

# BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the matter of The Empire District Gas Company of )  
Joplin, Missouri for Authority to File Tariffs Increasing ) **File No. GR-2009-0434**  
Rates for Gas Service Provided to Customers in the ) **Tariff No. YG-2009-0855**  
Missouri Service Area of the Company. )

## ORDER SETTING PROCEDURAL SCHEDULE AND SETTING TEST YEAR

Issue Date: July 31, 2009

Effective Date: July 31, 2009

On July 21, 2009, the Staff of the Missouri Public Service Commission on behalf of itself and the other parties filed a proposed procedural schedule. The proposed procedural schedule suggests dates for the filing of testimony and requests that the hearing dates be altered.

The Commission set its original hearing schedule so that it would have sufficient time for the filing and review of briefs, true-up hearings, deliberations, and sufficient time before the effective date of its final order. In balancing the benefits and detriments to all the parties and making certain that the Commission has sufficient time to hear all arguments, review all the evidence, and make a sound decision with a reasonable effective date, the Commission will adopt the proposed procedural schedule with alteration to the dates for statements of positions and a true-up hearing.

Further, the Commission will set the test year as the twelve-month period ending December 31, 2008, to be updated for known and measurable changes through June 30, 2009. In addition to the procedural dates, the Commission will adopt the proposed requirements for the true-up and data requests as set out in paragraph 5 of the Joint Proposed Procedural Schedule and Joint Motion Requesting Adoption of Certain Other Procedural

Matters filed on July 21, 2009. With regard to subparagraph (g), the midnight deadline is granted unless another time is specifically ordered by the Commission.

The Commission further finds that the following procedural conditions shall apply:

(A) The Commission will require the prefiling of testimony as defined in 4 CSR 240-2.130. All parties shall comply with this rule, including the requirement that testimony be filed on line-numbered pages.

(B) The parties shall file a proposed list of issues to be determined by the Commission. The requirements for issue format set forth in 4 CSR 240-2.080(21) are waived. Staff shall draft and file the list of issues and the other parties shall cooperate with Staff in developing that document. Further, the list must set out prerequisite questions or sub-issues that must be answered or addressed before, or as a part of, any listed issue as enumerated sub-issues under that issue. The Commission will presume any issue, or sub-issue, not included in the issues list to require no determination by the Commission.

(C) Each party shall file a list of the witnesses to appear on each day of the hearings and the proposed order in which they shall be called. The parties shall file a joint pleading or pleadings proposing the order of cross-examination.

(D) Each party shall file a statement of its position on each disputed issue. The position statements shall include a summary of the factual and legal points relied on by the party. Such statement shall be simple and concise, shall follow the issues set out in the issues list, and shall not contain argument about why the party believes its position to be the correct one. Each statement of position shall include, for each issue upon which a party intends to adduce evidence, the names of each witness offering testimony on that issue and a specific reference to the pages of the prefiled testimony containing that evidence.

(E) The briefs to be submitted by the parties shall follow the same list of issues as filed in the case. The briefs must set forth and cite the proper portions of the record concerning the unresolved issues that are to be decided by the Commission.

(F) All parties are required to bring an adequate number of copies of exhibits that they intend to offer into evidence at the hearing. If an exhibit has been prefiled, only one copy of the exhibit is necessary for the court reporter. If an exhibit has not been prefiled, the party offering it shall bring, in addition to the copy for the court reporter, copies for the five Commissioners, the Regulatory Law Judge, and all counsel.

(G) The daily hearing transcripts will be expedited to be available **no later than the third working day following that day's testimony**. If any party seeks to expedite the filing of the transcripts further, such request shall be tendered in writing to the Regulatory Law Judge at least five days prior to the date of the hearing.

(H) Each party may prepare and file proposed findings of fact and conclusions of law, including citations to prefiled testimony and other evidence, to be filed during the posthearing briefing schedule.

(I) In the event that the parties reach a settlement of all of the issues, such settlement shall not be grounds for a continuance of the hearing unless the agreement is final, has been submitted to the Commission in writing, and there are no objections to the agreement.

**THE COMMISSION ORDERS THAT:**

1. The test year shall be the twelve months ending December 31, 2008, updated for known and measurable changes through June 30, 2009.

2. The following procedural schedule is adopted:

<b><u>Event</u></b>	<b><u>Date(s)</u></b>
Direct Testimony, Revenue Requirement (all parties except Empire)	October 20, 2009
Direct Testimony, Class Cost of Service and Rate Design (all parties except Empire)	November 3, 2009
Local Public Hearings	November 5, 9, 10, and 12, 2009
Case Reconciliation (not filed)	November 13, 2009
Prehearing Conference	November 16 - 20, 2009
List of Issues (preliminary – not filed)	November 20, 2009
Rebuttal Testimony (all parties)	December 4, 2009
Surrebuttal Testimony (all parties)	December 22, 2009
Joint List and Order of Issues, List and Order of Witnesses, Order of Cross-examination	December 29, 2009
Reconciliation for Issues to be Heard	December 29, 2009
Statements of Position	December 31, 2009
Evidentiary Hearing	January 7 - 8, 2010 and January 11-15, 2010 9:00 a.m. (first day)
True-Up Hearing	February 8 -9, 2010

3. The parties are directed to comply with the procedural requirements set out above and in Paragraph 5 of the Joint Proposed Procedural Schedule and Joint Motion Requesting Adoption of Certain Other Procedural Matters filed on July 21, 2009.

4. This order shall become effective upon issuance.

**BY THE COMMISSION**

A handwritten signature in black ink, appearing to read 'S. Reed', is positioned above the printed name.

Steven C. Reed  
Secretary

( S E A L )

Nancy Dippell, Deputy Chief Regulatory  
Law Judge, by delegation of authority  
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,  
on this 31st day of July, 2009.