

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

In the Matter of the Application of The Empire)	
District Electric Company and Ozark Electric)	
Cooperative for Approval of a Written Territorial)	Case No. EO-2007-0029
Agreement Designating the Boundaries of)	
Exclusive Service Areas for Each within Two)	
Tracts of Land in Greene County and Christian)	
County, Missouri)	

**JOINT RESPONSE TO ORDER DIRECTING FILING
AND JOINT MOTION TO MODIFY ORDER DIRECTING FILING**

Come now The Empire District Electric Company ("Empire") and Ozark Electric Cooperative ("Ozark"), by and through their respective counsel, and for their joint response and joint motion to modify the Order Directing Filing issued on October 4, 2006, respectfully state as follows:

1. The Order directs the applicants to respond to the Staff's motion for consolidation of this case with Case No. EE-2007-0030 by no later than October 10, 2006. Empire and Ozark state they do not oppose consolidation.

2. On a more problematic note, Ordered paragraph number 3 directs the Staff, Empire and Ozark to file a proposed procedural schedule by October 12, citing the time requirement imposed on the Commission by Section 394.312.3 RSMo 2000 to issue a report and order in the territorial agreement case within 120 days. However, since the Staff is not required to file its recommendation and announce its position until October 10, it is the position of Empire and Ozark that it is probably unrealistic to expect four parties (including the Public Counsel) to file a proposed procedural schedule no later than October 12, as ordered. That is simply because, at this point, neither Empire nor Ozark knows what the Staff recommendation or the position of the Public Counsel will

be, and therefore neither knows what issues may be raised or how complex they may be. That must be evaluated before anyone can reasonably predict whether a procedural schedule will be necessary, and if so, how extensive it must be to afford due process. Further consideration would then have to be given to the scheduling of witnesses and preparation of testimony on a presumably accelerated basis, and when a hearing date on the Commission's schedule might be available. Therefore, given the passage of time to this point, it may not be possible for the Commission to issue a report and order by November 15, 2006.

3. Empire and Ozark represent that, given the almost three months that has elapsed between the filing of the application and when they will see a Staff recommendation, they should be afforded more than 48 hours in which to assess the Staff recommendation and the position of the Public Counsel and come up with a procedural schedule. Ozark and Empire understand Staff's delay may be due to Staff personnel staffing issues.

4. Empire and Ozark believe that a more realistic deadline for the filing of a proposed procedural schedule would be October 17. It would be the intention of Empire and Ozark to propose a procedural schedule to allow for the speedy resolution of the case by then, even though that may not be accomplished within the 120 days called for by Section 394.312.3 RSMo 2000.

WHEREFORE, Empire and Ozark jointly move that the date of October 12, 2006, in Ordered paragraph number 3 in the Order Directing Filing issued on October 4, 2006, be changed to October 17, 2006, and that the paragraph be modified to read as follows:

The Empire District Electric Company, Ozark Electric Cooperative, the Office of the Public Counsel, and the Staff of the Commission shall file a proposed

procedural schedule that allows the Commission to issue a Report and Order in compliance with the statutory period in Section 394.3122.3 RSMo 2000, or in the alternative, propose a schedule that is as expeditious as possible under the circumstances and pleads good cause for same. The filing shall be made no later than October 17, 2006. The parties are encouraged to file a joint proposal but if that cannot be accomplished, they may file individual proposals.

Respectfully submitted,

//S// Gary W. Duffy
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ATTORNEYS FOR OZARK
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CERTIFICATE OF SERVICE

The undersigned certifies that on the 10th day of October, 2006, a true and correct copy of the foregoing document was served by electronic mail on the following:

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//S// Dean L. Cooper

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