

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service  
Commission held at its office in  
Jefferson City on the 20th day  
of May, 2008.

In the Matter of The Empire District Electric	)	
Company of Joplin, Missouri for Authority	)	
to File Tariffs Increasing Rates for Electric	)	<b><u>Case No. ER-2008-0093</u></b>
Service Provided to Customers in the Missouri	)	Tariff File No. YE-2008-0205
Service Area of the Company.	)	

**ORDER APPROVING SECOND AND THIRD STIPULATION AND  
AGREEMENTS AS TO CERTAIN ISSUES**

Issue Date: May 20, 2008

Effective Date: May 30, 2008

On May 15, 2008, the Staff of the Missouri Public Service Commission, The Empire District Electric Company, the Office of the Public Counsel, the Missouri Department of Natural Resources, Praxair, Inc., and Explorer Pipeline Company filed a Second Stipulation and Agreement as to Certain Issues ("Second Stipulation"), agreeing to disposition of several issues in dispute between the signatory parties. A copy of the Second Stipulation is attached to this order as Attachment A.

The Second Stipulation is nonunanimous in that it was not signed by all parties. However, Commission rule 4 CSR 240-2.115(2) provides that other parties have seven days in which to object to a nonunanimous stipulation and agreement. If no party files a timely objection to the stipulation and agreement, then the Commission may treat it as a unanimous stipulation and agreement. The only party to this case that did not sign the Second Stipulation, General Mills, Inc., filed a position statement on May 15, 2008, advising

the Commission that, although not a signatory to the Second Stipulation, it does not object to the Second Stipulation. Therefore, the Commission will treat the Second Stipulation as a unanimous partial stipulation and agreement.

On May 16, 2008, the Staff of the Missouri Public Service Commission, The Empire District Electric Company, the Office of the Public Counsel, and the Missouri Department of Natural Resources filed a Third Stipulation and Agreement as to Certain Issues ("Third Stipulation"), agreeing to disposition of an additional issue in dispute between the signatory parties. A copy of the Third Stipulation is attached to this order as Attachment B.

The Third Stipulation is also a nonunanimous in that it was not signed by all parties. Each party to this case that did not sign the Third Stipulation<sup>1</sup> filed a position statement on May 18, 2008, advising the Commission that, although not signatory parties to the Third Stipulation, they do not object to the Third Stipulation. Therefore, the Commission will treat the Third Stipulation as a unanimous partial stipulation and agreement.

The Commission conducted an on-the-record presentation regarding the Second and Third Stipulations on May 20, 2008. At that time, the Commission questioned the parties about the various stipulations and agreements.

As to those issues disposed of in the Second and Third Stipulations, contingent upon the Commission's acceptance of the Second and Third Stipulations, the parties waived their respective rights to present oral argument and written briefs pursuant to § 563.080.1, RSMo 2000; their respective rights to the reading of the transcript by the Commission pursuant to § 536.080.2, RSMo 2000; their respective rights under § 536.500, RSMo 2000; and their respective rights to judicial review pursuant to § 386.510,

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<sup>1</sup> The non-signatory parties include Praxair, Inc., Explorer Pipeline Company, and General Mills, Inc.

RSMo 2000. Moreover, the stipulations provide that signatory parties' witnesses' testimony pertaining to the issues resolved in the Second and Third Stipulations is to be accepted into the record without cross-examination or formal submission at the evidentiary hearing. The waiver does not apply to any matters raised in any prior or subsequent Commission proceeding or any matters not explicitly addressed by the Second and Third Stipulations. 4 CSR 240-2.115 gives the Commission the authority to accept a stipulation and agreement as a resolution to certain issues of a contested case.

After reviewing the Second Stipulation and after hearing the arguments and explanations of the parties, the Commission finds that the Second Stipulation filed on May 15, 2008, should be approved as a resolution of the issues addressed by that Second Stipulation. In approving the Second Stipulation, the Commission is only accepting the agreement of the parties to resolve these particular issues in this particular case. The Commission is not endorsing any particular position with regard to these issues and its approval of this partial stipulation and agreement should not be interpreted as such an endorsement in any future case.

After reviewing the Third Stipulation and after hearing the arguments and explanations of the parties, the Commission finds that the Third Stipulation filed on May 16, 2008, should be approved as a resolution of the issues addressed by that Third Stipulation. In approving the Third Stipulation, the Commission is only accepting the agreement of the parties to resolve these particular issues in this particular case. The Commission is not endorsing any particular position with regard to these issues and its approval of this partial stipulation and agreement should not be interpreted as such an endorsement in any future case.

**IT IS ORDERED THAT:**

1. The Second Stipulation and Agreement as to Certain Issues filed on May 15, 2008, is approved as a resolution of the issues addressed in that stipulation and agreement. A copy of the stipulation and agreement is attached to this order as Attachment A.
2. The Third Stipulation and Agreement as to Certain Issues filed on May 16, 2008, is approved as a resolution of the issues addressed in that stipulation and agreement. A copy of the stipulation and agreement is attached to this order as Attachment B.
3. The signatory parties are ordered to comply with the terms of the Second Stipulation and Agreement as to Certain Issues.
4. The signatory parties are ordered to comply with the terms of the Third Stipulation and Agreement as to Certain Issues.
5. This order shall become effective on May 30, 2008.

**BY THE COMMISSION**



Colleen M. Dale  
Secretary

( S E A L )

Davis, Chm., Murray, Clayton,  
Jarrett, and Gunn, CC., concur.

Voss, Regulatory Law Judge