

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the matter of The Empire Dis-	)	
trict Electric Company of Joplin,	)	
Missouri for authority to file	)	
tariffs increasing rates for elec-	)	ER-2006-0315
tric service provided to customers	)	
in the Missouri service area of the	)	
Company	)	

REQUEST FOR CLARIFICATION REGARDING PARTICIPATION  
BY COMMISSION STAFF ADVISOR

COME NOW Praxair, Inc. and Explorer Pipeline (Applicants) and through their attorney of record and request clarification of the level of participation in the continuation of this proceeding before the Commission by Janet Wheeler, currently Staff Advisor to Commissioner Terry Jarrett and in support thereof state:

1. This case represents the reassumption or reacquisition of administrative jurisdiction by the Commission following the decision and issuance of the mandate of the Missouri Supreme Court in a mandamus action brought by the Office of Public Counsel by which decision and mandate the Commission's Order Approving Tariffs was vacated.

2. The effect of the Missouri Supreme Court's decision is to make its previously issued alternative writ of mandamus preemptory in accordance with its opinion issued in that matter and direct the Commission to vacate the aforesaid order.

3. On or about September 11, 2007 Terry Jarrett assumed the duties and responsibilities of a Public Service Commissioner of Missouri, including acceptance of the higher standard of conduct required of judicial officers in this state.<sup>1/</sup>

4. On or about November 10, 2007 Commissioner Jarrett engaged the services of Janet Wheeler, a member of the Missouri Bar, as his Staff Advisor. Ms. Wheeler's prior employment was as an attorney in the firm of Brydon, Swearngen and England, located in Jefferson City. The position was filled without the customary posting of a vacancy.

5. The Brydon, Swearngen and England firm represented and continues to represent Empire District in this case.

6. On March 13, 2006 Ms. Wheeler's appearance was entered as an attorney for Empire District as shown by Exhibit A. Thereafter, Ms. Wheeler participated in this case before the Commission as an attorney for Empire District and at various times spoke on the record of the proceeding as shown by Exhibit B and Exhibit C.

7. In addition, Ms. Wheeler appeared as an attorney on behalf of Empire District Electric Company at local public hearings in Joplin, Missouri on June 26, 2006, June 27, 2006 and in Reeds Springs, Missouri on June 27, 2006 as shown on the

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<sup>1/</sup> The Canons of Judicial Conduct apply to Commissioners of the Public Service Commission just as to a member of Missouri's judicial branch. *Union Electric Co. v. Public Service Com.*, 591 S.W.2d 134 (Mo. Ct. App. 1979).

portion of the transcript from those hearings attached as Exhibit D.

8. Search of the Commission electronic filing and information system (EFIS) does not reveal any withdrawal by Ms. Wheeler of this representation. Nor would such withdrawal at this time address the concerns noted herein.

9. The fair administration of justice requires that judicial officers, including Public Service Commissioners, avoid the appearance of impropriety in the conduct of their office. Advisor Wheeler is subject to the same requirements as a Commissioner in her contact with other parties. Given her unwithdrawn entry of appearance as counsel for Empire District, her direct involvement in the continuation of this case before the Commission creates the appearance of impropriety by the interposition of counsel for the affected utility as an advisor to a decisional officer in the proceeding.

10. Moreover, Ms. Wheeler's former professional relationship as an associate or employee attorney of the afore-said law firm which law firm continues to represent Empire District Electric Company and other utilities in contested cases before the Commission, presents an unusual problem and appearance that in and of itself raises concerns that may have impact potentially beyond the scope of this case.

11. Given that communications between a Public Service Commissioner and their Staff Assistant are necessarily private, clarification at this time of the level or degree of participa-

tion by Ms. Wheeler as a Staff Advisor to Commissioner Jarrett is requested. To avoid the appearance of impropriety, Advisor Wheeler should indicate in writing and of record the extent of such involvement, participation and contact.

12. Under CSR 140-4.020, such communications may be subject to the *ex parte* rule. Accordingly, Advisor Wheeler should make public and record disclosure of the date, circumstances and content of any communications between her and Commissioner Jarrett concerning the substance of this case, if any.

13. While it does not establish a direct precedent, undersigned counsel is aware that Advisor Tim Schwarz, who previously served as Staff counsel in Commission Case No. GC-2006-0491 and subsequently accepted an advisory position to Commissioner Appling, recused himself from any further participation or advise to the Commission in that case upon accepting his advisory position.

WHEREFORE response to this request is prayed according to its terms.

Respectfully submitted,

FINNEGAN, CONRAD & PETERSON, L.C.



Stuart W. Conrad MBE #23966  
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(816) 753-1122  
Facsimile (816) 756-0373  
Internet: stucon@fcplaw.com

ATTORNEY FOR PRAXAIR, INC. and  
EXPLORER PIPELINE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing pleading by email, facsimile or First Class United States Mail to all parties by their attorneys of record as provided by the Secretary of the Commission.

A handwritten signature in black ink, appearing to read "Stuart W. Conrad", written over a horizontal line.

Stuart W. Conrad

Dated: November 20, 2007



3/13/06

(PLEASE PRINT)

## ENTRY OF APPEARANCE

CASE NUMBER ER-2006-0315	IN RE EMPIRE DISTRICT
NAME JAMES C. SWEARENGEN & JANET E. WHEELER	
ATTORNEY'S <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
ADDRESS 312 E. CAPITOL AVE BRYDON SWEARENGEN (ENGLAND) P.O. BOX 456 JEFFERSON CITY, MO 65102 Tel: 573-635-7166	
APPEARING FOR THE EMPIRE DISTRICT ELECTRIC CO.	
<b>FILED</b> <sup>3</sup>	
APR 5 2006	
Missouri Public Service Commission	
TRANSCRIPT ORDER	TRANSCRIPT DELIVERY (PLEASE CHECK ONE)
Number of Copies of Printed Transcript	<input type="checkbox"/> Mail First Class
Number of Copies of ASCII Diskette	<input type="checkbox"/> Will Pick up in Mailbox Outside PSC Records Dept.
E-mail address	<input type="checkbox"/> Will Pick up at PSC Receptionist's Desk
	<input type="checkbox"/> Send by (Circle One): Fed. Express/Airborne/
	(Account No. )
* Note: To receive an ASCII Diskette of the transcript, the written request for an ASCII Diskette must be made at the time of hearing and a printed copy of the transcript must be purchased.	

## WAIVER OF READING OF TRANSCRIPT BY COMMISSIONERS

Section 536.080(2) RSMo. requires in contested cases that each official of an agency who renders or joins in rendering a final decision either hear the evidence, read the full record including all of the evidence, or personally consider portions of the record cited or referred to in an argument or brief. By written stipulation or oral stipulation in the record at a hearing, the parties may waive the reading of the transcript.

Pursuant to this section, \_\_\_\_\_  
(PARTY)  
waives the reading of the transcript by this Commission.

DATE

SIGNATURE OF PARTY OR ATTORNEY FOR PARTY WAIVING READING OF TRANSCRIPT

## WAIVER OF PREPARATION OF TRANSCRIPT

Section 386.420.4 RSMo. provides that preparation of a printed transcript may be waived by unanimous consent of all the parties.

Pursuant to this section, \_\_\_\_\_  
(PARTY)  
waives the preparation of a printed transcript.

DATE

SIGNATURE OF PARTY OR ATTORNEY FOR PARTY WAIVING PREPARATION OF TRANSCRIPT

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1

STATE OF MISSOURI

2

PUBLIC SERVICE COMMISSION

3

4

5

6

TRANSCRIPT OF PROCEEDINGS

7

Early Prehearing Conference

8

March 13, 2006

Jefferson City, Missouri

9

Volume 1

10

11

12 In the Matter of The Empire )

District Electric Company of )

13 Joplin, Missouri, for Authority to )

File Tariffs Increasing Rates for ) Case No. ER-2006-0315

14 Electric Service Provided to )

Customers in the Missouri Service )

15 Area of the Company )

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COLLEEN M. DALE, Presiding,

CHIEF REGULATORY LAW JUDGE.

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23 REPORTED BY:

24 KELLENE K. FEDDERSEN, CSR, RPR, CCR

MIDWEST LITIGATION SERVICES

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1

APPEARANCES:

2

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4 JANET E. WHEELER, Attorney at Law

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8 Jefferson City, MO 65102-0456

9 (573)635-7166

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14 Jefferson City, MO 65102

15 (573)751-3321

16

FOR: Missouri Department of Natural  
Resources.

17

JAMES M. FISCHER, Attorney at Law

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Fischer & Dority

19 101 Madison, Suite 400

20 Jefferson City, MO 65101

21 (573)636-6758

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FOR: Kansas City Power & Light Company.

23

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24 DAVID WOODSMALL, Attorney at Law

25 Finnegan, Conrad & Peterson

26 3100 Broadway

27 1209 Penntower Officer Center

28 Kansas City, MO 64111

29 (816)753-1122

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FOR: Praxair, Inc.

31

Explorer Pipeline, Inc.

32 LEWIS R. MILLS, JR., Public Counsel

33 P.O. Box 2230

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35 Jefferson City, MO 65102-2230

36 (573)751-4857

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FOR: Office of the Public Counsel  
and the Public.



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DENNIS L. FREY, Senior Counsel  
2 P.O. Box 360  
200 Madison Street  
3 Jefferson City, MO 65102  
(573)751-3234

4  
FOR: Staff of the Missouri Public  
5 Service Commission.

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1 P R O C E E D I N G S

2 JUDGE DALE: We are here today in the  
3 matter of The Empire District Electric Company of Joplin,  
4 Missouri for authority to file tariffs increasing rates  
5 for electric service provided to customers in the Missouri  
6 service area of the company, Case No. ER-2006-0315.

7 At this point we will take entries of  
8 appearance, beginning with Staff.

9 MR. FREY: Thank you, your Honor.  
10 Representing the Staff of the Missouri Public Service  
11 Commission, Dennis L. Frey and Steven Dottheim, P.O.  
12 Box 360, Jefferson City, Missouri 65102.

13 JUDGE DALE: Thank you.

14 MR. MILLS: On behalf of the Office of the  
15 Public Counsel and the public, my name is Lewis Mills. My  
16 address is Post Office Box 2230, Jefferson City, Missouri  
17 65102.

18 MR. SWEARENGEN: James C. Swearengen and  
19 Janet Wheeler appearing on behalf of The Empire District  
20 Electric Company. We're with Brydon, Swearengen &  
21 England, 312 East Capitol Avenue, Jefferson City,  
22 Missouri. Thank you.

23 MS. WOODS: Shelley Woods, Assistant  
24 Attorney General, Post Office Box 899, Jefferson City,  
25 Missouri 65102, appearing on behalf of the Missouri

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1 Department of Natural Resources.

2 MR. CONRAD: On behalf of Praxair and  
3 Explorer Pipeline, let the record please show the  
4 appearance of Stuart W. Conrad and David L. Woodsmall of  
5 the law firm Finnegan, Conrad & Peterson, 3100 Broadway,  
6 Suite 1209, Kansas City, Missouri 64111.

7 MR. FISCHER: James M. Fischer, Fischer &  
8 Dority, PC, 101 Madison Street, Suite 400, Jefferson City,  
9 Missouri 65101, appearing on behalf of Kansas City Power &  
10 Light Company.

11 JUDGE DALE: Are there any others?

12 (No response.)

13 JUDGE DALE: I know that I have one  
14 outstanding motion that I will be replying to in writing.  
15 Other than Mr. Conrad's pending motion, are there any  
16 other motions outstanding that I should be aware of or is  
17 there anything else I need to be aware of?

18 MS. WHEELER: We would like to enter the  
19 appearance of Diana C. Carter of the law firm Brydon,  
20 Swearingen & England, 312 East Capitol, Jefferson City,  
21 Missouri 65102. She was not able to be here this morning  
22 due to the hail at her home, and she's appearing on behalf  
23 of Aquila, Inc.

24 JUDGE DALE: Is she the person that I --  
25 there was some -- I'm sorry to say, but I cannot remember

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STATE OF MISSOURI

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PUBLIC SERVICE COMMISSION

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TRANSCRIPT OF PROCEEDINGS

7

Hearing

8

September 5, 2006

Jefferson City, Missouri

9

Volume 7

10

11 In the Matter of The )

Empire District Electric )

12 Company of Joplin, Missouri, )

for Authority to File Tariffs )

13 Increasing Rates for Electric )Case No. ER-2006-0315

Service Provided to Customers )

14 in the Missouri ServiceArea of )

the Company )

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COLLEEN M. DALE, Presiding,

19

CHIEF REGULATORY LAW JUDGE

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REPORTED BY:

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PAMELA FICK, RMR, RPR, CCR #447, CSR

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MIDWEST LITIGATION SERVICES

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APPEARANCES:

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JANET E. WHEELER, Attorney at Law  
RUSS MITTEN, Attorney at Law  
DEAN COOPER, Attorney at Law  
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Explorer Pipeline, Inc.

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FOR: Aquila

00017

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15

FOR: Staff of the Missouri Public  
16 Service Commission

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## P R O C E E D I N G S

1  
2 JUDGE DALE: Good morning. We are here  
3 today on September 5th, 199 -- good grief, I don't  
4 know where that came from -- 2006, in the matter of  
5 the tariff filing of the Empire District Electric  
6 Company of Joplin, Missouri to implement a general  
7 rate increase for retail electric service provided to  
8 customers in the Missouri service area of the  
9 company, Case Number ER-2006-0315.

10 We will now have entries of appearance.

11 MR. SWEARENGEN: Yes. May it please the  
12 Commission. On behalf of the Empire District  
13 Electric Company, James C. Swearengen, Dean Cooper,  
14 Janet Wheeler and Russ Mitten. We're all with the  
15 firm Brydon, Swearengen & England, 312 East Capitol  
16 Avenue, Jefferson City, Missouri. Thank you.

17 JUDGE DALE: Thank you.

18 MR. FREY: Representing the Staff, your  
19 Honor, Staff of the Missouri Public Service  
20 Commission, Dennis L. Frey, Kevin Thompson, Steve  
21 Dottheim, Nathan Williams, David Meyer, Jennifer  
22 Heintz, P.O. Box 360, Jefferson City, Missouri 65102.

23 JUDGE DALE: Thank you.

24 MR. MILLS: On behalf of the Office of  
25 the Public Counsel and the public, my name is Lewis

STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION  
TRANSCRIPT OF PROCEEDINGS

Public Hearing

June 26, 2006

Joplin, Missouri

Volume 2

In the Matter of The Empire                   )  
District Electric Company of                )  
Joplin, Missouri, for Authority to        )  
File Tariffs Increasing Rates for        ) Case No. ER-2006-0315  
Electric Service Provided to               )  
Customers in the Missouri Service        )  
Area of the Company                        )

COLLEEN M. DALE, Presiding  
CHIEF REGULATORY LAW JUDGE  
JEFF DAVIS,  
CHAIRMAN  
LINWARD (LIN) APPLING,  
COMMISSIONER  
CONNIE MURRAY,  
COMMISSIONER

REPORTED BY: JILL A. RENFRO, C.C.R.,



**APPEARANCES**

**FOR THE APPLICANT:**

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I N D E X

Page/Line

WITNESSES -

GISELE PUTNAM . . . . .

PATTY MILLER . . . . .

JOYCE HOGAN . . . . .

RICHARD BOURNE . . . . .

E X H I B I T S

(NONE)

(sic) - typed as spoken  
(ph.) - phonetic

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PROCEEDINGS

BY JUDGE DALE: The Missouri Public Service Commission has set this time for a local hearing in Case Number ER-2006-315, in which the Empire District Electric Company is seeking increase of rates that will increase total revenues by twenty-nine million, five hundred thirteen thousand, seven hundred and thirteen dollars. The Missouri Public Service Commission regulates the rates charged by investor owned utility companies in Missouri to ensure that those rates are just and reasonable. The Commission also regulates the quality of service and the safety of operations of investor owned utilities. The Commission is made up of five Commissioners, two of whom are here right now today. Commissioner Davis in Joplin, and Commission Appling is here in Jefferson City. The Commissioners are appointed by the Governor to fixed terms, and confirmed by the Senate. The Commissioners employs staff of engineers, accountants, attorneys, financial analysts, and other specialists in the field of utility regulation. I am Colleen M. Dale.

1 I'm a Regulatory Judge with the Missouri  
2 Public Service Commission, and I will preside  
3 over this hearing. With me today are - if  
4 you will introduce yourself.

5 BY MR. MEYER: Good evening, my name  
6 is David Meyer. I'm an attorney for the  
7 Staff of the Missouri Public Service  
8 Commission. And with us here in Jefferson  
9 City are several members of the Staff. Mark  
10 Ollenshlager (ph.), Jim Bush, and Gay Fred.

11 BY JUDGE DALE: Thank you. And I  
12 see that Commissioner Murray is in the  
13 process of joining us. This is an official  
14 hearing of the Missouri Public Service  
15 Commission, and the statements and testimony  
16 of witnesses will be recorded by the court  
17 reporter, and must be given under oath or  
18 affirmation. All of the Commissioners will  
19 have the opportunity to read all of the  
20 remarks. In addition to this local hearing  
21 and tomorrow's public hearings in Joplin and  
22 Reed Springs, a trial type evidentiary  
23 hearing is scheduled for September 6th  
24 through 15th, 2006, starting at 10:00 a.m. in  
25 the Commission's offices in the Governor

1 Office Building in Jefferson City, Missouri.  
2 That hearing is a public hearing, and the  
3 company will have the burden at that hearing  
4 of proving its case. The parties will  
5 present their witnesses for and against the  
6 petition at that time. The purpose of this  
7 hearing is to hear from the public. The  
8 company will not present witnesses and will  
9 not answer questions. This is your  
10 opportunity testify, and your remarks will be  
11 part of the official record of this case. I  
12 will call the name of each witness who has  
13 signed up to speak. When your name is called  
14 please come forward and speak into the  
15 microphone. Please spell your name for the  
16 court reporter so she can put it in the  
17 record correctly. I will ask a few  
18 preliminary questions such as your name and  
19 address, and you can make - then make your  
20 statement. There may be questions from the  
21 Commissioners or me. Please do not leave the  
22 witness area until you are excused. We are  
23 scheduled to end promptly at 9:00. We ask  
24 that you be brief. If a previous speaker has  
25 already made the point you wanted to make you

1       may simply state that you agree with what  
2       that person said. There may be someone who  
3       wishes to testify but because of religious  
4       convictions cannot take an oath. For this  
5       reason you will be asked to swear or affirm  
6       that your testimony will be the truth. Does  
7       anyone have questions about the procedure?  
8       Then we will begin the public hearing on Case  
9       Number ER-2006-0315, in the Matter of the  
10      Empire District Electric Company of Joplin,  
11      Missouri for Authority to File Tariffs  
12      Increasing Rates for Electric Service  
13      Provided to Customers in the Missouri Service  
14      Area of the Company. Will counsel please  
15      state their entries of appearance?

16               BY MR. MEYER: David Meyer on behalf  
17      of the Staff of the Public Service  
18      Commission.

19               BY JUDGE DALE: Hold on just a  
20      second, gentlemen. David Meyer just made his  
21      entry of appearance. Did the court reporter  
22      get that? Then the people in Joplin proceed.

23               BY MS. WHEELER: Thank you, Judge.  
24      Let the record reflect the appearance of  
25      Janet E. Wheeler of the law firm Brydon,

1       Swearengen & England, Post Office Box, 456,  
2       Jefferson City, Missouri, on behalf of the  
3       applicant, the Empire District Electric  
4       Company. Thank you.

5               BY JUDGE DALE: Thank you.

6               BY MR. MILLS: On behalf of the  
7       Office of the Public Counsel and the Public  
8       my name is Lewis Mills. My address is Post  
9       Office Box 2230, Jefferson City, Missouri  
10       65102. Thank you.

11              BY JUDGE DALE: Thank you.

12              BY MR. OCHOA: Judge, the first  
13       witness is Gisele Putnam.

14              BY JUDGE DALE: Thank you. Please  
15       come up to the microphone. Hello, Ms.  
16       Putnam.

17              BY GISELE PUTNAM: Hello. My --

18              BY JUDGE DALE: Would you please  
19       state your name?

20              BY GISELE PUTNAM: My name is Gisele  
21       Putnam. G-I-S-E-L-E, P-U-T-N-A-M, here in  
22       Joplin, 2016 Hollow. I came from Europe.

23              BY JUDGE DALE: Are you a customer?

24              BY GISELE PUTNAM: Yes, I am.

25              BY JUDGE DALE: I'm sorry?





**APPEARANCES**

**FOR THE APPLICANT:**

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Brydon, Swearngen & England  
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P.O. Box 456  
Jefferson City, Missouri 65102

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Jefferson City, Missouri 65102

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Jefferson City, Missouri 65102

I N D E X

Page/Line

WITNESSES -

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MARY LITTLE . . . . .

DEBBIE MARKMAN . . . . .

WINONA SELIG . . . . .

CARL E. WALLACE. . . . .

HAZEL O'BANION . . . . .

SCOTT CARR . . . . .

E X H I B I T S

(NONE)

(sic) - typed as spoken

(ph.) - phonetic

1 PROCEEDINGS

2 JUDGE DALE: The Missouri Public  
3 Service Commission has set this time for a  
4 local hearing in Case Number ER-2006-315, in  
5 which the Empire District Electric Company is  
6 seeking increase of rates that will increase  
7 total revenues by twenty-nine million, five  
8 hundred thirteen thousand, seven hundred and  
9 thirteen dollars. The Missouri Public  
10 Service Commission regulates the rates  
11 charged by investor owned utility companies  
12 in Missouri to ensure that those rates are  
13 just and reasonable. The Commission also  
14 regulates the quality of service and the  
15 safety of operations of investor owned  
16 utilities. The Commission is made up of five  
17 Commissioners, four of whom are here today.  
18 The Commissioners are appointed by the  
19 Governor to fixed terms, and confirmed by the  
20 Senate. The Commissioners employ a staff of  
21 engineers, accountants, attorneys, financial  
22 analysts, and other specialists in the field  
23 of utility regulation. I am Colleen M. Dale.  
24 I'm a Regulatory Judge for the Missouri  
25 Public Service Commission, and I will preside

1 over this hearing. This is an official  
2 hearing of the Missouri Public Service  
3 Commission, and statements and testimony of  
4 witnesses will be recorded by the court  
5 reporter and must be given under oath. All  
6 of the Commissioners will have the  
7 opportunity to read all of the witnesses'  
8 remarks. In addition to this local hearing  
9 there will be another public hearing this  
10 evening in Reed Springs. Furthermore, a  
11 trial type evidentiary hearing is scheduled  
12 for September 6th through 15th, 2006,  
13 starting at 10:00 at the Commissions Offices  
14 at the Governor Office Building in Jefferson  
15 City, Missouri. That hearing is a public  
16 hearing, and the Company will have the burden  
17 at that hearing of proving its case. The  
18 parties will present their witnesses for and  
19 against the petition at that time. The  
20 purpose of this hearing is to hear from you.  
21 The Company will not present witnesses and  
22 will not answer questions. This is your  
23 opportunity to testify, and your remarks will  
24 be part of the official record of this case.  
25 I will call the name of each witness who has

1 signed up to speak. When your name is called  
2 please come forward and speak into the  
3 microphone. Please spell your name for the  
4 court reporter so she can put it in the  
5 record correctly. I will ask a few  
6 preliminary questions such as your name and  
7 address, and then you can make your  
8 statement, then there may be questions from  
9 the Commissioners or from me, and then there  
10 may be questions from the attorneys that are  
11 present. Please do not leave the witness area  
12 until you are excused. We are scheduled to  
13 end promptly at 3:00. We ask that you be  
14 brief. If a previous speaker has already  
15 made the points you wanted to make you may  
16 simply state that you agree with what that  
17 person said. There may be someone who wishes  
18 to testify, but because of religious  
19 convictions cannot take an oath, for this  
20 reason you will be asked to swear or affirm  
21 that your testimony will be the truth. Are  
22 there any questions about the procedures  
23 we're about to follow?

24 BY MR. OCHOA: No questions, Your  
25 Honor.

1                   BY JUDGE DALE:  Thank you.  And we  
2                   will --

3                   BY MR. OCHOA:  The first witness --

4                   BY CHAIRMAN DAVIS:  Entries of  
5                   appearance.

6                   BY JUDGE DALE:  Oh, wait.  We're not  
7                   quite finished.  Then we will begin the  
8                   public hearing on Case Number ER-2006-0315,  
9                   in the Matter of the Empire District Electric  
10                  Company of Joplin, Missouri for Authority to  
11                  File Tariffs Increasing Rates for Electric  
12                  Service Provided to Customers in the Missouri  
13                  Service Area of the Company.  Will counsel  
14                  please make their entries of appearance,  
15                  beginning with Staff?

16                  BY MR. FRAY:  Thank you, Your Honor.  
17                  Representing the Staff of the Missouri  
18                  Public Service Commission, Dennis L. Fray,  
19                  P.O. Box 360, Jefferson City, Missouri.  And  
20                  I would note for the record that we have  
21                  three Staff members here prepared to answer  
22                  questions should any arise.  We have Mr. Mark  
23                  Ollenshlager (ph.), Mr. Jim Bush, and Ms. Gay  
24                  Fred.  Thank you.

25                  BY JUDGE DALE:  Public Counsel.

1 BY MR. MILLS: On behalf of the  
2 Office of the Public Counsel and the Public  
3 my name is Lewis Mills. My address is Post  
4 Office Box 2230, Jefferson City, Missouri  
5 65102.

6 BY JUDGE DALE: Company.

7 BY MS. WHEELER: If you would please  
8 let the record reflect the entry of the  
9 appearance of Janet E. Wheeler, W-H-E-E-L-E-  
10 R, of the law firm Brydon, Swearngen &  
11 England, Post Office Box, 456, Jefferson  
12 City, Missouri, on behalf of the applicant,  
13 the Empire District Electric Company.

14 BY JUDGE DALE: Thank you. Mr.  
15 Ochoa, we are now ready to call witnesses.

16 BY MR. OCHOA: The first witness on  
17 the list is O.M. Walstad.

18 BY JUDGE DALE: Mr. Walstad, would  
19 you please state your name?

20 BY O.M. WALSTAD: Ma'am?

21 BY CHAIRMAN DAVIS: Sir, would you  
22 please state your name?

23 BY O.M. WALSTAD: My name is O.M.  
24 Walstad. I live in Joplin, Missouri.

25 BY JUDGE DALE: Can you spell your --

STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION  
TRANSCRIPT OF PROCEEDINGS

Public Hearing

June 27, 2006

Reeds Spring, Missouri

Volume 4

In the Matter of the Empire District     )  
Electric Company of Joplin, Missouri     ) Case No. ER-2006-0315  
for Authority to File Tariffs             )  
Increasing Rates for Electric Service     )  
Provided to Customers in the Missouri     )  
Service Area of the Company               )

COLLEEN M. DALE, Presiding  
CHIEF REGULATORY LAW JUDGE

CONNIE MURRAY,  
LINWARD "LIN" APPLING,  
COMMISSIONERS

REPORTED BY: PATRICIA L. SNIDER, C.C.R.



**APPEARANCES**

**REPRESENTING EMPIRE:**

MS. JANET E. WHEELER  
Brydon, Swearngen & Englund, P.C.  
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Jefferson City, Missouri 65102

**OFFICE OF PUBLIC COUNSEL:**

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Post Office Box 2230  
Jefferson City, Missouri 65102

**STAFF ATTORNEY:**

MR. STEVE DOTTHEIM  
Governor Office Building  
200 Madison Street  
P.O. Box 360  
Jefferson City, Missouri 65102-0360

I N D E X

Page/Line

PROCEEDINGS . . . . .

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PROCEEDINGS

BY JUDGE DALE: The Missouri Public Service Commission has set this time for a local hearing in case number ER20060315 in which the Empire District Electric Company seeks an increase of rates that will increase total revenues by \$29,513,713. The Missouri Public Service Commission regulates the rates charged by investor-owned utility companies in Missouri to ensure that those rates are just and reasonable. The Commission also regulates the quality of service and safety of the operations in investor-owned utilities.

The commission is made up of five commissioners, two of whom are here today in Jefferson City. The commissioners are appointed by the governor to fixed terms and confirmed by the Senate. The commissioners employ a staff of engineers, accountants, attorneys, financial analysts and other specialists in the field of utility regulation.

I am Colleen M. Dale. I am a Regulatory Law Judge for the Missouri Public Service

1 Commission and I will preside over this  
2 hearing. This is an official hearing of the  
3 Missouri Public Service Commission and the  
4 statements and testimony of witnesses will be  
5 recorded by the court reporter and must be  
6 given under oath. All of the commissioners  
7 will have the opportunity to read all of the  
8 witnesses' remarks.

9 In addition to this local hearing, and  
10 the ones that were held previously, a trial-  
11 type evidentiary hearing is scheduled for  
12 September 6 through 15, 2006, starting at 10  
13 a.m. at the Commission's offices at the  
14 Governor Office Building in Jefferson City,  
15 Missouri. That hearing is a public hearing  
16 and the company will have the burden at that  
17 hearing of proving its case. The parties  
18 will present their witnesses for and against  
19 the petition at that time.

20 The purpose of this hearing is to hear  
21 from you. The company will not present  
22 witnesses and will not answer questions.  
23 This is your opportunity to testify and your  
24 remarks will be part of the official record  
25 of this case. I will call the name of each

1 witness who has signed up to speak. When  
2 your name is called, please come forward and  
3 speak clearly. There are plenty of microphones  
4 around the room, so we will be able to pick  
5 up without having to speak directly into a  
6 microphone. Please spell your name for the  
7 court reporter, so she can put it in the  
8 record correctly. I will ask a few  
9 preliminary questions and then there may be  
10 questions from the commissioners, from me, or  
11 from the counsel present. Please do not  
12 leave the witness area until you are excused.

13 We are scheduled to end promptly at 9:00.  
14 We ask that you be brief. If a previous  
15 speaker has already made the points you  
16 wanted to make, you may simply state that you  
17 agree with what that person said. There may  
18 be someone who wishes to testify, but because  
19 of religious convictions cannot take an oath.  
20 For this reason you will be asked to swear  
21 or affirm that your testimony will be the  
22 truth.

23 Are there any questions about this  
24 procedure? Hearing none, then we are here in  
25 the case number ER-2006-0315 In the Matter of

1 Empire District Electric Company of  
2 Joplin, Missouri for Authority to File  
3 Tariffs Increasing Rates for Electric Service  
4 Provided to Customers in the Missouri Service  
5 Area of the Company. Will counsel please  
6 make their entries of appearance, beginning  
7 with staff?

8 BY MR. DOTTHEIM: (no audible answer)

9

10 BY JUDGE DALE: Public counsel?

11 BY MR. MILLS: On behalf of the  
12 Office of the Public Counsel and the public  
13 my name is Lewis Mills. My address is Post  
14 Office Box 2230, Jefferson City, Missouri  
15 65102.

16 BY JUDGE MILLS: Company?

17 BY MS. WHEELER: Let the record  
18 reflect the appearance of Janet E. Wheeler of  
19 the law firm Brydon, Swearngen & England,  
20 P.O. Box 456, Jefferson City, Missouri, on  
21 behalf of the applicant, the Empire District  
22 Electric Company.

23 BY JUDGE DALE: Thank you. And with  
24 me here at the bench are Commissioners Murray  
25 and Appling. This would be a time when we