

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

In the Matter of the Tariff Filing of the)
Empire District Electric Company to)
Implement a General Rate Increase for)
Retail Electric Service Provided to)
Customers in its Missouri Service Area)

Case No. ER-2004-0570

NONUNANIMOUS STIPULATION AND AGREEMENT REGARDING RATE DESIGN

COME NOW the Office of the Public Counsel ("Public Counsel"), Intervenor Praxair, Inc. and Explorer Pipeline Company ("Industrials"), the Staff of the Missouri Public Service Commission ("Staff") and The Empire District Electric Company ("Empire") and state to the Missouri Public Service Commission ("Commission"):

1. On April 30, 2004 Empire District Electric Company ("Empire") submitted to the Commission proposed tariff sheets designed to increase rates for its electric service provided to its customers in its Missouri service area. The proposed tariff sheets bore an effective date of May 30, 2004. The proposed electric service tariff sheets for Empire were designed to produce an annual increase of approximately \$38 million, exclusive of applicable fees and taxes.

2. On May 5, 2004, the Commission issued its Order suspending the proposed tariffs for a period of 120 days plus an additional six months beyond the proposed effective date, until March 27, 2005. Thereafter, in accordance with the Commission's established Procedural Schedule, litigation of this case began on Monday, December 6, 2004. During the course of this litigation, the undersigned parties also met for the purpose of exploring settlement possibilities of certain of the issues raised in this case. As a result of those discussions and negotiations, the undersigned parties have reached the following agreements regarding rate design which they are

prepared to recommend to the Commission at this time. Their agreements do not include rate design for any interim charge.

3. The undersigned parties agree upon and recommend to the Commission the following revenue-neutral rate design changes computed in accordance with the following procedures in the order stated:

a. Subject to an increase limit of 0.3 percent to the remaining classes, reduce revenues for rate schedules CB and SH by up to 2 percent through reduction of each rate component by the same percentage and allocate the resulting revenue deficiency among the remaining rate schedules on an equal-percentage-of-revenue basis by increasing each rate component by the same percentage.

b. Make the following adjustments for Rate Schedules RG (Residential General), CB (Commercial Service) and SH (Space Heating):

i) Increase the RG customer charge to \$9.36.

ii) Increase the CB and SH: customer charge to \$13.20.

iii) Increase the winter tail block rate components on the RG, CB, and SH rate schedules by \$0.0020.

iv) Reduce the summer and winter initial block rate component on rate schedule RG and on rate schedules CB and SH (on a combined basis) to offset the increases to the customer charge and winter tail block rate.

c. Increase the customer charge for Rate Schedule MS (Miscellaneous Service) to \$13.20 and adjust the energy charge to offset the increase to the customer charge.

d. Establish a monthly substation facilities credit of \$1.00 per kW for Rate Schedule LP (Large Power) customers taking service at transmission voltage and increase

each rate component of the LP rate schedule, excluding the substation facilities credit, by an equal percentage to offset the decrease in LP revenues due to implementing the substation facilities credit.

The resulting rate components for each rate schedule, on a revenue-neutral basis, are shown in Attachment 1 appended hereto.

4. The undersigned parties agree upon and recommend to the Commission that any revenue increase reflected in permanent rates should be accomplished by increasing all rate components shown on Attachment 1 by the same equal percentage.

5. Empire agrees to pursue implementation of a Facilities Charge, as proposed by the Staff, in conjunction with its next rate case. Empire will remedy any programming constraints and will provide the Staff with its evaluation of the impact of adopting a Facilities Charge on its customers at that time.

6. This Nonunanimous Stipulation and Agreement is being entered into solely for the purpose of settling the specified rate design issues and making the indicated recommendation for the purpose of this case. None of the signatories to this Nonunanimous Stipulation and Agreement shall be deemed to have approved or acquiesced in any ratemaking or procedural principle, including, without limitation, any method of cost determination or cost allocation or revenue related methodology, and none of the signatories shall be prejudiced or bound in any manner by the terms of this Nonunanimous Stipulation and Agreement in this or any other proceeding, whether this Nonunanimous Stipulation and Agreement is approved or not, except as otherwise expressly specified herein.

7. These agreements result from extensive negotiations among the Parties and are interdependent. If the Commission does not unconditionally approve this Nonunanimous Stipulation and Agreement without modification, then this Nonunanimous Stipulation and

Agreement shall be void and no signatory shall be bound by any of the agreements or provisions hereof, except as explicitly stated herein.

8. If the Commission does not unconditionally approve this Nonunanimous Stipulation and Agreement without modification, and notwithstanding its provision that it shall become void therein, neither this Nonunanimous Stipulation and Agreement, nor any matters associated with its consideration by the Commission, shall be considered or argued to be a waiver of the rights that any Party has for a decision in accordance with §536.080 RSMo 2000 or Article V, Section 18 of the Missouri Constitution, and the Parties shall retain all procedural and due process rights as fully as though this Nonunanimous Stipulation and Agreement had not been presented for approval, and any suggestions or memoranda, testimony or exhibits that have been offered or received in support of this Nonunanimous Stipulation and Agreement shall become privileged as reflecting the substantive content of settlement discussions and shall be stricken from and not be considered as part of the administrative or evidentiary record before the Commission for any further purpose whatsoever.

9. In the event the Commission unconditionally accepts the specific terms of this Nonunanimous Stipulation and Agreement without modification, the signatories waive their respective rights pursuant to §536.070(2), RSMo 2000 to call, examine and cross-examine witnesses; to present oral argument and written briefs pursuant to §536.080.1 RSMo 2000; their respective rights to the reading of the transcript by the Commission pursuant to §536.080.2 RSMo 2000; their respective rights to seek rehearing, pursuant to §386.500 RSMo 2000; and their respective rights to judicial review pursuant to §386.510 RSMo 2000. This waiver applies only to a Commission Report and Order respecting this Nonunanimous Stipulation and Agreement issued in this proceeding and only to the issues that are resolved hereby. It does not

apply to any matters raised in any prior or subsequent Commission proceeding, or to any matters not explicitly addressed by this Nonunanimous Stipulation and Agreement.

10. The signatory parties agree to cooperate with each other in presenting this Nonunanimous Stipulation and Agreement to the Commission for approval, and will take no action, direct or indirect, in opposition to approval of this Nonunanimous Stipulation and Agreement. The signatory parties may file suggestions or a memorandum in support of this Nonunanimous Stipulation and Agreement. Each of the non-signatory parties shall be served with a copy of any such suggestions or memorandum and shall be entitled to submit to the Commission, within five (5) days of receipt of Staff's suggestions or memorandum, responsive suggestions of a responsive memorandum which shall also be served on all Parties. The contents of any suggestions or memorandum provided by any Party are its own and are not acquiesced in or otherwise adopted by the other signatories to this Nonunanimous Stipulation and Agreement, whether or not the Commission approves and adopts this Nonunanimous Stipulation and Agreement.

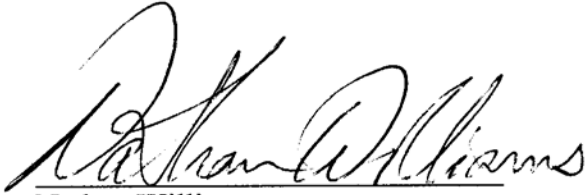
11. The Staff shall also have the right to provide, at any agenda meeting at which this Nonunanimous Stipulation and Agreement is noticed to be considered by the Commission, whatever oral explanation the Commission requests, provided that the Staff shall, to the extent reasonably practicable, promptly provide other parties with advance notice of when the Staff shall respond to the Commission's request for such explanation once such explanation is requested from Staff. Staff's oral explanation shall be subject to public disclosure, except to the extent it refers to matters that are privileged or protected from disclosure pursuant to any Protective Order issued in this case.

12. The undersigned parties have identified the witnesses and testimony prefiled in this case that pertain to the agreements that are the subject of this Nonunanimous Stipulation and

Agreement, and in the event that the Commission unconditionally accepts the specific terms of this Nonunanimous Stipulation and Agreement the parties agree that the testimony listed below, to the extent it addresses the issues settled herein, may be received into evidence without the necessity of the witnesses taking the stand:

Exhibit	Witness	Testimony	Pages	Issue	Date Pre-Filed
#9	Kelly Walters	Direct	14-30		
#25	Ed Overcast	Rebuttal	All		
#26	Ed Overcast	Surrebuttal	All		
#30	William G. Eichman	Rebuttal	All		
#31	William G. Eichman	Surrebuttal	All		
#49	Hong Hu	Direct	All	Class Cost of Service	Sept. 27, 2004
#50	Hong Hu	Direct	All	Seasonal Cost of Service	Oct. 4, 2004
#51	Hong Hu	Rebuttal	All	Class Cost of Service	Nov. 4, 2004
#52	Hong Hu	Surrebuttal	All	Class Cost of Service	Nov. 24, 2004
#68	Janice Pyatte	Direct	All	Rate Design	Oct. 4, 2004
#69	Janice Pyatte	Rebuttal	All	Rate Design	Nov. 4, 2004
#70	Janice Pyatte	Surrebuttal	All	Rate Design	Nov. 24, 2004
#74	James C. Watkins	Direct	All	Class Cost of Service; Rate Design	Sept. 27, 2004
#92	Barbara A. Meisenheimer	Direct	All	Class Cost of Service	Sept. 27, 2004
#93	Barbara A. Mesienheimer	Direct	All	Rate Design	Oct. 4, 2004
#94	Barbara A. Meisenheimer	Rebuttal	All	Rate Design	Nov. 4, 2004
#95	Barbara A. Meisenheimer	Surrebuttal	All	Rate Design	Nov. 24, 2004
#105	Maurice Brubaker	Direct	All		Sept. 27, 2004
#106	Maurice Brubaker	Rebuttal	1-14		Nov. 4, 2004
#107	Maurice Brubaker	Surrebuttal	All		Nov. 24, 2004

WHEREFORE, the undersigned parties request that this Nonunanimous Stipulation and Agreement be approved by the Commission and ordered into effect as aforesaid.



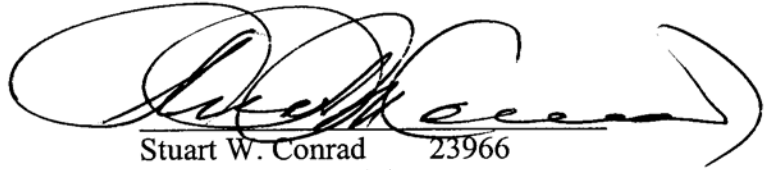
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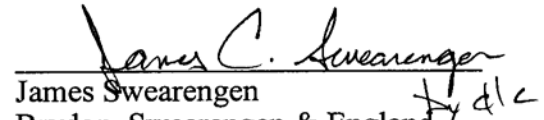
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Attorney for Empire District
Electric Company

Certificate of Service

I hereby certify that copies of the foregoing Nonunanimous Stipulation and Agreement have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 16th day of December 2004.

/s/ Nathan Williams

THE EMPIRE DISTRICT ELECTRIC COMPANY - CASE NO. ER-2004-0570
CURRENT AND SETTLEMENT RATES - BY RATE SCHEDULE
(REVENUE NEUTRAL)

RESIDENTIAL SERVICE

	CURRENT RATES	PROPOSED RATES	DIFFERENCE (\$)	DIFFERENCE (%)	CUSTOMER CHARGE	CURRENT RATES	PROPOSED RATES	DIFFERENCE (\$)	DIFFERENCE (%)
CUSTOMER CHARGE	\$8.75	\$9.36	\$0.61	6.97%		\$12.32	\$13.20	\$0.88	7.14%
ENERGY CHARGES					ENERGY CHARGE:				
SUMMER					SUMMER				
FIRST 600 KWH	\$0.0719	\$0.0703	(\$0.0016)	-2.23%	FIRST 700 KWH	\$0.0838	\$0.0784	(\$0.0054)	-6.44%
OVER 600 KWH	\$0.0719	\$0.0703	(\$0.0016)	-2.23%	OVER 700 KWH	\$0.0838	\$0.0784	(\$0.0054)	-6.44%
WINTER					WINTER				
FIRST 600 KWH	\$0.0719	\$0.0703	(\$0.0016)	-2.23%	FIRST 700 KWH	\$0.0838	\$0.0784	(\$0.0054)	-6.44%
OVER 600 KWH	\$0.0452	\$0.0472	\$0.0020	4.42%	OVER 700 KWH	\$0.0570	\$0.0590	\$0.0020	3.51%

COMMERCIAL SERVICE

SMALL HEATING SERVICE

	CURRENT RATES	PROPOSED RATES	DIFFERENCE (\$)	DIFFERENCE (%)	CUSTOMER CHARGE	CURRENT RATES	PROPOSED RATES	DIFFERENCE (\$)	DIFFERENCE (%)
CUSTOMER CHARGE	\$12.32	\$13.20	\$0.88	7.14%		\$18.48	\$18.53	\$0.05	0.29%
ENERGY CHARGE:					ENERGY CHARGE:				
SUMMER					SUMMER				
FIRST 700 KWH	\$0.0838	\$0.0784	(\$0.0054)	-6.44%	FIRST 700 KWH	\$0.1072	\$0.1075	\$0.0003	0.29%
OVER 700 KWH	\$0.0838	\$0.0784	(\$0.0054)	-6.44%	OVER 700 KWH	\$0.1072	\$0.1075	\$0.0003	0.29%
WINTER					WINTER				
FIRST 700 KWH	\$0.0838	\$0.0784	(\$0.0054)	-6.44%	FIRST 700 KWH	\$0.1072	\$0.1075	\$0.0003	0.29%
OVER 700 KWH	\$0.0436	\$0.0456	\$0.0020	4.59%	OVER 700 KWH	\$0.0973	\$0.0976	\$0.0003	0.29%

FEED MILL & GRAIN ELEVATOR

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THE EMPIRE DISTRICT ELECTRIC COMPANY - CASE NO. ER-2004-0570
CURRENT AND SETTLEMENT RATES - BY RATE SCHEDULE
(REVENUE NEUTRAL)

GENERAL POWER SERVICE				TOTAL ELECTRIC BUILDINGS			
	CURRENT RATES	PROPOSED RATES	DIFFERENCE (\$) (%)		CURRENT RATES	PROPOSED RATES	DIFFERENCE (\$) (%)
CUSTOMER CHARGE:				CUSTOMER CHARGE:			
REG MTR BILLS	\$44.73	\$44.86	\$0.13 0.29%	REG MTR BILLS	\$44.73	\$44.86	\$0.13 0.29%
IDR MTR BILLS	\$164.53	\$165.01	\$0.48 0.29%	IDR MTR BILLS	\$164.53	\$165.01	\$0.48 0.29%
DEMAND CHARGE:				DEMAND CHARGE:			
SUMMER KW	\$6.09	\$6.11	\$0.02 0.29%	SUMMER KW	\$3.81	\$3.82	\$0.01 0.29%
WINTER KW	\$4.76	\$4.77	\$0.01 0.29%	WINTER KW	\$3.13	\$3.14	\$0.01 0.29%
PRIMARY DISCOUNT:				PRIMARY DISCOUNT:			
SUMMER KW	(\$0.211)	(\$0.212)	(\$0.001) 0.29%	SUMMER KW	(\$0.211)	(\$0.212)	(\$0.001) 0.29%
WINTER KW	(\$0.211)	(\$0.212)	(\$0.001) 0.29%	WINTER KW	(\$0.211)	(\$0.212)	(\$0.001) 0.29%
ENERGY CHARGE:				ENERGY CHARGE:			
SUMMER				SUMMER			
FIRST 150 HU	\$0.0626	\$0.0628	\$0.0002 0.29%	FIRST 150 HU	\$0.0734	\$0.0736	\$0.0002 0.29%
NEXT 200 HU	\$0.0395	\$0.0396	\$0.0001 0.29%	NEXT 200 HU	\$0.0464	\$0.0465	\$0.0001 0.29%
OVER 350 HU	\$0.0355	\$0.0356	\$0.0001 0.29%	OVER 350 HU	\$0.0418	\$0.0419	\$0.0001 0.29%
WINTER				WINTER			
FIRST 150 HU	\$0.0368	\$0.0369	\$0.0001 0.29%	FIRST 150 HU	\$0.0384	\$0.0385	\$0.0001 0.29%
NEXT 200 HU	\$0.0355	\$0.0356	\$0.0001 0.29%	NEXT 200 HU	\$0.0362	\$0.0363	\$0.0001 0.29%
OVER 350 HU	\$0.0346	\$0.0347	\$0.0001 0.29%	OVER 350 HU	\$0.0350	\$0.0351	\$0.0001 0.29%

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THE EMPIRE DISTRICT ELECTRIC COMPANY - CASE NO. ER-2004-0570
CURRENT AND SETTLEMENT RATES - BY RATE SCHEDULE
(REVENUE NEUTRAL)

LARGE POWER SERVICE

				PRAXAIR & SPECIAL TRANSMISSION SERVICE			
	<u>CURRENT RATES</u>	<u>PROPOSED RATES</u>	<u>DIFFERENCE (\$)</u>	<u>DIFFERENCE (\$)</u>	<u>DIFFERENCE (\$)</u>	<u>DIFFERENCE (\$)</u>	<u>DIFFERENCE (\$)</u>
CUSTOMER CHARGE	\$164.53	\$165.87	\$1.34	0.81%	CUSTOMER CHARGE	\$164.53	\$165.01
SUBSTATION FACILITIES CREDIT:		\$1.00	\$1.00		FACILITIES CHARGE:		
DEMAND CHARGE:					SUMMER KW	\$0.30	\$0.30
SUMMER KW	\$9.73	\$9.81	\$0.08	0.82%	WINTER KW	\$0.30	\$0.30
WINTER KW	\$5.37	\$5.41	\$0.04	0.74%	DEMAND CHARGE:		
SECONDARY ADDER:					SUMMER ON-PEAK KW	\$14.71	\$14.75
SUMMER KW	\$0.205	\$0.207	\$0.002	0.98%	WINTER ON-PEAK KW	\$9.99	\$10.02
WINTER KW	\$0.205	\$0.207	\$0.002	0.98%	ENERGY CHARGE:		
ENERGY CHARGE:					SUMMER		
SUMMER					ON-PEAK KWH	\$0.0293	\$0.0294
FIRST 350 HU	\$0.0387	\$0.0390	\$0.0003	0.78%	SHOULDER KWH	\$0.0232	\$0.0233
OVER 350 HU	\$0.0200	\$0.0202	\$0.0002	1.00%	OFF-PEAK KWH	\$0.0175	\$0.0176
WINTER					WINTER		
FIRST 350 HU	\$0.0341	\$0.0344	\$0.0003	0.88%	ON-PEAK KWH	\$0.0202	\$0.0203
OVER 350 HU	\$0.0192	\$0.0194	\$0.0002	1.04%	OFF-PEAK KWH	\$0.0165	\$0.0165

POWER FURNACE

	<u>CURRENT RATES</u>	<u>PROPOSED RATES</u>	<u>DIFFERENCE (\$)</u>	<u>DIFFERENCE (\$)</u>
CUSTOMER CHARGE				

Rate Schedule Canceled

ENERGY CHARGE:							
SUMMER KWH	\$0.0598	\$0.0599	\$0.0001	0.17%			
WINTER KWH	\$0.0598	\$0.0599	\$0.0001	0.17%			

MISCELLANEOUS SERVICE

	<u>CURRENT RATES</u>	<u>PROPOSED RATES</u>	<u>DIFFERENCE (\$)</u>	<u>DIFFERENCE (\$)</u>
CUSTOMER CHARGE	\$12.32	\$13.20	\$0.88	7.14%

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THE EMPIRE DISTRICT ELECTRIC COMPANY - CASE NO. ER-2004-0570
CURRENT AND SETTLEMENT RATES - BY RATE SCHEDULE
(REVENUE NEUTRAL)

PRIVATE LIGHTING

STREET LIGHTING LAMPS:	CURRENT RATES	PROPOSED RATES	DIFFERENCE	
			(\$)	(%)
MERCURY VAPOR				
6800 LUMENS	\$9.58	\$9.61	\$0.03	0.29%
20000 LUMENS	\$15.95	\$16.00	\$0.05	0.29%
54000 LUMENS	\$30.58	\$30.67	\$0.09	0.29%
SODIUM VAPOR				
6000 LUMENS	\$8.85	\$8.88	\$0.03	0.29%
16000 LUMENS	\$12.88	\$12.92	\$0.04	0.29%
27500 LUMENS	\$18.62	\$18.67	\$0.05	0.29%
50000 LUMENS	\$21.60	\$21.66	\$0.06	0.29%
METAL HALIDE				
12000 LUMENS	\$14.93	\$14.97	\$0.04	0.29%
20500 LUMENS	\$19.92	\$19.98	\$0.06	0.29%
36000 LUMENS	\$22.35	\$22.42	\$0.07	0.29%

FLOOD LIGHTING LAMPS:

MERCURY VAPOR				
20000 LUMENS	\$22.35	\$22.42	\$0.07	0.29%
54000 LUMENS	\$36.91	\$37.02	\$0.11	0.29%
SODIUM VAPOR				
27500 LUMENS	\$21.67	\$21.73	\$0.06	0.29%
50000 LUMENS	\$29.70	\$29.79	\$0.09	0.29%
140000 LUMENS	\$43.40	\$43.53	\$0.13	0.29%
METAL HALIDE				
12000 LUMENS	\$15.34	\$15.38	\$0.04	0.29%
20500 LUMENS	\$20.50	\$20.56	\$0.06	0.29%
36000 LUMENS	\$30.25	\$30.34	\$0.09	0.29%
110000 LUMENS	\$44.19	\$44.32	\$0.13	0.29%

OTHER CHARGES:

ADDL POLES	\$1.23	\$1.23	\$0.00	0.29%
ADDL ANCHOR	\$1.23	\$1.23	\$0.00	0.29%
ADDL CONDUCTOR	\$0.012	\$0.012	\$0.000	0.29%

MUNICIPAL STREET LIGHTING

STREET LIGHTING LAMPS:	CURRENT RATES	PROPOSED RATES	DIFFERENCE	
			(\$)	(%)
INCANDESCENT				
4000 LUMENS	\$39.78	\$39.90	\$0.12	0.29%
10000 LUMENS	\$81.88	\$82.12	\$0.24	0.29%
MERCURY VAPOR				
7000 LUMENS	\$54.04	\$54.20	\$0.16	0.29%
11000 LUMENS	\$64.86	\$65.05	\$0.19	0.29%
20000 LUMENS	\$92.86	\$93.13	\$0.27	0.29%
53000 LUMENS	\$156.67	\$157.13	\$0.46	0.29%
SODIUM VAPOR				
6000 LUMENS	\$50.64	\$50.79	\$0.15	0.29%
16000 LUMENS	\$63.39	\$63.58	\$0.19	0.29%
27500 LUMENS	\$82.50	\$82.74	\$0.24	0.29%
50000 LUMENS	\$117.59	\$117.93	\$0.34	0.29%
130000 LUMENS	\$189.75	\$190.30	\$0.55	0.29%
METAL HALIDE				
12000 LUMENS	\$79.42	\$79.65	\$0.23	0.29%
20500 LUMENS	\$97.13	\$97.41	\$0.28	0.29%
36000 LUMENS	\$129.92	\$130.30	\$0.38	0.29%
110000 LUMENS	\$287.12	\$287.96	\$0.84	0.29%

SPECIAL LIGHTING

	CURRENT RATES	PROPOSED RATES	DIFFERENCE	
			(\$)	(%)
MINIMUM CHARGE	\$28.33	\$28.41	\$0.08	0.29%
ENERGY CHARGE:				
SUMMER				
FIRST 1000 KWH	\$0.1040	\$0.1043	\$0.0003	0.29%
OVER 1000 KWH	\$0.0812	\$0.0814	\$0.0002	0.29%
WINTER				
FIRST 1000 KWH	\$0.1040	\$0.1043	\$0.0003	0.29%
OVER 1000 KWH	\$0.0812	\$0.0814	\$0.0002	0.29%

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