

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

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

Case No. ER-2006-0315
Tracking No. YE-2006-0597

**ORDER CONCERNING TEST YEAR AND TRUE-UP
AND ADOPTING PROCEDURAL SCHEDULE**

Issue Date: April 11, 2006

Effective Date: April 11, 2006

Procedural History and Positions of the Parties:

On February 1, 2006, The Empire District Electric Company submitted to the Missouri Public Service Commission certain proposed tariff sheets, Tariff File No. YE-2006-0597. The purpose of the filing is to implement a general rate increase for retail electric service provided by the Company. Empire states that the new retail electric service rates are designed to produce an additional \$29,513,713 in gross annual electric revenues excluding gross receipts, sales, franchise, and occupational taxes, a 9.63% increase over existing revenues. On February 7, 2006, the Commission suspended the proposed tariff sheets for 120 days plus six months beyond March 3, 2006, until January 1, 2007.

The Test Year:

The Suspension Order also required that Empire file its test year recommendation, plus any request for a true-up audit and hearing, by February 21, 2006, and that the other parties respond by March 7, 2006. On

February 17, 2006, Empire timely filed its recommendation that the test year be the twelve-month period ending December 31, 2005, adjusted and updated for any known and measurable changes through March 31, 2006. The other parties timely filed their concurrences on March 7, 2006.

The proposed test year is suitable and no party has objected to it. The Commission will adopt the test year recommended by Empire, updated and adjusted for any known and measurable changes through March 31, 2006.

True-Up Audit and Hearing:

On March 7, 2006, Staff of the Missouri Public Service Commission, the Office of the Public Counsel, Praxair, Explorer and DNR recommended a true-up of “fuel expense and other significant revenue requirement elements for the three-month period ending June 30, 2006.” The aforementioned parties provided the Commission with the following list of items they believed should be subject to the true-up:

Rate Base	Income Statement
1) Plant in service growth	1) Revenues and kWh sales from customer
2) Depreciation reserve	2) Margin from off-system sales
3) Deferred taxes	3) Uncollectibles
4) Fuel inventories payroll taxes payroll related benefits and	4) Payroll - employee levels, current rates
5) Cash working capital: annualized amounts	5) Fuel prices
6) Materials and supplies	6) Purchased power prices
7) Prepayments	7) System loads
8) Advances and contributions	8) Fuel/purchased power expense
9) Customer deposits	9) Rate case expense and MPSC assessment
10) Income tax offset	10) Depreciation expense
11) Interest expense offset	11) Property taxes (if applicable and appropriate)
12) Allocation factors	12) Income tax effects of trued-up items
	13) Allocation factors

Rate of Return/Capital Structure	
1) Rate of Return calculation (excludes return on equity)	
2) Capital Structure	

No parties have objected to the recommended true-up audit and hearing. The Commission will adopt the true-up recommendation.

The Procedural Schedule:

The Suspension Order also required that parties cooperatively prepare and file a proposed procedural schedule by March 20, 2006. The Suspension Order also required the parties to file recommendations as to the dates, times, and locations of local public hearings by March 20, 2006. The parties timely filed a proposed procedural schedule on that date.

The Commission has reviewed the proposed procedural schedule and finds it to be appropriate. The proposed procedural schedule contains some unusual features. After July 28, 2006, the parties have agreed to shorten the interval allowed for responding to discovery. The parties have also agreed to serve copies of Data Requests upon all parties. The parties have also made arrangements as to the provision of copies of work papers and of electronic copies of prefiled testimony.

The Commission will adopt the proposed procedural schedule, and finds that the following conditions should be applied to the schedule:¹

(A) The Commission will require the prefiling of testimony as defined in 4 CSR 240-2.130. All parties shall comply with this rule by filing electronically through the Electronic Filing and Information System (EFIS), including the requirement that

¹ New or unusual matter is indicated by bold italic text.

testimony be filed on line-numbered pages. The practice of prefiling testimony is designed to give parties notice of the claims, contentions and evidence in issue and to avoid unnecessary objections and delays caused by allegations of unfair surprise at the hearing. ***For each round of prefiled testimony, the filing party shall provide copies of all work papers to all other parties within 48 hours, such copies to be provided electronically where electronic versions exist. Electronic copies of prefiled testimony shall be provided to all other parties by e-mail on the date of filing.***

(B) ***The parties shall provide a copy of each Data Request propounded to every other party. Beginning on July 28, 2006, and continuing until this case is finally resolved, a party shall have only ten (10) days after receipt to respond to a Data Request, and only seven (7) days from receipt to serve all of the objections or reasons for its inability to answer in writing upon the requesting party.***

(C) The parties shall agree on and file a joint list of issues to be determined herein by the Commission. The requirements for issue format set forth in 4 CSR 240-2.080(21) are waived. ***If the Parties are able to agree on an issues list and agree to use that single format for all the pre-hearing briefs, a statement to that effect may be filed by Staff in lieu of the list of issues.*** Staff shall be responsible for actually drafting and filing the list of issues and the other parties shall cooperate with Staff in the development thereof. Any issue not included in the issues list will be presumed to not require determination by the Commission.

(D) Each party shall file a list of the witnesses to appear on each day of the hearing and the order in which they shall be called. The parties shall establish the order of cross-examination and file a joint pleading indicating the same.

(E) Each party shall file a statement of its position on each disputed issue, including 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 such 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 wherein the pertinent evidence may be found.*** In addition, the parties shall file prehearing briefs. The position statement and prehearing briefs shall be provided directly to the Presiding Officer by e-mail as well as filed. The Presiding Officer's e-mail address is: cully.dale@psc.mo.gov.

(F) ***The hearing transcript shall be available by September 25, 2006.***

(G) All pleadings and briefs shall be filed in accordance with 4 CSR 240-2.080. 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 remaining unresolved issues that are to be decided by the Commission.

(H) All parties are required to bring an adequate number of copies of exhibits which 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 should bring, in addition to the copy for the court reporter, copies for the five Commissioners, the Presiding Officer, and all counsel.

(I) ***Each party shall prepare and file Proposed Findings of Fact and Conclusions of Law, including citations to prefiled testimony and other evidence, to be filed during the post-hearing briefing schedule.***

(J) ***Since the prehearing briefs will cover most of the record, post-hearing briefs need not be lengthy and will be limited to ten (10) pages. Post-hearing briefs will update the prehearing briefs for new evidence adduced at the hearing.***

Local Public Hearings:

The Suspension Order also required the parties to file recommendations as to the dates, times and locations of local public hearings by March 20, 2006. The parties timely filed a proposed procedural schedule on that date, including recommendations for local public hearings.

The parties suggest that two local public hearings be held, one in Reeds Spring and one in Joplin, during the period June 26-30, 2006. The Commission will set these hearings, and provide specific details as to the date, time and venue, in a later order.

IT IS ORDERED THAT:

1. The test year in this matter shall be the 12 months ending December 31, 2005, updated and adjusted for known and measurable changes through March 31, 2006.

2. There shall be a true-up audit and hearing as recommended by the Staff of the Commission, the Office of the Public Counsel, Praxair, Inc., Explorer Pipeline Company and the Missouri Department of Natural Resources. The true-up hearing shall include fuel expense and other significant revenue requirement elements for the

three-month period ending June 30, 2006, as set forth in the chart set out on pages 2 and 3 above.

3. The following procedural schedule is adopted, subject to the conditions set out above, with which the parties are hereby directed to comply:

Direct testimony-Revenue Requirement (parties other than EDE)	June 23, 2006 4:00 p.m.
Local public hearings - Joplin and Reeds Spring	one day-week of June 26, 2006
Direct testimony-Rate Design (parties other than EDE)	June 30, 2006 4:00 p.m.
Preliminary Reconciliation	June 30, 2006 4:00 p.m.
Settlement Conference Room 305,GOB	July 10-14, 2006 10:00 a.m.
Preliminary List of Issues (not to be filed)	July 14, 2006
Rebuttal testimony (all parties) -	July 28, 2006 4:00 p.m.
10-day discovery turnaround period begins by agreement of the parties (7 calendar days to object or provide reasons for an inability to provide answers)	July 28, 2006
Surrebuttal/Cross-Surrebuttal testimony (all parties)	August 18, 2006 4:00 p.m.
List of Issues, Order of Witnesses, and Order of Cross-Examination	August 23, 2006 4:00 p.m.
Statements of Positions on the Issues (all parties, if applicable)	August 25, 2006 4:00 p.m.
Reconciliation	August 25, 2006 4:00 p.m.
Prehearing Briefs	August 30, 2006 4:00 p.m.

Evidentiary Hearing
Room 310, GOB

September 5-8
& 11-15, 2006
9:00 a.m.

Transcript Due

September 29, 2006

Briefing Schedule
(post-hearing briefs, ten-page limit)

(to be determined
at hearing)

True-Up: Direct Testimony

September 27, 2006
4:00 p.m.

True-Up Hearing:
Room 310, GOB

October 2-6, 2006
9:00 a.m.

Briefing Schedule (True-Up only)

(to be determined at
True-Up hearing)

4. The evidentiary hearing and true-up hearing will be held at the Commission's offices at the Governor Office Building, 200 Madison Street, Jefferson City, Missouri, Room 310. This building meets accessibility standards required by the Americans With Disabilities Act. If a person needs additional accommodations to participate in the hearing, please call the Public Service Commission's Hotline at 1-800-392-4211 (voice) or dial 711 for Relay Missouri prior to the hearing.

2. This order shall become effective on April 11, 2006.

(S E A L)

Colleen M. Dale, Chief Regulatory Law
Judge, by delegation of authority pursuant
to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 11th day of April, 2006.

BY THE COMMISSION



Colleen M. Dale
Secretary