

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

In the Matter of the Application of The Empire)
District Electric Company for Authority to Transfer)
Functional Control of Certain Transmission Assets to)
the Southwest Power Pool, Inc.)

Case No. EO-2006-0141

STIPULATION AND AGREEMENT

As a result of discussions among The Empire District Electric Company (“Empire”), the Staff of the Missouri Public Service Commission (“Staff”), the Office of the Public Counsel (“Public Counsel”), Kansas City Power & Light Company (“KCPL”), and Southwest Power Pool Inc. (“SPP”), (collectively, the “Signatories,” and individually, a “Signatory”), the Signatories hereby submit to the Missouri Public Service Commission (“MoPSC”) for its consideration and approval this Stipulation and Agreement (the “Stipulation”), in resolution of Case No. EO-2006-0141. The Midwest Independent Transmission System Operator, Inc. (“Midwest ISO”) and Aquila, Inc. (“Aquila”), the two non-Signatory parties to this case, have monitored the above-referenced discussions. While they have not signed this Stipulation, it is the Signatories’ understanding that neither the Midwest ISO nor Aquila opposes any part of this Stipulation, and that they will each file a pleading so indicating, and waiving any objection to this Stipulation as well as their right to a hearing hereon, pursuant to 4 CSR 240-2.115(2). With regard to this Stipulation, the Signatories state as follows:

I. BACKGROUND

A. On September 28, 2005, Empire initiated the present case by filing an application (“Application”) seeking MoPSC approval of its participation in SPP in its function as a Regional

Transmission Organization (“RTO”). The Application was accompanied by supporting direct testimony.

B. On September 30, 2005, SPP filed an application to intervene, along with direct testimony in support of Empire’s Application. Applications to intervene were subsequently filed by Aquila and by the Midwest ISO on October 18 and October 28, 2005, respectively. In an order dated, November 4, 2005, the MoPSC subsequently granted intervention to all three parties.

C. On November 17, 2005, KCPL filed an application to intervene.

D. On December 1, 2005, in compliance with the MoPSC’s November 4, 2005 Order an initial Prehearing Conference was held. During the on-the-record portion of the prehearing conference, the MoPSC granted intervention to KCPL.

E. On January 12, 2006, the MoPSC adopted a procedural schedule based largely on the parties’ proposed schedule, filed on January 9, 2006.

F. On February 10, 2006, the Staff, on behalf of all the parties, filed a motion to suspend the procedural schedule in order to allow the parties to focus on concluding a settlement agreement. In an Order issued on February 14, 2006, the MoPSC granted the motion.

G. After several months of intensive negotiations, the Signatories have reached an agreement to settle the case. The following stipulations memorialize that agreement.

II. STIPULATIONS

A. INTERIM AND CONDITIONAL APPROVAL OF EMPIRE’S PARTICIPATION IN SPP

(1) Approval/Term

Empire, Staff and Public Counsel agree that the MoPSC should conditionally approve on an interim basis Empire's participation in SPP in accordance with the SPP Membership Agreement (Empire Application, Appendix B) and Empire's transfer of functional control of certain transmission facilities (as identified in Appendix C of Empire's Application) to SPP, on the basis that, subject to the conditions and modifications set forth below, said participation is not detrimental to the public interest. Notwithstanding Section II.F(1) of this Stipulation, the Signatories agree that Empire's decision to participate on an interim and conditional basis in SPP under the terms provided for in this Stipulation is prudent and reasonable. Empire, Staff and Public Counsel further agree and SPP acknowledges that the approval is interim and conditional during a term of seven (7) years following the Effective Date ("Interim Period"), as the Effective Date is determined in Section II.A.(2)(g) herein, unless extended pursuant to Section II.E(2) herein. If the MoPSC does not issue an order to terminate or extend its interim approval prior to the end of the Interim Period, approval of such participation shall no longer be deemed to be interim. Two (2) years prior to the conclusion of the Interim Period, Empire shall file a pleading accompanied by a study ("Interim Report") comparing the costs and estimated benefits¹ of participation in SPP during a recent twelve-month test period. As described in Section II.D, the pleading shall address the merits of Empire's continued participation in SPP.

(2) Approval Provisions

(a) Service Agreement Provision

The Signatories have agreed upon the terms and conditions of an Agreement for the Provision of Transmission Service to Missouri Bundled Retail Load (the "Service Agreement"),

¹ What is contemplated in this Interim Report is that the actual (modeled) production costs for Empire participating in the SPP facilitated markets will be compared to an estimate of what those costs would have been absent such participation for a twelve-month period. This Interim Report does not anticipate a SPP-wide cost-benefit study.

a copy of which is attached to this Stipulation as Attachment A. The details of the Service Agreement provisions are presented in Section II.B of this Stipulation. Any unanticipated actions by the Federal Energy Regulatory Commission (“FERC”) with respect to its approval of the Service Agreement are discussed in Section II.C of this Stipulation.

(b) Continued and Further Participation in SPP

Empire, Staff and Public Counsel have agreed upon the terms and conditions for Empire’s continued and further participation in SPP. The details of these provisions are presented in Section II.D of this Stipulation.

(c) Withdrawal from SPP

Empire, Staff and Public Counsel have agreed upon the terms and conditions of any MoPSC order directing Empire’s withdrawal from SPP. The details of these provisions are presented in Section II.E of this Stipulation.

(d) SPP Administrative Cost Provision

Beginning twelve months after the operational date of the SPP Energy Imbalance Service (“EIS”) market and continuing through the Interim Period, if SPP’s administrative charge in Schedule 1-A of the SPP Open Access Transmission Tariff (“OATT”), excluding the portion of the charge related to the provision of additional market related services,² exceeds 22.5 cents per MWh (25 percent increase to the SPP projected cost for 2006 of 18 cents per MWh), Empire (with the assistance of SPP) shall file with the MoPSC a pleading within six months of the date that SPP’s Board of Directors approves such a charge. The pleading shall address the reasons for the increase in the Schedule 1-A charge and the merits of Empire’s continued participation in

² Currently, Schedule 1-A recovers the administrative costs for all SPP services, including the cost of the EIS market. Additional market related services are discussed in Section II.D(2).

SPP. In addition to the pleading, Empire also agrees to provide the Staff and Public Counsel with a comparison of actual (modeled) production costs from participation in the SPP EIS market to an estimate of what those costs would have been, absent its participation in that market.³ Empire, Staff and Public Counsel acknowledge that, 1) prior to the end of the Interim Period, the MoPSC has the jurisdiction to order that Empire's approval for participation in SPP be terminated, modified, or further conditioned, and 2) if the MoPSC rescinds its approval of Empire participation in SPP, it has the jurisdiction to require Empire to timely initiate any notices,⁴ filings⁵ and actions⁶ necessary to seek withdrawal. SPP acknowledges that there is a possibility that the MoPSC could issue such an order to Empire.

(e) SPP Geographic Scope and Function Provisions

If, 1) at any time one year after the startup of the SPP EIS market and during the Interim Period, the combined impact of additions to and departures from the membership in SPP results in less than seventy-five percent (75%) of the total load of the participants that were anticipated

³ The SPP EIS market may not have been operating for a sufficient amount of time to accurately reflect the impact of participation in the EIS market.

⁴ SPP Membership Agreement currently requires a twelve-month notice of intent to withdraw.

⁵ Filings to withdraw would be required at FERC and may be necessary at the Arkansas, Kansas and Oklahoma Commissions.

⁶ Such actions would include reestablishing functional control as transmission provider by Empire or joining another transmission organization.

in the SPP RSC's Cost-Benefit Analysis to participate in the SPP EIS market (geographic scope provision);⁷ or 2) there is a final FERC order during the Interim Period approving a change in the list of functions performed by SPP from those set out in FERC orders issued February 10, 2004 and October 1, 2004, granting SPP RTO status (RTO function provision),⁸ then, within six (6) months of such event, Empire agrees to file with the MoPSC a pleading to show whether or not continued participation in SPP is detrimental to the public interest.

If any Signatory believes a change in SPP geographic scope or functions performed has occurred, as described in this Section II.A(2)(e), that materially reduces the expected net benefits of participating in SPP, then the Signatory may file a pleading addressing whether or not continued participation in SPP is detrimental to the public interest. Empire, Staff and Public

⁷ In the SPP RSC's Cost Benefit Analysis (Final Report dated 4/23/05, Revised 7/27/05), the SPP RTO membership assumed to participate in the EIS market was the same as the then current membership of the SPP RTO. The following table represents the total load of the participants in the EIS market as included in the SPP RSC's Cost Benefit Analysis (based on April 1, 2004 EIA-411 projections).

	2006	
	GWh	%
AEP	41,255	25.16%
Empire	5,256	3.20%
KCPL	16,339	9.96%
OGE	28,697	17.50%
SPS	27,200	16.59%
Westar Energy	22,099	13.48%
Midwest Energy	1,304	0.80%
WesternFarmers	6,257	3.82%
GRDA	6,881	4.20%
AECC	3,587	2.19%
Kansas City, KS	2,723	1.66%
OMPA	2,398	1.46%
Total	163,996	100.00%

If any combination of the above GWhs from those not participating in the SPP EIS market exceeds 40,999 GWhs (25% of the total), then the 75% threshold would be triggered unless offset by new market participants.

⁸ The list of RTO Functions as enumerated in the FERC's February 10, 2004 Order in Docket Nos. RT04-1-000 and ER04-48-000 is as follows:

1. Tariff Administration and Design
2. Congestion Management
3. Parallel Path Flow
4. Ancillary Services
5. OASIS
6. Market Monitoring
7. Planning and Expansion
8. Interregional Coordination

In this provision, Signatories are concerned with adding or subtracting functions, and not with the details of how functions are being performed by the SPP RTO.

Counsel acknowledge that, 1) prior to the end of the Interim Period, the MoPSC has the jurisdiction to order that its approval of Empire's participation in SPP be terminated, modified, or further conditioned; and 2) if the MoPSC rescinds its approval of Empire participation in SPP, it has the jurisdiction to require Empire to timely initiate any notices, filings and actions necessary to seek withdrawal. SPP acknowledges that there is a possibility that the MoPSC could issue such an order to Empire.

(f) Joint Operating Agreements Provision

Granting approval of Empire's request to join SPP places it in a different RTO than Union Electric Company (d/b/a AmerenUE) and results in an RTO seam within Missouri. Inter-RTO coordination of transmission system operations is important to ensure reliability of the integrated transmission grid. In light of the importance of reliability, the Signatories believe reliability issues ought to be addressed herein. Therefore, SPP, as part of this Stipulation, agrees to use its best efforts to maintain joint operating agreements with the transmission providers at SPP's Missouri seams.

(g) Sunset Provision and Effective Date

The authorization granted as contemplated herein shall be exercised by Empire, if at all, by the date that is 90 days after the later of: i) the issue date of the last state regulatory approval(s) required for Empire's transfer of functional control; and ii) the date the Service Agreement has been accepted or approved by the FERC. However, in no case shall the permission granted herein be exercised after March 31, 2007. Notwithstanding the foregoing provisions, the deadlines established by this paragraph may be extended for good cause by the MoPSC upon a request made by Empire. Within 10 days after Empire exercises the authority

granted herein (“Effective Date”), Empire will file notice of such with the MoPSC and provide copies of such notice to the Signatories.

B. SERVICE AGREEMENT

(1) Approval – Condition Precedent to Empire’s Participation

The Signatories have agreed upon the terms and conditions of the Service Agreement, a copy of which is attached to this Stipulation as Attachment A. Empire agrees and SPP acknowledges that the MoPSC's approval of Empire’s participation in SPP is subject to the condition precedent that the Service Agreement will be accepted or approved by the FERC. Empire and SPP agree to promptly execute the Service Agreement and SPP will promptly file the Service Agreement with the FERC following the filing of this Stipulation and the Service Agreement with the MoPSC. If the MoPSC approves this Stipulation (which will include MoPSC’s approval of the Service Agreement), and if the FERC unconditionally accepts the Service Agreement, no further proceedings before the MoPSC with regard to approval of the Service Agreement will be required as part of the conditional approval of Empire’s participation in SPP as contemplated herein, and this condition precedent shall be satisfied.

If, however, the FERC orders changes or modifies the Service Agreement, Empire and SPP will determine if such changes or modifications are acceptable. If they are not acceptable, Empire and SPP will attempt to agree to changes or modifications that they believe would result in FERC acceptance or approval. If Empire and SPP cannot agree to a modified Service Agreement, the condition precedent will be deemed not satisfied. If Empire and SPP agree upon modifications to the Service Agreement, they shall notify the MoPSC of their proposed changes or modifications to the Service Agreement. If the MoPSC determines after such notification that Empire’s participation in SPP would be detrimental to the public interest, this condition

precedent will be deemed not satisfied. If the MoPSC determines after such notification that Empire's participation in SPP would not be detrimental to the public interest, then FERC acceptance or approval of the modified Service Agreement will satisfy this condition precedent.

(2) Purpose of Service Agreement

Empire, Staff and Public Counsel agree and SPP acknowledges that the Service Agreement's primary function is to ensure that the MoPSC continues to set the transmission component of Empire's rates to serve its Missouri Bundled Retail Load.

Relationship Between the Service Agreement and FERC Determined Incentives

For example, in response to Section 1241 of the Energy Policy Act of 2005 ("EPAct 2005"), the FERC has issued a Notice of Proposed Rulemaking ("NOPR") in Docket No. RM06-4-000, in which it is proposing certain incentives for investment in new transmission, investment in new transmission technologies, improvements in the operation of transmission facilities, and participation in a *Transco*⁹ or a *Transmission Organization*.¹⁰ Consistent with Section 3.1 of the Service Agreement and its primary function and as acknowledged by the aforementioned FERC NOPR, Empire recognizes that the MoPSC has the sole regulatory authority to determine whether or not such incentives related to Empire's transmission facilities should be included in rates for Missouri Bundled Retail Load.

(3) Network Transmission Service Under the SPP OATT

⁹ In Docket No. RM06-4-000, FERC defines a Transco to mean "a stand-alone transmission company that has been approved by the Commission" that is "engaged solely in selling transmission at wholesale or on an unbundled retail basis." [Paragraph 9]

¹⁰ In Docket No. RM06-4-000, FERC defines a Transmission Organization to mean "a regional transmission organization (RTO), independent system operator (ISO), independent transmission provider, or other transmission organization finally approved by the Commission for the operation of transmission facilities." [Paragraph 9]

As a participant in SPP as contemplated herein, Empire will utilize Network Integration Transmission Service from SPP.¹¹ In this regard, Empire will be subject to all non-rate terms and conditions of the SPP OATT. In addition, Empire will be subject to rate terms and conditions of the SPP OATT other than those that have been set out for exclusion in the Service Agreement. In this regard, subsections (a) through (e) of this Section II.B(3) identify specific areas where rate terms and conditions of the SPP OATT apply to Empire. It should be noted that these specific areas are not meant to be exhaustive, but are meant to highlight the areas where such rate terms and conditions are most likely to occur.

a. SPP Administrative Charges: Empire will be subject to administrative charges of SPP for Missouri Bundled Retail Load including the charges contained in Schedule 1-A, Tariff Administration Service, and Schedule 12, FERC Assessment Charge, of the SPP OATT as well as any other administrative charges provided by Schedules that are in effect from time to time under the SPP OATT. As provided for in Section II.F(1) of this Stipulation, Empire, Staff and Public Counsel also acknowledge that no future ratemaking treatment has been agreed upon for these charges.

b. Charges related to SPP Cost Allocation for Base Plan Transmission Upgrades: Empire will be subject to SPP charges related to the FERC-approved cost allocation for Base Plan transmission upgrades.¹² Specifically, for transmission facility upgrades required by SPP for regional reliability including those not owned by Empire, the cost allocation initially would provide that thirty-three (33) percent of such costs are allocated to all SPP loads on a pro rata basis (a “Regional Postage Stamp Rate”) with these costs included in Schedule 11 and related

¹¹ Empire has taken Network Integration Transmission Service from SPP since September 2002.

¹² Southwest Power Pool, Inc., Order on Proposed Tariff Provisions, Docket No. ER05-652-000, April 22, 2005.

attachments of the SPP OATT. In addition, for the remaining sixty-seven (67) percent of Base Plan transmission upgrade costs, a share could be allocated to Empire based on incremental megawatt-mile impacts from the transmission upgrade. In this regard, Empire acknowledges its commitment to actively participate in the SPP planning process to help ensure that: a) the SPP Base Plan transmission upgrades will adequately meet the reliability needs of the SPP transmission region; and b) the SPP Base Plan transmission upgrades required to meet the region's reliability needs are cost effective and consistent with good utility practice. SPP will structure its transmission planning processes to further these goals. As provided for in Section II.F(1) of this Stipulation, Empire, Staff and Public Counsel also acknowledge that no future ratemaking treatment has been agreed upon for these charges.

c. Cost for Supplemental Upgrades in Transmission: Any transmission upgrades not included in the SPP Base Plan are defined in this Stipulation as Supplemental Upgrades. Such Supplemental Upgrades are intended to improve local transmission reliability, serve growth of Empire's native load, add to existing transmission service, decrease transmission congestion, or support a generation interconnection. If Empire participates in a Supplemental Upgrade that exceeds twenty-five (25) million dollars in cost (Empire's share), prior to making a commitment, Empire and SPP agree to provide the MoPSC Staff and Public Counsel with a report detailing the need, costs and benefits it anticipates to be associated with the Supplemental Upgrade. As provided for in Section II.F(1) of this Stipulation, Empire, Staff and Public Counsel also acknowledge that no future ratemaking treatment has been agreed upon for these charges.

d. Costs and Revenues related to the Operation of the SPP EIS Market: SPP plans to implement an EIS market with an expected start-up in May 2006. The Signatories acknowledge that Empire, as a participant in SPP, will participate in this real-time energy market

through scheduling and perhaps through offering in generation from its network generation resources, including both owned generation and power purchased from non-owned generation resources. The Signatories also acknowledge that the operation of this EIS market will involve both costs and revenues for Empire. As provided for in Section II.F(1) of this Stipulation, Empire, Staff and Public Counsel also acknowledge that no future ratemaking treatment has been agreed upon for these charges.

The Signatories acknowledge the SPP RSC's Cost-Benefit Analysis'¹³ finding that the SPP EIS market is expected to provide benefits to Empire's Missouri retail customers in excess of the expected implementation costs that would be allocated to those customers. As with any cost-benefit analysis, the results are dependent on the various assumed inputs to the analysis (e.g., fuel costs), and for this particular analysis, the methodology used to allocate the benefits of lower production costs to the individual market participants. These input assumptions and methodologies were developed through a stakeholder process (SPP RSC Cost-Benefit Task Force) that included input from the utilities, SPP, consultants and regulatory/consumer advocate staff from the various states, and were designed to be representative of what might actually occur in the view of the SPP RSC Cost-Benefit Task Force.¹⁴ The Signatories also recognize that to the extent actual inputs and distribution of benefits are different from those assumed in the SPP RSC's Cost-Benefit Analysis, the benefits received by Empire could be different from those estimated in the SPP RSC's Cost-Benefit Analysis.

e. Charges for Ancillary Services Not Self-Provided: Empire may be subject to charges for ancillary services under the SPP OATT to the extent these services are not self-

¹³ SPP Cost Benefit Analysis, Final Report 4-23-05, revised 7-27-05.

¹⁴ As with any stakeholder process, individual stakeholders did not always agree with the decision of the group.

provided by Empire as determined in accordance with the SPP OATT, in order to compensate third party suppliers of ancillary services. Such services include, but are not limited to, (i) scheduling, system control, and dispatch; (ii) reactive power supply and voltage support; (iii) regulation and frequency control; and (iv) operating reserves from both spinning and quick-start generation units. As provided for in Section II.F(1) of this Stipulation, Empire, Staff and Public Counsel also acknowledge that no future ratemaking treatment has been agreed upon for these charges.

C. UNANTICIPATED FERC ACTIONS SUBSEQUENT TO APPROVAL BY THE MoPSC

Empire, Staff and Public Counsel acknowledge that the Service Agreement is an integral part of this Stipulation and that the Service Agreement's primary function is to ensure that the MoPSC continues to set the transmission component of Empire's rates to serve its Missouri Bundled Retail Load. Therefore, Empire, Staff and Public Counsel agree that the MoPSC will have the right to rescind its approval of Empire's participation in SPP and to require Empire to timely initiate any notices, filings and actions necessary to seek withdrawal on any of the following bases:

- (i) The issuance by the FERC of an order or the adoption by the FERC of a final rule or regulation, binding on Empire, that has the effect of precluding the MoPSC from continuing to set the transmission component of Empire's rates to serve its Missouri Bundled Retail Load; or
- (ii) The issuance by the FERC of an order or the adoption by the FERC of a final rule or regulation, binding on Empire, that has the effect of amending, modifying, changing, or abrogating in any material respect any term or condition of the Service Agreement.

Empire and SPP agree to immediately notify the MoPSC and Public Counsel if they become aware of the issuance of any order, rule or regulation amending, modifying, changing, or abrogating any term or condition of the Service Agreement. If any Signatory to this Stipulation desires to make a filing with the MoPSC as a result of an action by FERC as described in subsections (i) or (ii) above, the Signatory wishing to make a filing must do so within ninety (90) days after Empire or SPP has notified the MoPSC and the Public Counsel in writing of such FERC action.

D. CONTINUED AND FURTHER PARTICIPATION IN SPP

(1) Further Filings

Empire will file, two years prior to the conclusion of the Interim Period, a pleading with the MoPSC regarding the matter of its continued participation beyond the Interim Period. This filing will address, among other things, whether a service agreement or similar mechanism for the provision of transmission service to Missouri Bundled Retail Load would be in effect between Empire and any Transmission Organization in which Empire may participate. Concurrently with the filing of its pleading, Empire will file with the MoPSC a completed Interim Report in which it presents the costs and estimated benefits from having participated in the SPP EIS markets. With respect to this Interim Report, Empire agrees to collaborate with the Staff and Public Counsel regarding issues that either party may consider to be critical to a proper cost-benefit analysis. Empire, Staff and Public Counsel acknowledge that 1) prior to the end of the Interim Period, the MoPSC has the jurisdiction to order that Empire's approval for participation in SPP be terminated, modified, or further conditioned; and 2) if the MoPSC rescinds its approval of Empire participation in SPP, the MoPSC has the jurisdiction to require

Empire to timely initiate any notices, filings and actions necessary to seek withdrawal. SPP acknowledges that there is a possibility that the MoPSC could issue such an order to Empire.

(2) Additional Cost-Benefit Analysis

It is the understanding of the Signatories that prior to SPP filing an application with the FERC to provide additional market services (such as markets for ancillary services including possible consolidation of control areas, a day-ahead energy market, or financial transmission rights) to Empire, SPP intends that a cost-benefit analysis be performed. SPP agrees that the Staff and Public Counsel will be invited to participate in the development of the inputs, outputs and other features to be included in the cost-benefit analysis for additional SPP market services. No later than SPP's filing at FERC to add market services that SPP deems to be cost beneficial, Empire agrees to file with the MoPSC the completed cost-benefit analysis in which SPP presents its estimated costs and benefits from possible implementation of such additional market services.

If any additional market services are implemented by SPP prior to or at the beginning of the fourth year of the Interim Period, Empire (with the assistance of SPP) will include an analysis of the market services in the cost-benefit analysis of the Interim Report.

E. WITHDRAWAL FROM SPP

(1) Timeliness of Withdrawal from SPP: The Signatories agree that any MoPSC order rescinding its approval of Empire's participation in SPP should allow time for Empire to reestablish functional control of its transmission system as a transmission provider (or transfer functional control to another Transmission Organization) and to complete any other regulatory filings that would be required. In this respect, the Signatories acknowledge that the MoPSC can require Empire to timely initiate any notices, filings and actions necessary to seek withdrawal.

(2) Possible Extension of the Interim Period: The Signatories agree that if the MoPSC rescinds its approval of Empire's continued participation in SPP as a result of an Empire filing under Section II.D(1) of this Stipulation, such a MoPSC decision to rescind would have to be issued by the MoPSC no later than twelve (12) months prior to the end of the Interim Period in order for Empire to be able to withdraw by the end of the Interim Period. In the event that the MoPSC issues such a rescission order less than twelve months prior to the end of the Interim Period, the Signatories agree that the Interim Period shall be extended to preserve an exit period of at least twelve months.

(3) Possible Exit Obligations: The Signatories acknowledge that, upon withdrawal from SPP, Empire will be required to pay applicable exit/withdrawal fees and address other SPP related obligations¹⁵ pursuant to SPP's Bylaws, Membership Agreement, and OATT. As provided for in Section II.F(1) of this Stipulation, Empire, Staff and Public Counsel also acknowledge that no future ratemaking treatment has been agreed upon for these charges.

(4) Possible Change in SPP Participation: Empire agrees that, if it decides to seek any fundamental change (e.g., withdrawal from SPP or participation in SPP through an Independent Transmission Company) in its participation in SPP, it shall seek prior approval from the MoPSC no later than five (5) business days after the date of its filing with the FERC for FERC authorization of this change.

F. EFFECT OF THIS NEGOTIATED SETTLEMENT

(1) None of the Signatories shall be deemed to have approved or acquiesced in any question of MoPSC or Federal authority, accounting authority order ("AAO") principle, cost of

¹⁵ For example, obligations related to: 1) Empire's constructing or compensating others for requested upgrades; 2) continuing to provide transmission service granted by SPP on Empire's transmission system; and 3) costs and revenues associated with regional upgrades for reliability and new or changed designated network resources.

capital methodology, capital structure, decommissioning methodology, ratemaking or procedural principle, valuation methodology, cost of service methodology or determination, depreciation principle or method, rate design methodology, jurisdictional allocation methodology, cost allocation, cost recovery, or question of prudence except as otherwise explicitly provided for herein.

However, Empire, Staff and Public Counsel acknowledge that with regard to administration and general costs directly related to compliance with the monitoring provisions of this Stipulation (such as professional services, incremental labor costs, costs related to the preparation of the Interim Report, future cost benefit analyses, and FERC regulatory expenses related to this Stipulation), nothing in this Stipulation is meant to prohibit Empire from seeking an AAO from the MoPSC for the purpose of deferring such costs for consideration in a future rate case. Staff and Public Counsel reserve the right to support or oppose any such filing made on Empire's behalf, and Public Counsel will likely oppose any such AAO filing.

(2) This Stipulation represents a negotiated settlement. Except as specified herein, the Signatories shall not be prejudiced, bound by, or in any way affected by the terms of this Stipulation: (i) in any future proceeding; (ii) in any proceeding currently pending under a separate docket; and/or (iii) in this proceeding should the MoPSC decide not to approve this Stipulation, or in any way condition its approval of same.

(3) The provisions of this Stipulation have resulted from extensive negotiations among the Signatories and the provisions are interdependent.

(4) This Stipulation shall be void and no Signatory shall be bound, prejudiced, or in any way affected by any of the agreements or provisions herein in the event that: 1) the approval

contemplated herein is not exercised by the deadlines set forth in Section II.A(2)(g); 2) the MoPSC does not approve and adopt the terms of this Stipulation in total; or 3) the MoPSC approves this Stipulation with modifications or conditions to which a Signatory objects.

(5) When approved and adopted by the MoPSC, this Stipulation shall constitute a binding agreement among the Signatories hereto. The Signatories shall cooperate in defending the validity and enforceability of this Stipulation and the operation of this Stipulation according to its terms. Nothing in this Stipulation is intended to change in any way Public Counsel's discovery powers, including the right to access information and investigate matters related to Empire.

(6) Nothing in this Stipulation is intended to grant the MoPSC jurisdiction over SPP that it might not otherwise have. Nothing herein shall be deemed consent by SPP to the jurisdiction of the MoPSC. Further, nothing in this Stipulation shall abridge or limit any right the Signatories have under the Federal Power Act, including but not limited to Section 205 thereof, or require SPP to violate any terms of its OATT or any other FERC accepted or approved document.

(7) This Stipulation does not constitute a contract with the MoPSC. Acceptance of this Stipulation by the MoPSC shall not be deemed as constituting an agreement on the part of the MoPSC to forgo, during the term of this Stipulation, the use of any discovery, investigative or other power or jurisdiction which the MoPSC presently has. Thus, nothing in this Stipulation is intended to change in any manner the exercise by the MoPSC of any statutory right, including the right to access information, or any statutory obligation.

(8) The Signatories agree that, in the event the MoPSC approves this Stipulation without modification or condition, then the prefiled testimony of all witnesses in this proceeding may be included in the record of this proceeding without the necessity of such witnesses taking the witness stand.

(9) The terms, conditions, and covenants in this Stipulation shall be of no further force or effect from and after the expiration or termination of Empire's authority to participate in SPP, as contemplated herein.

G. MoPSC APPROVAL OF THE STIPULATION

(1) The Staff shall file suggestions or a memorandum in support of this Stipulation and the other Signatories shall have the right to file responsive suggestions or prepared testimony.

(2) If requested by the MoPSC, the Staff shall have the right to submit to the MoPSC an additional memorandum addressing any matter requested by the MoPSC. Each Signatory shall be served with a copy of any such initial or additional memorandum and shall be entitled to submit to the MoPSC, within five (5) business days of receipt of the same, a responsive memorandum, which shall also be served on all parties of record. The contents of any memorandum provided by any Signatory are its own and are not acquiesced in or otherwise adopted by the other Signatories, whether or not the MoPSC approves and adopts this Stipulation.

(3) The Staff shall also have the right to provide, at any agenda meeting at which this Stipulation is noticed to be considered by the MoPSC, whatever oral explanation the MoPSC 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 MoPSC's request for such explanation once such explanation is requested from the Staff. The 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.

(4) If the MoPSC does not unconditionally approve this Stipulation without modification, neither this Stipulation, nor any matters associated with its consideration by the MoPSC, shall be considered or argued to be a waiver of the rights that any Signatory has to a hearing on the issues presented by the Stipulation, for cross-examination, or for a decision in accordance with Section 536.080 RSMo 2000 or Article V, Section 18 of the Missouri Constitution, and the Signatories shall retain all procedural and due process rights as fully as though this Stipulation had not been presented for approval, and any suggestions or memoranda, testimony or exhibits that have been offered or received in support of this Stipulation shall thereupon become privileged as reflecting the substantive content of settlement discussions and shall be stricken from and not be considered as part of the administrative or evidentiary record before the MoPSC for any further purpose whatsoever.

(5) In the event the MoPSC accepts the specific terms of the Stipulation, the Signatories waive their respective rights to call, examine and cross-examine witnesses, pursuant to Section 536.070(2) RSMo 2000; their respective rights to present oral argument and written briefs pursuant to Section 536.080.1 RSMo 2000; their respective rights to the reading of the transcript by the MoPSC pursuant to Section 536.080.2 RSMo 2000; their respective rights to seek rehearing, pursuant to Section 386.500 RSMo 2000; and their respective rights to judicial review pursuant to Section 386.510 RSMo 2000. This waiver applies only to a MoPSC Report and Order respecting this Stipulation issued in this proceeding, and does not apply to any matters

raised in any subsequent MoPSC proceeding, or any matters not explicitly addressed by this Stipulation.

H. MISCELLANEOUS

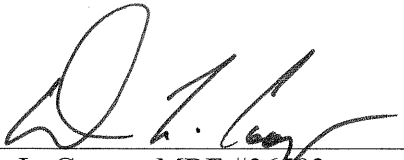
(1) Counterparts

This Stipulation may be executed in one or more counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same instrument. The agreements of the Signatories shall be binding on and inure to the benefit of their respective successors and assigns. The section and subsection captions are for the convenience of the reader only and are not intended to be a part of this Stipulation.

(2) Notices

Any notice required or permitted under this Stipulation shall be valid only if in writing, delivered personally, by commercial carrier, sent by U.S. Mail, sent by confirmed facsimile transmission, or sent by email, to counsel for each Signatory at the addresses, facsimile numbers, or email addresses set forth with their signatures below, or to such other addresses, facsimile numbers, or email addresses as a Signatory may designate by notice to the other Signatories. A validly given notice will be effective when delivered personally, by facsimile, or by a commercial courier, when sent by certified mail with return receipt requested, postage prepaid, or when sent by email. Notice sent by email or facsimile shall be confirmed by a telephone call to the intended recipient.

Respectfully submitted,

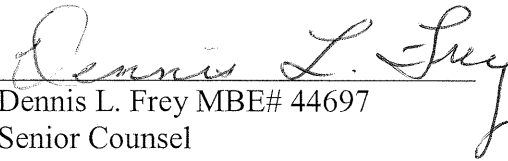


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ATTORNEYS FOR THE STAFF OF THE
MISSOURI PUBLIC SERVICE COM-
MISSION



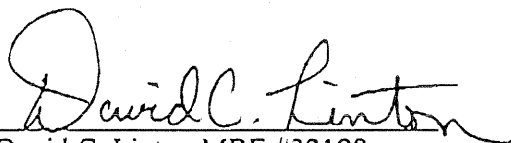
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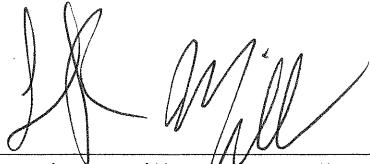
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lewis.mills@ded.mo.gov

OFFICE OF THE PUBLIC COUNSEL

Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile, or electronically mailed to all counsel of record this 24th day of February 2006.

/s/ Dennis L. Frey

ATTACHMENT A TO STIPULATION AND AGREEMENT

CASE NO. EO-2006-0141

**AGREEMENT FOR THE PROVISION OF
TRANSMISSION SERVICE TO MISSOURI BUNDLED RETAIL LOAD**

This AGREEMENT FOR THE PROVISION OF TRANSMISSION SERVICE TO MISSOURI BUNDLED RETAIL LOAD (hereinafter the "Agreement") is entered into as of this _____ day of _____ 2006, by and between the SOUTHWEST POWER POOL, INC. ("SPP") and The Empire District Electric Company ("EDE"). This Agreement shall be supplemental to the Network Operating Agreement ("NOA") and Service Agreement for Network Integration Transmission Service ("NITSA") executed by EDE and SPP under SPP's Open-Access Transmission Tariff ("OATT") on file with the Federal Energy Regulatory Commission ("FERC"). The transmission service provided by SPP pursuant to the terms and conditions of the NOA and NITSA and any successor transmission service shall hereinafter be referred to collectively as "Network Integration Transmission Service." SPP and EDE are referred to, jointly, as the "Parties" and, individually, as a "Party."

WITNESSETH:

WHEREAS, SPP is a FERC-approved Regional Transmission Organization ("RTO") with an open architecture that accommodates various forms of participation by transmission owning utilities; and

WHEREAS, EDE currently maintains an open-access transmission tariff approved by FERC; and

WHEREAS, EDE currently provides and will continue to provide Bundled Electric Service (including capacity, energy, transmission and distribution) to Missouri

Bundled Retail Load pursuant to rates established by the Missouri Public Service Commission (“MoPSC”) and in accord with certain tariffs and rate schedules on file with the MoPSC; and

WHEREAS, upon EDE receiving all necessary regulatory approvals for continued participation in SPP, including the approval of the transfer of functional control of EDE’s transmission facilities pursuant to the Membership Agreement referred to below, EDE plans to continue to utilize Network Integration Transmission Service from SPP, while this Agreement is in effect, in order to provide the transmission services necessary to furnish Bundled Electric Service to Missouri Bundled Retail Load; and

WHEREAS, the FERC, in various orders¹ and in its White Paper, Wholesale Power Market Platform, issued April 28, 2003 (“White Paper”), contemplated, among other things, that a transmission owner and the RTO in which it holds membership may elect to enter into a service agreement that specifies that the wholesale rate for Transmission Service used to provide bundled retail electric service will be the transmission component of the bundled retail rates set by the state commission with retail jurisdiction over the transmission owner; and

WHEREAS, the Parties hereto desire to codify the specific terms and conditions stated herein under which SPP will provide Network Integration Transmission Service to EDE to serve its Missouri Bundled Retail Load in addition to the terms and conditions set forth in SPP’s NITSA and NOA except as otherwise stated in this Agreement.

¹ Cleco Power, et al., 103 FERC ¶ 61,272 (2003), and Midwest Indep. Trans. System Operator, Inc., 102 FERC ¶ 61,192 (2003).

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements herein contained, which each of the Parties hereto acknowledges to be sufficient consideration, SPP and EDE agree as follows:

ARTICLE I - DEFINITIONS

Terms not specifically defined in this Article or elsewhere in this Agreement have the same meaning as in the SPP OATT or the SPP Membership Agreement as may be amended from time to time.

Section 1.1. Bundled Electric Service: The provision of electric service as a single service that includes all component services (capacity, energy, transmission and distribution) as distinguished from the provision of electric service where some or all such components are sold and purchased as separate (“unbundled”) services.

Section 1.2 Missouri Bundled Retail Load: The load of retail electric customers of EDE in the State of Missouri, on whose behalf and to whom EDE, by statute, franchise, regulatory requirement or contract, has an obligation to provide Bundled Electric Service.

Section 1.3 SPP Membership Agreement: The Southwest Power Pool, Inc., Membership Agreement (SPP’s Original Volume No. 3), as amended from time to time in accordance with its terms.

Section 1.4 SPP OATT: The open-access transmission service tariff of SPP (SPP’s FERC Electric Tariff, Fourth Revised Volume No. 1), as amended from time to time.

ARTICLE II - FILING, EFFECTIVE DATE, INITIAL TERM AND TERMINATION

Section 2.1 As soon as practicable following the execution of this Agreement, SPP shall file this Agreement with the FERC for acceptance or approval. If FERC accepts this Agreement without conditions or modifications, this Agreement shall become effective on the date upon which EDE exercises the authorization provided by the Missouri Public Service Commission in Case No. EO-2006-0141 (the “Effective Date”). Each Party shall use its best efforts to gain prompt FERC acceptance or approval of this Agreement without modification or change, and agrees to provide support for this Agreement in public forums and elsewhere.

Section 2.2 If the FERC accepts this Agreement for filing, but subject to modification or change, and requires a compliance filing by either or both of the Parties, the Parties shall evaluate whether such required compliance filing materially changes or frustrates the intent of this Agreement. If either Party determines, in good faith, that the changes or modifications required by the FERC constitute a material change or may frustrate the intent of the Agreement, the Parties agree to negotiate in good faith to establish new terms and conditions that place the Parties in the same position as bargained for in this Agreement. If within thirty (30) days after the FERC’s conditional acceptance of the Agreement, or such other reasonable time period as may be mutually agreed to by the Parties, the Parties have not reached agreement on new terms and conditions or, if the amended Agreement is not subsequently unconditionally approved or accepted by the FERC, the Agreement shall be void, and neither Party shall have further obligations to the other Party hereunder.

Section 2.3 This Agreement shall remain in effect following the Effective Date for an initial term ending the earlier of: (i) the date that EDE withdraws from SPP, or (ii) at 12:00:01 a.m., on the date that is seven (7) years after the Effective Date. Subject to the termination provisions of this Section 2.3, the Initial Term shall automatically be extended from year-to-year (a “Renewal Term”) unless either Party shall have given the other six (6) months written notice of termination prior to the end of the Initial Term, or the end of any Renewal Term if such notice is given at least six (6) months prior to the term then ending.

Section 2.4 Nothing in this Agreement shall in any way affect the rights or obligations of EDE with regard to withdrawal from SPP pursuant to the terms and conditions of the SPP Membership Agreement, Bylaws, and OATT, or any MoPSC Order pertaining to EDE’s participation in SPP. Nor shall anything in this Agreement affect in any way the rights or obligations of SPP to enforce or seek the enforcement of any terms in its Membership Agreement, Bylaws and OATT relating to any withdrawal by EDE.

ARTICLE III - RATE FOR TRANSMISSION SERVICE TO SERVE MISSOURI BUNDLED RETAIL LOAD

Section 3.1 Schedule 9 of the SPP OATT establishes a zonal transmission rate applicable to load within the EDE pricing zone that is taking Network Integration Transmission Service from SPP. Notwithstanding Schedule 9 and the rates therein, EDE does not concede that FERC has jurisdiction over the transmission component of Bundled Electric Service provided to Missouri Bundled Retail Load using its own facilities, and does not voluntarily submit to such jurisdiction. EDE shall not pay the rate set forth in Schedule 9 of the SPP OATT for using its own facilities to serve its Missouri Bundled

Retail Load, but will include Missouri Bundled Retail Load in the total load used to calculate the zonal rate for the EDE zone. However, this provision shall not eliminate any obligation that EDE may have to pay applicable charges related to facilities owned by other entities in EDE's zone.

Section 3.2 EDE, when taking transmission service from SPP in order to serve its Missouri Bundled Retail Load, shall not pay ancillary service charges pursuant to Schedules 3, 5 and 6 of the SPP OATT to the extent that EDE self-provides such ancillary services pursuant to the NITSA consistent with Part III of SPP's OATT. With regard to Schedules 1 and 2, EDE shall not be required to pay SPP for the portion of those services for which it would receive the revenues from such services. If a portion of the revenues from Schedules 1 and 2 would be distributed to others, EDE shall be obligated to pay such portion to SPP.

Section 3.3 Except as otherwise provided in Sections 3.1 and 3.2, EDE shall be subject to and shall pay to SPP all applicable SPP OATT charges associated with Network Integration Transmission Service taken by EDE to serve Missouri Bundled Retail Load. Such charges include, but are not limited to, Attachments H, J, K, M, U, V, Z, and AE (pending FERC approval) and Schedules 1A, 4 (to the extent Schedule 4 reflects the energy costs associated with SPP's Energy Imbalance Services market), 11, and 12 of the SPP OATT.

Section 3.4 As a Network Integration Transmission Service customer of SPP serving its Missouri Bundled Retail Load, EDE shall be subject to all non-rate related terms and conditions under the SPP OATT applicable to Network Integration Transmission Service.

ARTICLE IV - MISCELLANEOUS

Section 4.1 The obligations of the Parties shall be binding on and inure to the benefit of their respective successors and assigns.

Section 4.2 A written waiver of a right, remedy or obligation under a provision of this Agreement will not constitute a waiver of the provision itself, a waiver of any succeeding right, remedy or obligation under the provision, or waiver of any other right, remedy, or obligation under this Agreement. Any delay or failure by a Party in enforcing any obligation or in exercising any right or remedy shall not operate as a waiver of it or affect that Party's right later to enforce the obligation or exercise the right or remedy, and a single or partial exercise of a right or remedy by a Party does not preclude any further exercise of it or the exercise of any other right or remedy of that Party.

Section 4.3 This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same instrument.

Section 4.4 Every notice, consent or approval required or permitted under this Agreement shall be valid only if in writing, delivered personally or by mail, confirmed facsimile, or commercial courier, and sent by the sender to each other Party at its address or number below, or to such other address or number as each Party may designate by notice to the other Party. A validly given notice, consent or approval will be effective when received if delivered personally or by facsimile, or commercial courier, or certified mail with return receipt requested, postage prepaid.

If to EDE, to:

Vice President – Commercial Operations
602 Joplin Street, P.O. Box 127
Joplin, Missouri 64801

Fax No. (417) 625-5153

If to SPP, to:

President
Southwest Power Pool, Inc.
415 North McKinley, Suite 140
Little Rock, Arkansas 72205-3020
Fax No. (501) 664-9553

Section 4.5 Upon the reasonable request of the other Party, each Party hereto agrees to take any and all such actions as are necessary or appropriate to give effect to the terms set forth in this Agreement and are not inconsistent with the terms hereof.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective authorized officials.

The Empire District Electric Company

By: _____
Michael E. Palmer
Vice President –Commercial Operations

Southwest Power Pool, Inc.

By: _____
Nicholas A. (Nick) Brown
President and CEO