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April 30, 2001

FILED³
APR 30 2001
Missouri Public
Service Commission

Mr. Dale Hardy Roberts
Executive Secretary
Public Service Commission
Governor State Office Building
Jefferson City, MO

Hand delivery

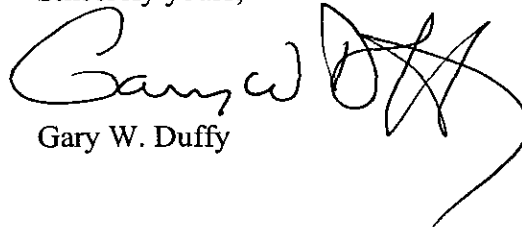
RE: Case No ER-2001-299
The Empire District Electric Company

Dear Mr. Roberts:

Enclosed for filing in the above-referenced proceeding on behalf of The Empire District Electric Company please find an original and eight copies of a "Motion to Vacate 'Order Directing Filing' and Request for Expedited Treatment."

If you have any questions, please give me a call.

Sincerely yours,


Gary W. Duffy

Enclosures

cc w/encl: John Coffman, Office of Public Counsel
Denny Frey, Office of the General Counsel
Stuart W. Conrad

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

FILED³
APR 30 2001
Missouri Public
Service Commission

In the Matter of The Empire District Electric)
Company's Tariff Sheets Designed to Implement)
a General Rate Increase for Retail Electric)
Service Provided to Customers in the Missouri)
Service Area of the Company.)

Case No. ER-2001-299

**MOTION TO VACATE "ORDER DIRECTING FILING"
AND REQUEST FOR EXPEDITED TREATMENT**

Comes now The Empire District Electric Company ("Empire"), by and through its counsel, and for its motion to vacate the "Order Directing Filing" issued April 26, 2001, by the Commission, respectfully states as follows:

1. On April 26, 2001, the Commission issued an "Order Directing Filing" in this case which essentially requires Empire to send a notice to each of its Missouri customers of evidentiary hearings scheduled to commence on May 29, 2001, in Jefferson City. It requires that the notice be sent at least 10 days prior to the first day of the hearings, which means any such notice would have to be sent by Empire no later than May 19, 2001.

2. On March 29, 2001, the Commission issued its "Order Regarding Local Public Hearing" in this case, setting a local hearing for April 23, 2001, in Joplin, Missouri. Reacting as quickly as it could under the circumstances in response to that order, Empire caused to be printed over 100,000 individual notices. Those notices were placed in envelopes with bulk postage, and deposited with the U.S. Postal Service on April 12 and 13, 2001. Empire incurred \$25,086.59 in postage and associated expense for that notice. If Empire had been notified of the requirement to send such notice earlier, Empire could have put the notice on bills as a "bill imprint." That procedure would have avoided all of the extra effort and expense associated with a special mailing to Missouri customers.

28

3. The "Order Directing Filing" presents the same sort of timing problem that the "Order Regarding Local Public Hearing" presented. The Order Directing Filing comes too late for Empire to put the notice on its bills as a part of the normal billing cycle and thereby ensure that all Missouri customers receive notice within the time allowed. Empire estimates that less than a third of its Missouri customers could be notified with a bill imprint in this manner in the present situation. Therefore, to fully comply with the "Order Directing Filing," Empire would have to print an additional 100,000 plus copies of a special notice, and spend another \$25,000, just to send out another notice in this same case. This latest notice would only inform customers of the evidentiary hearing in Jefferson City. Having just spent over \$25,000 on notice in this case, it is understandable that Empire does not desire to repeat the process and spend another \$25,000.

4. Empire believes that the previous notice of the local public hearing should be sufficient in this case. It obviously produced some results because there were over 30 witnesses who testified at the local public hearing, and probably another 60 who attended but did not choose to testify. At a "notice cost" of approximately \$800.00 per witness, however, it was an expensive notice.

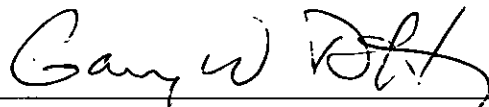
5. Empire believes that it would be a duplication, and counter-productive, for it to be required to comply with the "Order Directing Filing" given the timing constraints in this situation. Empire is not opposed to notifying customers of the hearings, and would certainly send press releases to Missouri media to help inform customers of the Jefferson City evidentiary hearings. Had Empire been given more advance time to deal with the customer notices in this case, giving regard to the timing of its monthly billing cycles, Empire could have provided the notices the Commission desired. Under the circumstances now present in this case, the

significant costs of the additional notice, and the fact that customers have already had an opportunity to voice comments at the local public hearing, Empire wishes to be relieved of the obligations imposed by the Order Directing Filing, and thus requests that the Commission vacate the order. If the Commission still wishes Empire to provide notice with a more cost-effective method such as press releases, it is certainly willing to do so.

6. In accordance with 4 CSR 240-2.080(17), Empire states that it desires the Commission to act on this Motion by no later than May 3, 2001. The harm to be avoided by the Commission vacating its Order will be Empire incurring over \$25,000 to send another direct mail notice to the same customers that it has previously notified in this same proceeding. This pleading was filed as soon as it reasonably could have, given that Empire's counsel did not see the Order Directing Filing until Friday, April 27, 2001, and did not have a chance to discuss it with Empire until then. In an effort to make other counsel aware of this motion by the fastest means possible, Empire has sent it by facsimile to all counsel of record at approximately 9 a.m. on this 30th day of April, 2001. Empire requests that if anyone wishes to file a response, that the Commission require such response be filed with it no later than Wednesday, May 2, 2001 so that the Commission may deal with the request at its agenda meeting on May 3, 2001.

WHEREFORE, The Empire District Electric Company moves that the Commission vacate its "Order Directing Filing" of April 26, 2001.

Respectfully submitted,



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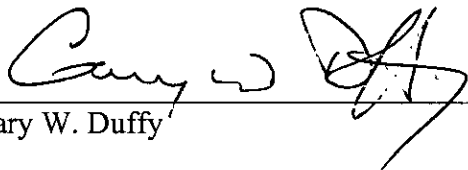
Certificate of Service

The undersigned certifies that a true and correct copy of the foregoing document was sent by facsimile transmission and email, and by either U.S. Mail, first class postage prepaid, or hand delivery this 30th day of April, 2001 to the following:

John Coffman
Office of the Public Counsel
Governor State Office Building
Jefferson City, Missouri

Denny Frey
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Missouri Public Service Commission
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Jefferson City, Missouri

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