BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

In the Matter of the Application of Kansas City Power & Light Company for Approval to Make Certain Changes in its Charges for Electric Service to Begin the Implementation of Its Regulatory Plan	)))))	**Case No. ER-2006-0314** Tariff No. YE-2006-0594

PREHEARING BRIEF/STATEMENT OF POSITION

COMES NOW The Empire District Electric Company (Empire), and submits this prehearing brief for consideration by the Missouri Public Service Commission (Commission):

1. A list of issues was filed with the Commission on October 6, 2006. Empire will provide its prehearing brief/statement of position in regard to an aspect of the issue identified as "Regulatory Plan Additional Amortizations." Empire takes no position as to the remainder of the issues that have been identified by the parties.

2. Empire was a signatory to the Stipulation and Agreement concerning Kansas City Power & Light Company's (KCPL) regulatory plan that was approved by the Commission in Case No. EO-2005-0329. Empire is currently a co-owner of the Iatan Unit No. 1 power plant with Aquila, Inc. and KCPL and has signed an agreement to be a co-owner of the proposed Iatan Unit 2 generating unit. In connection with its plans to participate in Iatan Unit 2, Empire also entered into a Stipulation and Agreement containing a regulatory plan that was approved by the Commission in Case No. EO-2005-0263.

3. Both the Stipulation and Agreement in Case No. EO-2005-0329 and the Stipulation and Agreement in Case No. EO-2005-0263 describe certain amortization amounts designed to provide KCPL and Empire, respectively, the opportunity to maintain their debt at investment grade ratings during the period of the Iatan 2 construction expenditures. The

amortization is designed to assist in this regard by attempting to satisfy certain financial ratio targets utilized by rating agencies.

4. Identified as a sub-issue in this case within the category of Regulatory Plan Additional Amortizations is the following question:

> What amount of Regulatory Plan additional amortizations should be allowed to maintain KCPL's credit rating? Should a "gross up" for taxes be added to this amount? If so, what amount is appropriate?

5. Empire takes the position that if an amortization is believed to be necessary, in addition to the amortization amount, the Commission should also include in KCPL's revenue requirement a gross-up for income taxes. This is because there is a difference between book depreciation, as determined by the Commission and the tax depreciation allowed by the Internal Revenue Service as a deduction for income tax purposes. This Commission has recognized this fact in describing deferred taxes as "an artifact of the differing treatment accorded depreciation for federal income tax purposes as opposed to regulatory purposes. [Utility] rates are calculated using straight-line depreciation, while taxes are paid using accelerated depreciation." *In the Matter of Missouri-American Water Company,* Report and Order, Case No. WR-2000-281 (August 31, 2000).

6. The impact of this differing treatment is that increasing book depreciation will not increase tax depreciation. The only way to ensure that the subject regulatory amortization has a chance to satisfy its purpose is to increase the amortization to reflect the additional income taxes due as a result of the additional book depreciation. In this fashion the resulting regulatory amortization, less any additional current tax liability, should provide the cash flow required by

the calculations.

7. Empire will present the Rebuttal Testimony of L. Jay Williams as to this issue.

WHEREFORE, Empire respectfully requests that the Commission consider this prehearing brief/statement of position.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing was, on this 12th day of October, 2006, sent via electronic mail to the following:

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