



February 1, 2008

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Missouri Public Service Commission
Attention: Colleen M. Dale,
Secretary of the Commission
P.O. Box 360
Jefferson City, MO 65102

RE: PSC Case Nos. EX-2007-0214, EX-2008-0231 & EX-2008-0232

Ms. Dale:

Please accept this letter as The Empire District Electric Company's (Empire's) comments concerning the proposed Electrical Corporation Vegetation Management Standards and Reporting Requirements rule (4 CSR 240-23.030) in Case No. EX-2008-0232 and the Electrical Corporation Infrastructure Standards rule (4CSR 240-23.020) in Case No. EX-2008-0231, as published in the *Missouri Register*, dated January 2, 2008. These rules were referenced in the *Missouri Register* as case EX-2007-0214.

The Missouri Public Service Commission (Commission), Missouri public utilities and Missouri's citizens all have a vested interest in the provision of safe, reliable, and affordable power. Empire believes that an appropriately crafted vegetation management rule and infrastructure rule will have a positive influence on the furthering of this interest for all concerned.

It is Empire's understanding that the proposed vegetation and infrastructure rules, as published in the *Missouri Register* on January 2, 2008, were developed during a previous rulemaking proceeding based on proposed rules published in the *Missouri Register* dated July 15, 2007. During the earlier proceedings, Empire retained the services of Environmental Consultants, Inc. (ECI) and Osmose Incorporated to analyze and comment on the proposed rules. The comments provided by ECI and Osmose in the previous proceeding should be considered in this docket if modifications to the rules as now proposed are considered.

Empire was pleased that in the prior proceeding the Commission considered the comments from the consultants and thereafter modified the July 15, 2007 proposed rules into a workable product. The proposed rules published on January 2, 2008 are nearly the same as the proposed rules which were adopted by the Commission in that prior proceeding but were not implemented.

Empire estimates that it will incur a significant increase in expenses to comply with the proposed rules, which in turn will likely increase the cost to our customers.

Empire supports the proposed rulemakings as drafted but provides the following comments for the Commission's consideration:

Electrical Corporation Vegetation Management Standards and Reporting Requirements rule (4 CSR 240-23.030)

The proposed vegetation management rule provides an appropriate balance between reliability, expense, and property owner concerns. The schedules contained within the proposed rule for inspection and trim cycle seem appropriate based on our estimation of contractor availability and a desire to implement a more aggressive trimming program. A more aggressive schedule could allow for rapid escalations in cost due to a limited trained workforce. However, Empire is concerned about the initial schedule for submitting a comprehensive plan to the Commission for compliance. This concern is primarily due to the delay in the approval of the proposed rule and recovery efforts following the major ice storm in late 2007. Empire is working towards meeting the proposed schedule, but may submit a waiver requesting limited additional time to fully develop and provide a vegetation management plan to the Commission.

Since the proposed rule published in the *Missouri Register* on January 2, 2008 is essentially the same as the rule that was previously adopted by the Commission, Empire has already started to take steps to comply with the proposed rule as written. Empire has for 3 years trimmed in a manner which would comply with the proposed rule clearance requirements from energized conductors. Trimming in this manner balances the reliability of the circuit with the property owner's desire for an attractive landscape and the expense of trimming.

Even though Empire's current trimming policy complies with the proposed rule's trimming clearance requirements, Empire will experience additional expenses to comply with all aspects of this rule for the following reasons:

- 1) Empire does not currently have a "vegetation manager" who supervises *ALL* aspects of our vegetation management program. Currently, vegetation management is performed by a person who supervises vegetation management on the transmission system and Line Operation Managers that supervise vegetation management of the distribution system. Therefore, this rule will require a modification in the organization of Empire employees as well as additional employees.
- 2) Empire does not perform vegetation inspection on a cycle of 2 or 3 years. Our cost of service calculation as a result of our last Missouri rate case included expenses based on a longer trim cycle.

- 3) Empire's current policy does not require removal of vegetation trimmed during normal maintenance within 5 business days. Customer complaints from our current policy for debris removal are infrequent; however, mandating removal within 5 business days will likely reduce the possibility of less expensive removal methods.

In rural areas, which are not manicured or maintained by the property owner, Empire does not remove trimmings. Empire does reduce the size of the trimmings by following the trimmers with a mower. Changing this policy would cause a substantial increase in Empire's vegetation management; therefore, Empire will likely submit a variance seeking approval to continue with Empire's current policy.

- 4) Empire is only required to adhere to NERC's vegetation management standards on 161 kV lines that are listed as critical to the transmission system; therefore, the proposed rule mandates that Empire shall adhere to the vegetation management cycles provided in the rule on any transmission facilities which are not regulated by NERC. Empire does significant vegetation management on transmission lines and inspects these lines on an annual basis.
- 5) Empire does not currently provide an annual vegetation management plan to the Commission, nor does Empire currently document vegetation management maintenance or maintain records to the extent required by this rule. Empire does provide annual reliability data to the Commission.
- 6) Empire makes an attempt to contact property owners for vegetation management activity; however, this notification is not time bound. Therefore, delays or modifications to plans could require property owners to be notified a second time. Also, Empire will be required to employ additional personnel to research property records so that the proper owner is notified of vegetation management activities on transmission lines in rural areas. Empire also does not notify counties or municipalities of vegetation management plans at this time.
- 7) Empire has not made a concerted effort to include vegetation topics in outreach programs; however, Empire believes that such a program would be beneficial to help property owners be more aware of utility lines during their landscape planning.
- 8) Empire's vegetation management expenses included in the cost of service in our last Missouri rate case provides for a longer trim cycle than required by the rule; therefore, the requirements in Section 9 will cause a significant increase cost for vegetation management. Empire will likely utilize Section 10 of the proposed rulemaking to help address cost recovery concerns.

Empire cautions against modifying the proposed rule such that additional clearance is required from energized conductors since Empire has received many inquiries/complaints on the current trimming policy. Despite the extraordinary ice storms in recent years,

many property owners in Empire's service territory believe that Empire should reduce clearance requirements so that less foliage is removed from their trees.

Empire is concerned about labor required for compliance with the proposed rules, and is attempting to create a plan which will allow their contractors the ability to ramp into the initial compliance schedule as well as smoothly transition into the maintenance cycles.

Electric Corporation Infrastructure Standards (4 CSR 240-23.020)

The proposed Infrastructure rule which was eventually adopted by the Commission during the previous rulemaking process provided for an acceptable balance between cost and reliability. Since the proposed rule published in the *Missouri Register* on January 2, 2008, is essentially the same as the proposed rule that was previously adopted by the Commission, Empire has already started to take steps to comply with the rule as written. However, like the vegetation management rule, Empire will experience an increase in expenses due to the requirements contained in the rule.

Empire compiled a list of the differences between Empire's current practice and what is required in the proposed rule to explain Empire's fiscal expense published in the *Missouri Register*.

- 1) Empire currently does aerial inspection the transmission system (34.5 kV, 69 kV, 161 kV, 345 kV) annually. Pole inspections for the transmission system are on a 10 year cycle.
- 2) Empire currently does not have a documented distribution system inspection program; however, Empire does have personnel that are constantly in the field performing other work. Any facility damage/failures are immediately reported to an area Line Operations Manager who will schedule corrective action based upon the severity of the problem.
- 3) Empire currently does not have an intrusive pole inspection program for its distribution system.
- 4) Empire does not currently document inspections of the distribution system and maintain maintenance records as required by this rule. As Empire reads the proposed rule the amount of documentation required during the patrol and detailed inspection is not conducive to inspecting during the course of other business; therefore, additional personnel will be required so that inspections remain on schedule.
- 5) Our cost of service as the result of our last Missouri rate proceeding does not include expenses related to most of the requirements of this proposed rule.

Empire is concerned about the initial schedule for submitting a plan to the Commission for compliance. This concern is primarily due to the delay in the approval of the proposed rule and recovery efforts following the major ice storm in late 2007. Therefore, while Empire is working towards meeting the schedule in the proposed rule, it may submit a waiver requesting more time to provide a well thought out and developed Infrastructure Inspection plan

CONCLUSION

In summary, Empire has a vested interest in providing safe, reliable, and affordable power to our customers. Empire believes that appropriately crafted vegetation management and infrastructure rules will have positive impacts for its Missouri customers.

Empire has two primary concerns. First, Empire is concerned about the dates that require comprehensive vegetation management and infrastructure inspection plans to be submitted in the near term. If there are no significant modifications to the proposed rules, Empire may be able to meet the near term dates; however, any additional requirements to the proposed rules would make it difficult to meet the near term dates. Second, complying with these proposed rulemakings will require a significant increase in expenses. Empire will likely utilize Section 10 of the proposed vegetation management rule and Section 4 of the infrastructure inspection rule to help address cost recovery concerns.

Mike Palmer
V.P. Commercial Operations