energy, technical, or customer issues are adequately addressed by **each** utility in its electric resource planning.” 4 CSR 240-22.080(4). As stated above, the Commission is not limited to only the filed suggested contemporary issues. The Commission can and should review all suggested issues for all companies and apply them as they may be relevant across company lines, to fully meet

the purpose for which this rule was adopted. MDNR has placed before the Commission suggested issues to be included in the contemporary issues list for Empire. Empire's request that the Commission refuse to consider the suggested issues proposed in MDNR's September 30 Comments is contrary to this purpose and to the public interest.

WHEREFORE, MDNR respectfully requests that the Commission deny Empire's Motion to Strike.

Respectfully submitted,

CHRIS KOSTER

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/s/ Sarah Mangelsdorf _____

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been served electronically on all counsel of record this 18th day of October, 2011.

/s/ Sarah Mangelsdorf _____

Sarah B. Mangelsdorf