

**FERC ELECTRIC TARIFF, ORIGINAL VOLUME NO. 4  
SERVICE AGREEMENT NO. 2**

**Full Requirements Electric Service Agreement for Municipalities**

This Full Requirement Electric Service Agreement for Municipalities ("Agreement") is made and entered into this \_\_\_ day of \_\_\_\_\_ ("Execution Date"), by and between The Empire District Electric Company ("Empire"), a Kansas corporation, and the city of Mount Vernon, Missouri ("Customer"), a municipality (each a "Party" and collectively the "Parties").

In consideration of the mutual agreements herein contained, and of the mutual benefits to be derived here from, both Parties hereto agree as follows:

**Article I**  
**General Agreement**

1. **Defined Terms.** Unless otherwise noted herein, capitalized terms defined in the Rate Schedule shall have their same meaning in this Agreement.
2. **Full Requirements Electric Service.** In accordance with this Agreement and subject to the terms, conditions, and rates set forth in the Rate Schedule then in effect and which are incorporated herein by reference, Empire shall sell to Customer, and Customer shall purchase from Empire, capacity and Firm Energy sufficient to meet all of Customer's capacity and Firm Energy needs for its Load, less those needs supplied by Customer Resources as provided under this Agreement.
3. **Point(s) of Receipt.** Customer shall provide a good faith load forecast of its highest annual peak demand and the Point(s) of Receipt's approximate voltage are designated on Exhibit A to this Agreement.

**Article II**  
**Scheduling of Customer's Resources**

If applicable, Customer shall designate, in Exhibit B to this Agreement, as such exhibit may change from time to time, the entity responsible for scheduling Customer Resources. The designated entity shall coordinate energy schedules for the Customer Resources with Empire.

**Article III**  
**Term and Effective Date**

1. **Term.** The Term of this Agreement shall begin on the Effective Date (as stated below) and shall end on the last day of the \_\_\_\_\_ full Contract Year ("Term") with a minimum ten-year term.
2. **Effective Date.** This Agreement shall become effective the first day of the first month following Customer's acquisition of all applicable transmission rights from the Transmission Provider.
3. **No right to terminate.** Neither Party has the right to terminate this Agreement prior to the expiration of the Term without the prior written consent of the other Party unless pursuant to the provisions for termination in Article XII of the Rate Schedule.
4. **Superseding Agreement.** This Agreement shall supersede any and all prior agreements, either written or oral, between the Parties hereto for the service herein.
5. **Obligation at Termination.** Upon the termination of this Agreement, in addition to such rights and obligations enumerated elsewhere in this Agreement, the grant of any and all right and interest to Empire to supply the Full Requirements Electric Service shall cease.

**Article IV**  
**Standard of Review**

The Parties agree that the provisions of this Agreement are subject to change by FERC, and that Empire and Customer shall be entitled, at any time and from time to time, unilaterally and in the sole discretion of each, to apply for or to take other action to request such a change under Sections 205 or 206 of the Federal Power Act ("FPA"), respectively, and pursuant to the rules and regulations promulgated thereunder (Sections 205 or 206) or any other change that is required or allowed by any legal, regulatory, statutory or other governing authority. The standard of review FERC shall apply when acting on such proposed changes shall be the "just and reasonable" standard of review rather than the "public interest" standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Serv. Corp.* 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956) (the *Mobile-Sierra Doctrine*).

**Article V**  
**Notices**

Any notice or demand required by this Agreement shall be deemed properly given to Empire if sent by registered or certified mail and addressed to:

**Regular Mail:**           The Empire District Electric Company  
                                  Attn: VP – Energy Supply  
                                  PO Box 127  
                                  Joplin, MO 64802

**Overnight Delivery:** The Empire District Electric Company  
                                  Attn: VP – Energy Supply  
                                  602 S. Joplin Avenue  
                                  Joplin, MO 64801

**Any notice or demand required by this Agreement shall be deemed properly given to Customer if sent by registered or certified mail and address to:**

**Regular Mail:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Overnight Delivery:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The foregoing designations of the name or address to which notice or demands are to be directed may be changed at any time, and from time to time, by written notice given by either Party to the other Party. Any notice or request of a routine character in connection with the delivery of Full Requirements Electric Service or in connection with the operation of facilities shall be given in such manner as the authorized representatives of the Parties from time to time shall arrange.

**Article VI**  
**Representations and Warranties**

1. **Empire and Customer Representations and Warranties.** Empire and Customer represent and warrant to the other that:

- A. It is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;
- B. It has, or will upon execution of this Agreement promptly seek, all regulatory authorizations necessary for it to legally perform its obligations under this Agreement;
- C. The execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, including, but not limited to, any organizational documents, charters, by-laws, indentures, mortgages or any other contracts or documents to which it is a party, or any law, rule, regulation, order or the like applicable to it;
- D. This Agreement, and each other document executed and delivered in accordance with this Agreement, constitutes its legally valid and binding obligation enforceable against it in accordance with its terms, subject to any equitable defenses;
- E. It shall perform its obligations hereunder in accordance with applicable law, rules and regulations. Nothing contained herein shall be construed to constitute consent or acquiescence by either Party to any action of the other Party which violates the laws of the United States as those provisions may be amended, supplemented or superseded, or which

violates any other law or regulation , or any order, judgment or decree of any court or governmental authority of competent jurisdiction;

- F. It is not bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it, which would result in it being or becoming insolvent or bankrupt;
- G. There are no pending or, to its knowledge, threatened against it any legal proceedings that could materially and/or adversely affect its ability to perform it's obligations under this Agreement;
- H. As of the Execution Date, Empire acknowledges that Customer is a creditworthy counterparty and that there is no currently existing material adverse change that would require Customer to post Performance Assurance as of the Execution Date; and
- I. In the event that, during the term of this Agreement, retail customers of the Customer obtain the ability to choose electric suppliers, the Parties will negotiate, in good faith, any amendments to this Agreement needed to accommodate the new statutory or regulatory scheme that results in such customer choice. In the event that the Parties are unable to agree upon the necessary amendments to this Agreement, either Party may seek dispute resolution at FERC.

2. Empire Representations and Warranties. Empire represents and warrants to Customer that Empire has sufficient Generation Resources in place or planned to meet its supply obligations under this Agreement.

3. Customer Representations and Warranties. Customer represents and warrants to Empire that Customer has established and will maintain rates for electric service

Customer provides to Customer's retail consumers which shall provide to Customer revenues at least sufficient, together with other available funds, to meet its obligations to Empire under this Agreement, to pay operation and maintenance expenses of its electric system, to pay all obligations, whether now outstanding or incurred in the future, payable from, or constituting a charge or lien on, the revenues of its electric system; and to make any other payments required by law.

## Article VII Miscellaneous

1. Counterparts. This Agreement may be executed in any number of counterparts, and each executed counterpart shall have the same force and effect as an original instrument.

2. Headings and References. Article and section headings used throughout this Agreement are for the convenience of the Parties only and are not to be construed as part of this Agreement. Any reference to an article, section, exhibit or attachment shall be deemed a reference to an article, section, exhibit or attachment of this Agreement unless otherwise specified.

3. Operation Capacity and Energy Parameters. Customer shall set forth any Customer Resources' operational capacity and Energy parameters for the initial Contract Year on Exhibit B to the Agreement. For each Contract Year subsequent to the initial Contract Year, Customer, by January 1 of the Contract Year, shall update Exhibit B to the Agreement with the Customer Resources capacity of Energy parameters for the next Contract Year.



#### 4. Assignment.

- A. Consent Required. This Agreement shall be binding upon and inure to the benefit of the permitted successors and permitted assigns of the Parties, except that this Agreement may not be assigned by either Party unless prior consent to such assignment is given in writing by the other Party. Any assignment made without a consent required hereunder shall be void and of no force or effect as against the non-consenting Party. For purposes of this Assignment Section, the Customer and Empire each hereby acknowledges and consents to the present assignment of an interest in this Agreement by Empire pursuant to any Empire mortgage, indenture, security agreement or other contract or agreement securing the indebtedness of Empire and by the Customer pursuant to any mortgage, indenture, security agreement or other contract or agreement securing the indebtedness of the Customer (the "Customer Mortgage").
- B. No Discharge. No sale, assignment, transfer or other disposition of this Agreement permitted by this Agreement shall release or discharge the assigning Party from or otherwise affect its rights or obligations under this Agreement.
- C. Assignment for Security. Notwithstanding any other provision of this Agreement, a Party, without the other Party's consent, may assign, transfer, mortgage or pledge its interest in this Agreement as security (an "Assignment for Security") for any obligation secured by any

indenture, mortgage or similar lien on its system assets without limitation on the right of the secured Party to further assign this Agreement, including, without limitation, the assignment by the Customer to create a security interest for the benefit of any third party.

- D. Subsequent Assignment. After any Assignment for Security to another secured party, the other secured party, without the approval of the other Party to this Agreement, may, if the Party who made the Assignment for Security is in default of its obligations to other secured party that is secured by such security interest (or if other secured party is otherwise entitled to foreclose on this Agreement pursuant to the terms of its assignment), (i) cause this Agreement to be sold, assigned, transferred or otherwise disposed of to a third party pursuant to the terms governing such Assignment for Security, or (ii) if other secured party first acquires this Agreement, sell, assign, transfer or otherwise dispose of this Agreement to a third party. The Customer and Empire each hereby waives any and all defenses to such sale or assignment and agrees to continue to be bound by and perform their respective obligations hereunder as if such purchaser or assignee were an original party hereto.

**E. Corporate Reorganization.**

1. The Customer, without Empire's prior written consent (and without relieving itself from liability hereunder), may assign any or all of its rights and delegate any or all of its duties under this Agreement in connection with any reorganization, merger or consolidation of the Customer with another individual, partnership, limited liability company or partnership, corporation, business trust, joint stock company, cooperative, trust, unincorporated association, joint venture, governmental authority or other entity of whatever nature (a "Person") if the Customer is not the surviving entity, if the surviving Person shall expressly assume, by written agreement executed and delivered to Empire, the performance and observance of the provisions of this Agreement required to be performed or observed by the Customer.
2. Empire may, without Customer's prior written consent (and without relieving itself from liability hereunder), (a) transfer, sell, pledge, encumber or assign this Agreement or the accounts, revenues or proceeds hereof in connection with any financing or other financial arrangements, or (b) transfer or assign this Agreement to any Person or entity succeeding by merger or by acquisition to all or substantially all of the assets of Empire, where such Person's or entity's creditworthiness is equal to or higher than that of Empire; provided, however, that in each such

case, any such assignee shall agree in writing to be bound by the terms and conditions hereof.

5. **Third Party Beneficiaries.** This Agreement is intended solely for the benefit of the Parties hereto, and nothing herein will be construed to create any duty to, or standard of care with reference to, or any liability to, any person not a Party hereto.
6. **Severability.** If any provision or provisions of this Agreement shall be held to be invalid, illegal, or unenforceable subsequent to the Effective Date, the validity, legality, and enforceability of the remaining provisions shall in no way be affected or impaired thereby; and the Parties hereby agree to effect such modifications to this Agreement as shall be reasonable and necessary in order to give effect to the original intention of the Parties.
7. **Cross Default Amount.** The default amount applicable to Customer pursuant to Article XII.A.vii., Events of Default, of the Rate Schedule shall be the net present value of Customer Demand Charges for the remaining term of the Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to executed by their proper officers thereunto duly authorized the day and year first above written.

**The Empire District Electric Company**

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

**Title:** \_\_\_\_\_

**The city of** \_\_\_\_\_

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

**Title:** \_\_\_\_\_

**Exhibit A**

**List of Delivery Points and Good Faith Load Forecast for  
Contract Year Beginning \_\_\_\_\_**

**Mount Vernon receives service at 3 meter points as follows:**

- 1 meter at Sub # 348 (metered at 4.16 KV);
- 1 meter at Sub # 420 (metered at 12.47 KV); and
- 1 meter at Customer-owned Sub located on the north side of City (service at 69 KV, but metered at 12.47 KV).

**Load forecast for 2010-2011 contract year is 17 MW.**

**Detailed distribution facilities information is documented in the Wholesale Distribution Service Agreement between the Parties.**

**Exhibit B**

**CUSTOMER RESOURCES**

Delivery Schedule for  
Contract Year Beginning \_\_\_\_\_

<u>Agency</u>	<u>Source Balancing Area _____</u>	<u>Capacity Amount (MW)</u>	<u>Energy Schedule (MWH)</u>	<u>Scheduling Entity _____</u>
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N/A

**Exhibit C**

**Arrangement for Transmission, Ancillary and Wholesale Distribution Services**

By signing below, Customer is requesting Empire to act on Customer's behalf to arrange for network transmission, ancillary and wholesale distribution services to deliver capacity and Firm Energy under the Agreement of which this Exhibit C is a part.

In the event that Customer obtains Customer Resources, title to which Empire is prohibited from taking, Customer shall notify Empire in writing that it requests Empire to either (1) reassign the existing network service agreement from the Transmission Provider directly to Customer or its agent, or (2) obtain point-to-point transmission service in addition to the network transmission already secured for Customer.

Customer shall pay Empire all transmission costs Empire incurs in arranging transmission, ancillary and wholesale distribution services or other services required by the Transmission Provider for delivering the capacity and Firm Energy to Customer.

Customer understands that Empire will submit a request to the Transmission Provider for transmission service sought by the Customer, but in no way represents, warrants or guarantees any transmission service will be available to Customer. The transmission service that is available to meet Customer's request will solely be determined by the Transmission Provider.

The Empire District Electric Company

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

Title: \_\_\_\_\_

The city of \_\_\_\_\_

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

Title: \_\_\_\_\_