

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

In the Matter of The Empire District)	
Electric Company of Joplin, Missouri)	
For authority to file tariffs increasing)	<u>Case No. ER-2008-0093</u>
Rates for electric service provided to)	
Customers in the Missouri service area)	
Of the Company.)	

RESPONSE TO AUGUST 11 ORDER

COMES NOW, General Mills, Inc., Wal-Mart Stores, Inc., and Enbridge Energy, L.P., and in response to the Commission's August 11 Order Directing Clarification of Application for Rehearing respectfully state as follows:

1. These parties question whether under Missouri law the Commission has any jurisdiction to take action with respect to a requested rehearing other than to grant or deny it. Specifically it is problematic whether the Commission has authority to "direct" non-utility parties to "clarify" a timely-filed application for rehearing filed pursuant to Missouri statute. Without prejudice to that position, these parties further respond as follows:

2. Section 393.135 provides that:

Any charge made or demanded by an electrical corporation for service, or in connection therewith, which is based on the costs of construction in progress upon any existing or new facility of the electrical corporation, or any other cost associated with owning, operating, maintaining, or financing any property before it is fully operational and used for service, is unjust and unreasonable, and is prohibited.

3. Included in the rates authorized by the Commission is approximately \$4.4 million associated with the regulatory plan amortization.¹ The metrics associated with the quantification of this amortization demonstrate that amount represents an increase in rates associated with the “owning, operating, maintaining or financing” of a new facility that is not “fully operational and used for service.” As such, the rates approved by the Commission are unlawful, unjust, unreasonable and prohibited by law.

Respectfully submitted,

FINNEGAN, CONRAD & PETERSON, L.C.

A handwritten signature in black ink, appearing to read "David L. Woodsmall", is positioned above a horizontal line. A vertical red line is located to the right of the signature.

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ATTORNEY FOR THE INDUSTRIAL
INTERVENORS

¹ Ex. 233.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the forgoing pleading by email, facsimile or First Class United States Mail to all parties by their attorneys of record as provided by the Secretary of the Commission.

A handwritten signature in black ink, appearing to read "David L. Woodsmall", is written over a horizontal line. The signature is cursive and stylized.

David L. Woodsmall

Dated: August 14, 2008