

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

In the Matter of the Empire District Electric            )  
Company of Joplin, Missouri for Authority            )  
to File Tariffs Increasing Rates for Electric            )  
Service Provided to Customers in the                )  
Missouri Service Area of the Company                )  
**Case No. ER-2006-0315**

**RESPONSE TO MOTION FOR EXPEDITED CONSIDERATION AND  
APPROVAL OF TARIFF SHEETS FILED IN COMPLIANCE WITH  
COMMISSION ORDER ON LESS THAN THIRTY DAYS' NOTICE**

COMES NOW the Office of the Public Counsel and for its Response to Motion for Expedited Consideration and Approval of Tariff Sheets Filed in Compliance with Commission Order on Less than Thirty Days' Notice states as follows:

1. On December 21, 2006<sup>1</sup> the Commission issued its Report and Order, in which it, *inter alia*, rejected the tariff sheets requesting a general rate increase that the Empire District Electric Company filed on February 1. The Commission also authorized Empire to file new tariff sheets that would produce a very substantial increase, albeit slightly less than Empire originally requested.

2. On December 27, Empire filed tariff sheets that it alleges comply with the Commission's Report and Order. On December 28, Empire filed new tariff sheets that it alleges comply with the Report and Order, and withdrew the tariffs it had filed only a day earlier. On December 27, Public Counsel communicated with Empire that Public Counsel disagreed with Empire's allegations that the proposed tariff sheets comply with the Report and Order. Empire chose to disregard Public Counsel's input and filed the

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<sup>1</sup> Unless otherwise noted, all dates refer to calendar year 2006.

tariffs in substantially the form that Public Counsel reviewed and disagreed with. As filed, Public Counsel does not believe the proposed tariff sheets comply with the Commission's Report and Order. Unless Empire files proposed tariffs that incorporate Public Counsel's input and comply with the Report and Order, Public Counsel will file a motion to suspend or reject the proposed tariffs.

3. On December 27, and again on December 28, Empire filed a motion for expedited treatment in which it argues that the Commission will violate Section 393.150 RSMo 2000 if it does not "approve[] the revised tariff sheets filed by Empire to be effective on January 1, 2007." Empire does not state that all parties concur with its motion for expedited treatment, and does not even state that it contacted other parties concerning that motion. Public Counsel does not concur in the analysis and legal conclusions contained in Empire's motion and so opposes the motion.

4. Furthermore, Empire's request for expedited treatment does not comply with 4 CSR 240-2.080(16), the Commission's rule on requests for expedited treatment.

5. Given that Empire's request for expedited treatment essentially asks the Commission to act within a day, this response is necessarily cursory. 4 CSR 240-2.080(15) provides that parties shall be allowed not more than ten days from the date of filing in which to respond to any pleading unless otherwise ordered by the Commission. Public Counsel will supplement this response within the 10-day period to more fully explain why Empire's request for expedited treatment fails to comply with 4 CSR 240-2.080(16), and why Empire's analysis and legal conclusions are incorrect.

WHEREFORE, Public Counsel respectfully requests that the Commission deny Empire's Motion for Expedited Consideration and Approval of Tariff Sheets Filed in

Compliance with Commission Order on Less than Thirty Days' Notice.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

By: \_\_\_\_\_

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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been emailed to all parties this 28th day of December 2006.

/s/ Lewis R. Mills, Jr.

By: \_\_\_\_\_