

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a Session of the Public Service
Commission held at its office
in Jefferson City on the 7th
day of January, 1998.

In the Matter of The Empire District)	
Electric Company's Electric Resource)	<u>Case No. EO-96-56</u>
Plan Pursuant to 4 CSR 240-22.)	

**ORDER REGARDING THE EMPIRE DISTRICT ELECTRIC COMPANY'S
INTEGRATED RESOURCE PLAN AND JOINT AGREEMENT**

This case was opened on August 21, 1995, for the purpose of receiving and reviewing periodic integrated resource plan filings of The Empire District Electric Company (EDE) pursuant to 4 CSR 240-22 of the Commission's rules. On December 5, 1997, EDE, the Staff of the Commission (Staff), the Office of Public Counsel (OPC) and Intervenor Kansas City Power & Light Company (KCPL) filed a proposed joint agreement regarding EDE's Electric Resource Plan (ERP). Intervenor St. Joseph Light & Power Company (SJLP) did not participate in the agreement but filed a separate statement that it does not oppose the agreement and waives notice and hearing. Pursuant to the Commission's rules, SJLP acknowledges that such waiver constitutes acknowledgment that the proposed agreement is unanimous.

EDE filed its most recent resource plan in September 1995. After review by the other parties, a joint agreement was reached and approved by the Commission on March 29, 1996. As a part of that agreement, EDE agreed to perform an all-source competitive solicitation for its projected 2001 resource needs. On August 7, 1996, EDE notified the Commission that the approved plan was no longer appropriate, in accordance with 4 CSR 240-22.080(10). The proposed joint agreement details the reasons why the 1995 plan is no longer appropriate. Briefly put, those reasons include placing in service state line combustion turbine No. 2,

changes in the capacity margin requirements by the MoKan Power Pool and ongoing changes in the electric industry itself.

The parties are, therefore, viewing the next several years to be a transitional period in the electric industry in the state of Missouri. The parties state that the electric industry will focus on issues surrounding potential retail competition and that, therefore, the competitive solicitation program is no longer desirable and an ongoing dialogue is needed regarding the potential effect of retail competition on demand-side and supply-side resource acquisition. The parties are proposing a series of briefings and periodic reports, partially to improve the understanding of the parties regarding the impact of anticipated retail competition on the electric resource planning process. The briefings and periodic reports are detailed in the proposed agreement.

The parties have also stated that the proposed agreement constitutes a reasonable alternative to the requirements in the joint agreement reached in the EDE September 1995 resource plan filing and a reasonable alternative to compliance with EDE's September 1998 filing requirement as set out in 4 CSR 240-22.

After review the Commission finds the joint agreement to be reasonable in that it is designed to shift emphasis from the filing requirements of Chapter 22 of 4 CSR 240 and to go forward with issues that jointly relate to electric resource planning and retail competition in an efficient and effective manner. The Commission will approve the agreement as an alternative plan for EDE's compliance with the Commission's integrated resource planning rules, and will order EDE to comply with the terms and conditions of the agreement.

IT IS THEREFORE ORDERED:

1. That the joint agreement between the parties, appended to this order as Attachment A, is found to be reasonable and in the public interest and is hereby approved in accordance with 4 CSR 240-22.

2. That The Empire District Electric Company is hereby ordered to comply with the terms and conditions of the joint agreement.

3. That this order shall become effective on January 21, 1998.

BY THE COMMISSION

Dale Hardy Roberts

**Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge**

(S E A L)

Lumpe, Ch., Crumpton, Murray,
and Drainer, CC., concur.

Derque, Regulatory Law Judge

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of The Empire District)
Electric Company's Electric Resource Plan) Case No. EO-96-56
Pursuant to 4 CSR 240-22.)

FILED
DEC 05 1997
MISSOURI
PUBLIC SERVICE COMMISSION

JOINT AGREEMENT

Comes now The Empire District Electric Company (Empire or Company); Staff of the Missouri Public Service Commission (Staff); Kansas City Power & Light Company (KCPL); and Office of Public Counsel (OPC), and pursuant to 4 CSR 240-22.080(8) of the Commission's rules on Electric Utility Resource Planning, submit this Agreement regarding Empire's Electric Resource Plan (ERP) in Case No. EO-95-56 and the scheduled filing of a new ERP by Empire in 1998. Although a party to this proceeding, St. Joseph Light & Power Company is not participating in this agreement, but is simultaneously filing correspondence which states that it does not oppose this Joint Agreement and waives its rights under 4 CSR 240-2.115 to notice of the filing of this agreement and a hearing thereon.

This document constitutes a unanimous agreement between Empire and such parties as to these recommendations. Furthermore, the parties waive their respective rights under section (9) of 4 CSR 240-22.080 to file a response or comments. Therefore, the parties submit that they are not asking for, nor from their perspective is there a need for, a hearing by the Commission. The parties are ready and willing to respond to any questions of the Commission which may arise during its consideration of this unanimous agreement.

This Joint Agreement has resulted from extensive negotiation among the signatories and the

terms hereof are interdependent. In the event the Commission does not approve and adopt this Joint Agreement in total, then this Joint Agreement shall be void and no signatory shall be bound by any of the agreements or provisions hereof.

In the event the Commission accepts the specific terms of the Joint Agreement, the Parties waive, with respect to the issues resolved herein: their respective rights pursuant to Section 536.080.1, RSMo 1994 to present testimony, cross-examine witnesses, and present oral argument and written briefs; their respective rights to the reading of the transcript by the Commission pursuant to Section 536.080.2 RSMo 1994; and their respective rights to judicial review pursuant to Section 386.510 RSMo 1994.

If requested by the Commission, the Staff shall have the right to submit to the Commission a memorandum explaining its rationale for entering into this Joint Agreement and Filing. Each party of record shall be served with a copy of any memorandum and shall be entitled to submit to the Commission, within five (5) days of receipt of Staff's memorandum, a responsive memorandum which shall also be served on all parties. All memoranda submitted by the parties shall be considered privileged in the same manner as are settlement discussions under the Commission's rules, shall be maintained on a confidential basis by all parties, and shall not become a part of the record of this proceeding or bind or prejudice the party submitting such memorandum in any further proceeding or in this proceeding whether or not the Commission approves this Joint Agreement and Filing. The contents of any memorandum provided by any party are its own and are not acquiesced in or otherwise adopted by the signatories to the Joint Agreement and Filing.

The Staff shall also have the right to provide, at any agenda meeting at which this Joint Agreement is noticed to be considered by the Commission, whatever oral explanation the

Commission requests, provided that the Staff shall, to the extent reasonably practicable, provide the other parties with advance notice of when the Staff shall respond to the Commission's request for such explanation once such explanation is requested from Staff. Staff's oral explanation shall be subject to public disclosure, except to the extent it refers to matters that are privileged or protected from disclosure pursuant to any Protective Order issued in this case.

I. THE CONTEXT OF THE AGREEMENT

A. The Status of Empire's Resource Plans

In September 1995, in Case No. EO-95-56, Empire filed with the Commission its Electric Resource Plan. In that filing, Empire's Preferred Resource Plan showed the need for a 101 MW combustion turbine (CT) in 1997 and an additional 150 MW resource need in the year 2001. The ERP filing was reviewed by the Staff and the OPC as well as other intervenors and the findings were reported to the Commission. The reports and the subsequent agreements between the parties associated with these reviews were also filed in Case No. EO-95-56. The parties filed a Joint Agreement February 16, 1996. The Commission issued an order in Case No. EO-95-56 on March 29, 1996, which incorporated the Joint Agreement. One of the primary provisions was that Empire agreed to perform an all-source competitive solicitation in 1997 for its projected 2001 resource need.

On August 7, 1996, pursuant to 4 CSR 240-22.080(10), Empire notified the Commission that its preferred resource plan was no longer appropriate. At that time, Empire informed the Commission that a 152 MW combustion turbine was to be constructed in 1997 instead of the 101 MW combustion turbine that was identified in the preferred resource plan. The 152 MW combustion turbine called State Line Unit 2 has successfully complied with all in-service criteria and is currently

serving Empire's customers' needs.

Additionally, during December 1996, the MOKAN power pool executive committee agreed to reduce the capacity margin requirement for its members from 15.3 percent to 13.04 percent, effective for the contract year beginning June 1, 1997. Empire is a member of MOKAN. This reduction was allowed within the guidelines of the Southwest Power Pool ("SPP"). The SPP guidelines basically state that capacity margins can be as low as 15.3 percent in any system without the performance of a loss of load probability ("LOLP") study and that capacity margins can be as low as 13.0 percent if an LOLP study shows loss of load probability of less than one time in a ten year period. The MOKAN and SPP LOLP studies that were performed supported a reduction in capacity margin for the MOKAN system to 13.04 percent. This lower capacity margin requirement from the power pool therefore reduces the amount of capacity which Empire has to have to meet reserve margin requirements. As a result, future capacity requirements are reduced. Empire's 1997-2001 forecast shows a capacity shortfall of 58 MW in the year 2001. Although Empire's native load is growing, the requirement in the year 2001 is needed in part to replace capacity that is currently supplied through purchased power agreements that will expire in the years 2000 and 2001.

B. Changes in the Electric Industry

The changes in the electric industry since the Commission adopted its Electric Resource Planning Rules have been extensive. In 1993, the electric industry in Missouri was still viewed as having a vertically integrated structure in which the utility reading customers' meters is the same one adding generation plant to meet the growing demands of those same customers. Building new generation plants or long-term purchases from available capacity were generally considered the standard ways to meet growing demands. While competitive bidding for supply-side resources was

being considered by some utilities in Missouri, the resulting short-term purchased power agreements were generally seen as a method for filling in reserve requirements on a year-to-year basis and delaying construction of new generation plant. In the context of emerging competition for retail customers, Empire is now focusing on shorter term planning horizons and looking to short-term purchases acquired through competitive bids as the preferred method for meeting resource requirements.

At the time the Commission's Electric Resource Planning rules were adopted, demand-side resources were generally considered as peak shaving or conservation. Peak shaving had the greatest potential for lowering the present value of revenue requirements without raising rates. Retail competition has raised a concern by the utilities about the potential for conservation options raising rates and increasing the likelihood of losing customers to alternative generation suppliers. At the same time, increasing competition to be the customer's energy services provider has resulted in most utilities focusing on planning and implementing marketing programs, some of which have demand-side components.¹

C. Reports and Briefings During the Transition

In Missouri, the next several years is being viewed by many as a transition period during which the electric industry's focus will be on issues surrounding retail competition. The parties to this agreement believe that the "1997 Competitive Solicitation" that was agreed to and incorporated

¹ The distinction between demand-side and marketing programs is that demand-side programs focus on removing market barriers that are obstacles to customer implementation of energy efficiency measures, while marketing programs are designed to sell energy services in a market environment that is competitive.

² Energy services, at its broadest, is defined as products and services that are related to selling and delivering electricity. In the state of Missouri, entities other than utilities can offer energy services, other than electricity which can result in improved operational efficiencies to the utilities' customers.

in the Commission order in Case No. EO-95-56 is no longer timely. Due to changes in Empire's resources and due to the changes in the electric industry, the parties agree that postponing the "competitive solicitation" is desirable. The parties believe that Empire performing any competitive solicitation without considering the potential impact of retail competition could increase Empire's financial risk.

To accommodate what is believed to be a workable transition for those entities involved in the electric resource planning filings and reviews, this agreement proposes periodic reports and twice-a-year briefings by Empire on its resource planning activities and implementation plans.

The intent of having scheduled briefings by Empire is to provide a forum in which an ongoing dialogue will occur about the increasing effect that the potential for retail competition is having on Empire's supply-side and demand-side resource acquisition process. The supply-side emphasis of these meetings will be on the emerging market structures for wholesale generation resources. The demand-side will focus on the least cost provision of electric services for low-income customers. The primary goal of Empire's planning process will remain to provide low cost, safe, and reliable electrical energy to its customers while at the same time positioning the Company for possible retail generation choice.

The parties to this agreement recognize the Commission's recent order in Case No. EW-97-245 as having two possible connections to this agreement. First, a significant level of resources will need to be devoted to the questions raised by the possibility of retail competition. The time and efforts of those scheduled to file and review electric resource plans takes resources away from these critical questions. Second, there are longer-term questions about how the objectives of the Commission's Electric Utility Resource Planning rules might change or be better implemented in

the context of retail competition.

The intent of this agreement is two-fold. The first is to relieve Empire of its obligation to perform the 1997 competitive solicitation. The second is to provide a way for the parties to shift the emphasis from the filing requirements of the Commission's rule as they apply to Empire's second resource plan filing, and go forward on issues that jointly relate to electric resource planning and retail competition. It is the hope of the parties that this will free significant resources that can then focus on the longer-term questions concerning retail competition. One of the purposes of the scheduled briefings is to improve the understanding of the parties regarding the impact of retail competition on the electric resource planning process.

The briefings and periodic reports detailed in the next section of this agreement are not intended to be a full and comprehensive substitute for the detailed analysis requirements that are set forth in the Electric Utility Resource Planning rules. Therefore, since this process is different from the requirements of 4 CSR 240-22, the objectives achieved by this process may be different from the objectives that are set forth in 4 CSR 240-22.010. However, the parties agree that this agreement constitutes a reasonable alternative to the requirements in the Joint Agreement reached in Empire's September 1995 resource plan filing and a reasonable alternative to compliance with the rule for Empire's September 1998 filing. Empire's next filing pursuant to 4 CSR 240-22 is scheduled for September 6, 2001.

If the Commission rescinds or suspends the operation of 4 CSR 240-22 before the requirements of this agreement are fulfilled, the parties agree that EDE will not be required to continue the analysis and make the filings herein scheduled. If the Commission modifies 4 CSR 240-22, or for any other reason, the Commission rescinds, suspends the operation of or modifies 4

CSR 240-22 before the scheduled dates set out herein, the parties agree to renegotiate the terms of this agreement to meet the stated intent of the Commission, and in the event that a new agreement cannot be reached, the parties may present their positions to the Commission for final determination.

II. THE CONTENT OF THE AGREEMENT

Resource Plan Requirements:

In lieu of the 1997 competitive solicitation required by the Joint Agreement of February 16, 1996, and in lieu of Empire's scheduled 1998 filing to meet the requirements of 4 CSR 240-22, the parties agree that Empire will brief the Staff, OPC and intervenors on or about March 1, 1998; September 1, 1998; March 1, 1999; September 1, 2000; March 1, 2000; and September 1, 2000.

(1) These briefings shall include information on the following:

- Any changes in load forecasts for seasonal class energy and peaks with an explanation for those changes;
- Any changes in implementation plans for both demand-side and supply-side resources with an explanation for those changes; and
- Any changes in uncertainties, sensitivities, risks and contingency plans with an explanation for those changes.

Load Analysis and Forecasting Requirements

With respect to 4 CSR 240-22.030 and in lieu of its 1998 filing to meet the requirements in 4 CSR 240-22.030, Empire will meet the following load analysis and forecasting filing requirements.

- (2) In its March 1998, 1999, and 2000 briefings, Empire will provide Staff, OPC and intervenors with the information regarding the status of the following activities:**

- Update to its historical data base on driver variables, seasonal energy and peak demands for its major classes;
- Forecasts of units and use per unit by season for the Residential and Commercial classes;
- Forecasts of annual energy by end-use for the Residential and Commercial classes;
- Forecasts of seasonal energy for all other classes;
- Forecasts of driver variables for all classes at the appropriate level of aggregation; and
- Report on the load forecast that documents any changes made in load forecasting methods, compares both load forecasts and driver variable forecasts to historical trends and compares load forecasts and driver variable forecasts to those from the previous year.

Updated forecasts and historical data bases will be provided as developed by Empire for planning purposes but not less than every three (3) years, first beginning March 1998.

Supply-Side Resource Requirements:

Empire's 1997-2001 forecast shows a need for 58 MW in contract year 2001. Empire does not believe that it needs to commit to the purchase of this resource at this time, but instead believes that it should continue to re-evaluate its needs as the possible effects of retail competition are more fully realized.

With respect to 4 CSR 240-22.040 and in lieu of its 1998 filing to meet the requirements in 4 CSR 240-22.040, Empire will meet the following supply-side filing requirements:

- (3) In its September 1998 briefing, Empire will provide Staff, OPC and intervenors with a summary report of a reoptimized supply side only plan. The report will include a presentation on the derivation of avoided costs that will be used in screening DSM measures.

(4) In its September 1998 briefing, Empire will provide Staff, OPC and intervenors with a summary report that evaluates the overall cost effectiveness of maintaining versus refurbishing versus retiring the generating units at the Riverton Plant, taking into account the uncertainties associated with the following areas - component failure, cost of replacement power, availability of replacement power, peak load growth, environmental regulations, and retail competition. Empire will also provide the Staff an update of the NOX performance on Asbury Plant as it compares to the then current and foreseeable regulations.

(5) In its September 1999 briefing, Empire will provide Staff, OPC and intervenors with a copy of a request for proposal (RFP) if Empire decides to use a competitive bidding process to solicit Empire's capacity needs which begin in the year 2001. In a subsequent briefing, Empire will provide Staff, OPC and intervenors with Empire's evaluation of the proposals that Empire received in response to its competitive RFP, or a briefing on its alternative process of selection. This evaluation should include the elements on risk analysis and plan selection as described in 4 CSR 240-22.070.

Demand-Side Analysis Requirements:

Low-income customers face many market barriers when confronted with new energy efficiency measures, the most obvious being high up-front costs. It is not clear that the existing electric marketplace or the perceived future competitive market will meet these customers' need for energy services. Empire proposes taking an initial step towards meeting this need by refocusing its demand-side efforts on this customer segment. Initially, Empire proposes working in conjunction with assistance agencies to identify low income customers who would benefit from the installation

of a Residential Conservation packet.

With respect to 4 CSR 240-22.050 and in lieu of its 1998 filing to meet the requirements in 4 CSR 240-22.050, Empire agrees to provide the following:

(6) By March 1998, Empire will provide to Staff, OPC and intervenors a report on the partnership(s) developed with assistance agencies and a summary of the number of conservation packets installed.

(7) By September 1998, Empire will provide a report to Staff, OPC and intervenors on the survey and research work that it performed in an attempt to identify "Low Income" customers, their demographics, and market barriers.

(8) By March 1999, Empire will provide a report to Staff, OPC and intervenors on the analysis it performed to screen demand-side programs for the low income segment and identify potential market barriers for participation for the measures which passed the screening test.

(9) By March 1999, Empire will present a report explaining how demand-side measures are incorporated into both demand-side and marketing programs. This report will at least include:

- demand-side measures included in all current and planned demand-side and marketing programs;
- for those measures that did not pass measure screening, but were included in a program, a description of why they were included in a program;
- for those measures that did pass the measure screening, but were not

included in a program, a description of why those measures were not included in a program;

- estimates of the demand and energy impacts of current and planned *demand-side programs and marketing programs containing demand-side measures*;
- a description of how the determination is made as to which energy services will be offered for competitive purposes and which will be offered for other purposes;
- a description of the DSM programs for low income that were explored or implemented in partnership with assistance agencies.

(10) Empire will update Staff, OPC and intervenors in its twice a year briefings on the status of its demand-side and marketing programs. These updates will include:

- Estimated demand and energy impacts of implemented and planned programs;
- Evaluation results on *market barriers and customer market segments*;
- Implementation and evaluation schedules;
- A description of how Empire determines whether energy services will be offered for competitive purposes or for other purposes;
- Its list of current and planned energy services that are or will be offered for

competitive purposes and those which will be offered for other purposes; and

- Its progress in providing efficient basic service for low-income customers and related programs for low-income customers.

Contingency Plan Requirements:

With respect to 4 CSR 240-22.070 and in lieu of its 1998 filing to meet the requirements in 4 CSR 240-22.070, Empire agrees to file:

(11) By March 1, 1999 - a contingency plan that includes the following elements:

- A set of contingency options that are judged to be appropriate responses to extreme outcomes of the critical uncertain factors;
- An explanation of why these contingency options are judged to be appropriate responses to the specified outcomes;
- A process for monitoring the critical uncertain factors on a continuous basis and reporting significant changes in a timely fashion to those managers or officers who have the authority to direct the implementation of contingency options when the specified limits for uncertain factors are exceeded; and
- Consideration of the following critical uncertain factors in Empire's contingency analysis with an explanation of how these limits were determined:
- The price of purchases of short-term capacity and energy, as well as

how those prices might vary with increasing demands made by Empire within a given year;

- The limits to the amount of capacity available for purchase in the short-term markets;
- The level of growth in summer peak demand and the likelihood of achieving demand-side reductions;
- The operational life of Empire's existing generating units; and
- Natural gas price and availability.

Filing Requirements:

The parties to this agreement understand that if there are any significant changes in the preferred resource plan which Empire currently has on file with the Commission, the requirements of 4 CSR 240-22.080(10) still apply. Specifically, Empire will notify the Commission within sixty (60) days of its determination to change its preferred resource plan.

WHEREFORE, the signatories respectfully request the Commission to issue its order approving the terms of this Joint Agreement as soon as practicable.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record this 5th day of December, 1997.

Gary W. Duffy

Gary W. Duffy