BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of a Determination of Special)	
Contemporary Resource Planning Issues to be)	
Addressed by The Empire District Electric)	File No. EO-2012-0040
Company in its Next Triennial Compliance Filing)	
or Next Annual Update Report)	

Empire's Motion to Strike

COMES NOW The Empire District Electric Company ("Empire" or "Company"), by and through the undersigned counsel, and hereby requests an order of the Missouri Public Service Commission ("Commission") striking the pleading filed herein by the Missouri Department of Natural Resources ("MDNR") on September 30, 2011. In support of this request, Empire respectfully states as follows:

- 1. This file was opened to facilitate the process established by Rule 4 CSR 240-22.080(4) regarding "evolving electric resource planning issues," also known as "special contemporary issues."
- 2. Pursuant to Rule 22.080(4)(A), the Staff of the Commission ("Staff"), the Public Counsel, "and parties to the last triennial compliance filing of each utility" were allowed to file suggested special contemporary issues for each utility to consider on or before September 15, 2011. On September 14, 2011, Staff filed its suggested special contemporary issues list containing five proposed items, and, on September 15, 2011, MDNR filed its suggested list containing one Empire-specific item and seven general issues. No other person or entity made a timely filing herein with suggested special contemporary issues for Empire to consider.
- 3. Pursuant to Rule 22.080(4)(B), by not later than October 1, 2011, the utilities, Staff, the Public Counsel, and "parties to the last triennial compliance filings" were allowed to file comments regarding the special contemporary issues filed on or before September 15, 2011.

On September 30, 2011, Empire filed its Comments and Objections Regarding Staff's and

MDNR's Suggested Special Contemporary Resource Planning Issues.

4. Also on September 30, 2011, MDNR made a filing herein titled "MDNR

Comments Regarding Suggested Issues." MDNR's pleading, however, is not limited to

comments on the special contemporary issues suggested herein by September 15. Instead,

MDNR's pleading provides new items for Empire to consider and attempts to respond to a filing

made in an Ameren Missouri proceeding, File No. EO-2012-0039, by the Natural Resources

Defense Council, the Sierra Club, Renew Missouri, Mid-Missouri Peaceworks, and the Great

Rivers Environmental Law Center. No such filing was made in this case, and these entities were

not parties to Empire's last IRP proceeding (File No. EO-2011-0066).

5. The MDNR pleading filed herein on September 30 should be stricken, or, in the

alternative, the Commission should refuse to consider all new issues raised therein. In the event

the Commission decides to consider the issues to which MDNR attempts to respond, Empire

requests leave to file additional comments responding to these issues.

WHEREFORE, Empire respectfully requests an order of this Commission striking the

pleading filed herein by MDNR on September 30, 2011, titled MDNR Comments Regarding

Suggested Issues. Empire requests such additional relief as the Commission deems just and

proper under the circumstances.

BRYDON, SWEARENGEN & ENGLAND P.C.

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