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BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Ahlstrom Development Corporation)	
)	
and)	
)	
Cottonwood Energy Partners, L.P.,)	
)	
Complainants,)	
)	
v.)	<u>Case No. EC-95-28</u>
)	
Empire District Electric Company,)	
a corporation,)	
)	
Respondent.)	

DISSENTING OPINION OF
COMMISSIONERS DUNCAN KINCHELOE AND KENNETH MCCLURE

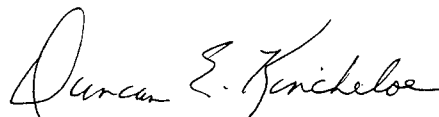
Our dissent from the Commission's order of March 15, 1995, arises from the patent overbreadth of the data request.

In declining, to date, to enter into an agreement with the Complainant, Respondent presumably has two categories of reasons. First, it apparently views itself as having no legal obligation to purchase from Complainant and will undoubtedly pursue various theories as to why it believes not. Second, it has clearly concluded -- entirely apart from the issue of legal obligation -- that there are significant business reasons why it is not desirable to enter into the agreement.

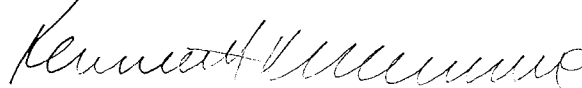
Respondent's claimed business reasons are likely numerous and perhaps even vary in the minds of different corporate officials. However, whether sagacious or inane, Respondent's analysis of its business advantage is irrelevant to the question of legal obligation, except in regard to the avoided cost issue which had been adequately identified prior to the data request. There is no excuse for cluttering the discovery process with exploration of this territory.

The nature of Respondent's objection suggests the possibility that it does not interpret the data request to encompass this ground, and perhaps it has not intended to address these reasons in any response. The language of the request appearing otherwise, it should be dealt with by denying the motion and, therefore, we dissent.

Respectfully submitted,



Duncan E. Kincheloe
Commissioner



Kenneth McClure
Commissioner

Dated at Jefferson City, Missouri,
on this 17th day of March, 1995.