

**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 Comments and Objections Regarding  
Staff’s and MDNR’s Suggested Special Contemporary Resource Planning Issues**

COMES NOW The Empire District Electric Company (“Empire” or “Company”), by and through the undersigned counsel, and, pursuant to Rule 4 CSR 240-22.080(4)(B), respectfully states as follows to the Missouri Public Service Commission (“Commission”) regarding the special contemporary resource planning issues suggested by the Staff of the Commission (“Staff”) and the Missouri Department of Natural Resources (“MDNR”):

**Introduction**

This file was opened to facilitate the process established by Rule 22.080(4) regarding “evolving electric resource planning issues,” also known as “special contemporary issues.” 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. Pursuant to Rule 22.080(4)(C), by no later than November 1, 2011, this Commission must issue an order containing a list of special contemporary issues for Empire to analyze and document in its next triennial compliance filing or annual update report.

Empire respectfully requests that any list of special contemporary issues ordered by the Commission herein apply only to Empire’s next triennial compliance filing (April 1, 2013). As set forth in Empire’s Application for Variance filed herein and in a new docket (File No. EE-

2012-0095) on September 29, 2011, Empire has requested a waiver of Rule 22.080(4) to the extent it would require Empire to analyze and document the list of special contemporary issues to be issued by the Commission herein as part of Empire's next annual update report (scheduled for April of 2012).

Empire submitted its 2010 Chapter 22 compliance filing ("September 2010 filing") in Case No. EO-2011-0066, on September 3, 2010 (under the prior integrated resource planning ("IRP") rules). Staff, MDNR, and Dogwood Energy, LLC ("Dogwood") submitted reports identifying alleged deficiencies and concerns with Empire's September 2010 filing. Certain parties to Case No. EO-2011-0066 (Empire, Staff, Public Counsel, MDNR, and Dogwood) entered into a Nonunanimous Stipulation and Agreement (the "IRP Stipulation"), which was filed in Case No. EO-2011-0066. On April 27, 2011, the IRP Stipulation was approved by the Commission.

The IRP Stipulation and the Stakeholder Advisory Group process described therein are fulfilling many of the objectives and requirements set forth in 4 CSR 240-22.080. As such, Empire has requested various waivers and variances from parts of the IRP rules, including a waiver of Rule 22.080(4) to the extent it would require Empire to analyze and document the list of special contemporary issues to be issued by the Commission herein as part of Empire's next annual update report (scheduled for April of 2012). Instead, Empire submits that it should analyze and document the items set forth in the Commission's list of special contemporary issues as part of Empire's next triennial compliance filing (scheduled for April 1, 2013).

### **Comments and Objections**

Pursuant to the new IRP rules that became effective as a result of the rulemaking process in File No. EX-2010-0254, the purpose of the special contemporary issues lists is to ensure that

evolving regulatory, economic, financial, environmental, energy, technical, or customer issues are adequately addressed by each utility in its electric resource planning. 4 CSR 240-22.080(4). The annual update is to ensure that members of the stakeholder group have the opportunity to provide input and stay informed regarding: a utility's current preferred resource plan; status of the identified critical uncertain factors; the utility's progress in implementing the resource acquisition strategy; analyses and conclusions regarding any identified special contemporary issues; resolution of any deficiencies or concerns; and changing conditions generally. 4 CSR 240-22.080(3)(A).

In line with the stated purposes of the annual update and the list of special contemporary issues, each utility should keep its stakeholders updated and informed regarding changing conditions and factors. The annual update process should not impose additional requirements and should not require the utility to go through the entire IRP process on an annual basis. Additionally, as part of the Commission-approved IRP Stipulation, to which Staff and MDNR were signatories, it was agreed that Empire should not perform additional work on the September 2010 filing, and that, instead, the parties should "focus their time and resources on Empire's next Chapter 22 triennial compliance filing."

Empire agrees with Staff that loss of significant load is a relevant contemporary issue (Staff issue 4). This issue has a relationship to contemporary developments in the economy and to the recent Joplin tornado. Empire reexamines load growth in its normal ongoing planning process, and Empire plans to update its stakeholders on changes in the load forecast and the potential impacts on the preferred plan. Similarly, Empire agrees with MDNR that the impact of the Joplin tornado and the recovery process (MDNR specific issue 1) is a relevant contemporary issue for Empire and is related to the load forecast.

In general, however, many of the items suggested by Staff and MDNR as special contemporary resource planning issues are not appropriate for an annual update and/or appear to require a reopening of Empire's September 2010 filing. Additionally, some of the items Staff and MDNR propose are not actually "special contemporary issues" within the meaning of the rule. To be a "special contemporary issue" or an "evolving electric resource planning issue," the issue must be reasonably related to the utility's resource planning; and "contemporary" means existing or occurring at the same period of time. Some of the issues listed by Staff and MDNR are simply additional special cases, some which may be unlikely to occur, and which would require significant time and cost to analyze.

For example, with regard to Staff issue 1, "aggressive regulations which allow aggregators of retail customers (ARCs) to market demand response services in Missouri," in order to investigate the impacts of ARCs to market demand response services on Empire's preferred resource plan and the sixteen other contingency plans that Empire studied in the most recent IRP filing, Empire would effectively be required to reopen the demand-side analysis and integration phases of that September 2010 filing. The scope of this type of project is not suitable to an annual update process, but could be addressed in a regular triennial IRP compliance filing. As such, Empire proposes to address this issue in its 2013 triennial filing.

Staff issues 2 (aggressive renewable energy standard with no rate cap) and 3 (aggressive energy efficiency resource standard with no rate cap) appear to suggest a requirement that two more alternate plans be added to the 17 already studied in Empire's September 2010 filing. In Empire's most recently filed IRP, which was based on the prior IRP rule, 17 different alternate plans were studied. Each of these plans met the current Missouri renewable energy standard requirement, and Empire did have an aggressive energy efficiency alternate plan without a budget constraint that was incorporated with the most aggressive environmental plan. To investigate and

document the impact of these additional cases being suggested by Staff on Empire's preferred plan and all contingency plans, would necessitate the effective reopening of the demand-side analysis phase and integration phase of the September 2010 filing. These alternative plans are not compatible with the annual update process in the Commission's IRP rules. Further, these Staff issues appear to be very similar to alternate plans required by the revised IRP rule (240-22.060(3)(A)(2) and (3)), which will be addressed in Empire's 2013 triennial filing.

With regard to Staff issue 5 (aggressive environmental regulations), Empire suggests that instead of investigating generic "aggressive" environmental regulations, Empire should update the potential impacts of items such as the proposed Cross-State Air Pollution Rule, which is a new issue since the last IRP was filed (the September 2010 filing), making it a legitimate contemporary issue. Empire plans to update its stakeholder group on potential environmental impacts on the Preferred Plan from the normal business planning process, but not to reopen integration studies from the September 2010 filing or make adjustments to all 17 plans that were presented in the September 2010 filing.

With regard to MDNR general issue 1, Empire addressed potential coal plant retirements in its September 2010 filing. To the extent there is new information to report about potential coal plant retirements, this will be addressed in an annual update. As MDNR pointed out, this issue is related to environmental regulations. Environmental regulations were a critical uncertain factor in the last IRP, and updates to this issue are appropriate. Environmental regulations have been a critical uncertain factor in all of Empire's IRP filings, and they will continue to be studied in the 2013 triennial filing.

MDNR general issue 2 (aggressive DSM portfolios without constraints) is comparable to Staff issue 3. Instead of being a contemporary issue, this MDNR issue is another alternate plan.

In order to address this issue suggested by MDNR, Empire would need to reopen the demand-side analysis phase and integration phase of its September 2010 filing. This is not compatible with the annual update process in the Commission's IRP rules. Further, this MDNR issue is very similar to an alternate plan required by the revised IRP rule (240-22.060(3)(A)(3)). Since Empire will be making its 2013 triennial filing under the revised IRP rules that contain the requirement for an aggressive demand-side resource portfolio alternate plan, this issue will be addressed in Empire's 2013 triennial IRP filing.

MDNR issue 3 (demand side management (DSM), combined heat and power (CHP), and distributed generation (DG)) is another suggested additional study that is not relevant to the annual update process. However, the Commission-approved IRP Stipulation addresses issues related to CHP and this has also been a topic of Empire's IRP Stakeholder Advisory Group related to the 2013 triennial filing. As such, Empire proposes to address this issue in its 2013 triennial filing.

MDNR issues 4 (low probability risk assessment) and 5 (interdependence of uncertain factors) are not contemporary issues. Unfortunately, it appears that MDNR is using the contemporary issue provision of the revised IRP rules to try to add requirements to the Commission's rules. Contemporary issues should be viable industry issues that the utility should consider in its planning process – not a vehicle for explicitly stating how the utility should perform the resource planning process or a means of adding additional IRP requirements to the Commission's rules. Empire objects to these issues being included in the order to be issued herein by the Commission on or before November 1, 2011.

With regard to MDNR issues 6 (agricultural DSM) and 7 (customer information/behavior modification DSM programs), Empire did consider customer information and behavior

