

AB

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held at its office
in Jefferson City on the 28th
day of October, 1994.

Ahlstrom Development Corporation, and)	
Cottonwood Energy Partners, L.P.,)	
)	
Complainants,)	
)	
v.)	<u>Case No. EC-95-28</u>
)	
The Empire District Electric Company,)	
a corporation,)	
)	
Respondent.)	
)	

ORDER DENYING MOTION
FOR MORE DEFINITE STATEMENT

On October 12, 1994, Ahlstrom Development Corporation and Cottonwood Energy Partners, L.P. (Ahlstrom) filed a Motion For Order Directing Empire District Electric Company To Provide More Definite Statement (Ahlstrom's Motion). In particular, Ahlstrom requested that Empire state with greater precision the basis for eight of its eleven affirmative defenses.

On October 19, 1994, Empire filed a Response to Ahlstrom's Motion (Empire's Response). Empire states that its Answer to Ahlstrom's Complaint, filed on September 1, 1994, complied with 4 CSR 240-2.070(9) which states that "all grounds of defense, both of law and of fact, shall be raised in the answer" to a complaint. Empire states that its affirmative defenses will be fully briefed at the appropriate point in the proceeding and Ahlstrom will have an adequate opportunity to respond. Empire further states that the applicability of the affirmative defenses will depend upon the development of the evidence on the record of this proceeding. Empire also states that Ahlstrom will not be

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surprised by the issues raised in this matter and that it will not be prejudiced by an inability to respond due to the Commission's prefiled testimony procedure.

The Commission finds that 4 CSR 240-2.070(9) is the controlling provision regarding the sufficiency of Empire's Answer to Ahlstrom's Complaint. The Commission is of the opinion that Empire's Response complies with the requirements of 4 CSR 240-2.070(9) because it appears to have stated "all grounds of defense, both of law and of fact." Therefore, the Commission will deny Ahlstrom's Motion.

IT IS THEREFORE ORDERED

1. That the Motion of Ahlstrom Development Corporation and Cottonwood Energy Partners, L.P. For Order Directing Empire District Electric Company To Provide More Definite Statement be and is hereby denied.

2. That this order shall become effective on the date hereof.

BY THE COMMISSION



David L. Rauch
Executive Secretary

(S E A L)

McClure, Perkins, Kincheloe
and Crumpton, CC., concur.
Mueller, Chm., absent.