

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

In The matter of the Application	)	
of The Empire District Electric Company	)	
for Authorization to Manage	)	Case No. _____
Sulfur Dioxide Emission	)	
Allowance Inventory	)	

**APPLICATION**

Comes now The Empire District Electric Company ("Empire"), by counsel, pursuant to Section 393.190, RSMo 2000 and for its application to the Missouri Public Service Commission ("Commission") respectfully states as follows:

**Background**

1. This Application requests an order authorizing a plan for the management, sale, exchange, transfer or other disposition of sulfur dioxide emissions allowances ("Allowances") by Empire.

2. Empire is a Kansas corporation with its principal office and place of business at 602 Joplin Street, Joplin, Missouri 64801. Empire is qualified to conduct business and is conducting business in Kansas as well as in the states of Missouri, Arkansas and Oklahoma. Empire is engaged, generally, in the business of generating, purchasing, transmitting, distributing and selling electric energy in portions of said states. Empire also provides water service in Missouri. Empire is an "electrical corporation" and a "public utility" as those terms are defined in Section 386.020, RSMo 2000. Consequently, it is subject to the jurisdiction and supervision of the Commission as provided by law. A certified copy of Empire's Restated Articles of Incorporation, as amended, was filed in Case No. EF-94-39 and is incorporated herein by reference in

accordance with Commission rule 4 CSR 240-2.130(2). A Certificate from the Missouri Secretary of State that Empire, a foreign corporation, is authorized to do business in Missouri was filed with the Commission in Case No. EM-2000-369 and is incorporated by reference in accordance with Commission rule 4 CSR 240-2.130(2). This information is current and correct.

3. Empire has no pending actions or final unsatisfied judgments or decisions against it from any state or federal agency or court that involve customer service or rates. Empire's annual report and assessment fees are not overdue.

4. Correspondence, communications and orders of the Commission in regard to this Application and proceeding should be addressed to:

Brad P. Beecher, Vice President – Energy Supply  
The Empire District Electric Company  
602 Joplin Street  
Joplin, MO 64801  
Telephone: (417) 625-4260  
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#### **The Federal Clean Air Act**

5. Allowances were created by the 1990 Amendments to the federal Clean Air Act ("Amendments"). An Allowance is an authorization to emit one ton of sulfur dioxide. See, 42 U.S.C. 7651a(3). The amendments allocate Allowances to Empire each

year, based on historical operations at Empire's fossil power plants. These Allowances are transferable and various public and private markets have developed to facilitate Allowance trading.

#### **Prior Commission Proceedings**

6. In its Case No. EO-92-250 reported at 1 MPSC 3d 359, the Commission determined, among other things, that Allowances are a part of an electric utility's "system" as that term is used in Section 393.190.1, RSMo 2000, and that the sale or other disposition of Allowances without the Commission's prior approval is void. In doing so, the Commission expressed its view that it did not wish to impede the trading of Allowances on the open market and concluded that flexibility was necessary for a utility to obtain the maximum benefits from the national Allowance market created by the Amendments. The Commission expressly concluded that an application for authority to sell or transfer Allowances could take the form of a request for blanket authority with appropriate restrictions to ensure the fulfillment of the Commission's statutory obligations.

7. Subsequently, the Commission granted Allowance trading authority to Kansas City Power & Light Company in its Case Nos. EO-95-184 and EO-2000-357 and to Union Electric Company in its Case No. EO-98-401.

#### **Empire's Allowance Management Plan**

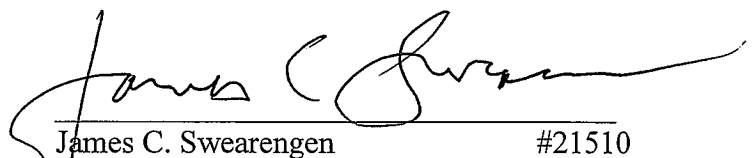
8. Empire currently forecasts an Allowance surplus through the year 2012 and, perhaps, beyond. Empire is requesting the flexibility to manage its Allowance inventory by utilizing various trading techniques such buying and selling Allowances, utilizing put and call options, swapping Allowances, loaning Allowances and other

financial instruments that may use to earn a return on the inventory. No specific price range is proposed because the market price is subject to rapid change and various Allowance mechanisms that Empire anticipates will be used have no published price index. Due to the nature of the Allowance market, Empire does not deem it advisable to be more specific in this pleading concerning its plan. However, Empire will discuss proposed management strategies with the Commission Staff and the Office of the Public Counsel work to draft appropriate documents for the Commission's consideration and approval.

9. Empire proposes to book to utility operating income any profits or losses realized for the sales or any other transactions associated with the Allowances. In addition, Empire proposes that the ratemaking treatment of these profits and losses, as well as the prudence of any Allowance transaction, be deferred to a future rate case.

WHEREFORE, Empire respectfully requests an order of the Commission authorizing its Allowance management plan as hereinabove described.

Respectfully submitted,



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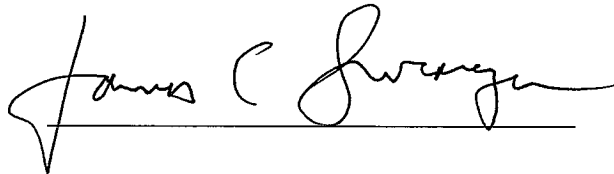
Attorneys for The Empire District Electric Company

**Certificate of Service**

I hereby certify that a true and correct copy of the above and foregoing document was sent by U.S. Mail, postage prepaid, or hand-delivered, on this 14<sup>TH</sup> day of July 2004, to:

Dana K. Joyce  
General Counsel  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102

John Coffman,  
Public Counsel  
Office of the Public Counsel  
P.O. Box 2230  
Jefferson City, MO 65102

A handwritten signature in cursive script, appearing to read "James C. Swartz", is written over a horizontal line.

**AFFIDAVIT**

STATE OF MISSOURI                    )  
                                          )ss  
COUNTY OF JASPER                    )

I, Brad P. Beecher, having been duly sworn upon my oath, state that I am the Vice President - Energy Supply of The Empire District Electric Company; that I am duly authorized to make this Affidavit on behalf of The Empire District Electric Company; and that the matters and things stated in the foregoing application are true and correct to the best of my information, knowledge and belief.

Brad P. Beecher

Brad P. Beecher  
Vice President - Energy Supply

Subscribed and sworn to before me this 14<sup>th</sup> day of July, 2004.

Patricia A. Settle

Notary Public

My Commission expires:

