

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
JEFFERSON CITY**

April 2, 2002

CASE NO: ER-2002-424

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139 David St./PO Box 1086
Forsyth, MO 65653

Enclosed find certified copy of a SUSPENSION ORDER in the above-numbered case(s).

Sincerely,



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

Uncertified Copies:

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of The Empire District Electric Company)	
of Joplin, Missouri, for Authority to File Tariffs Increasing)	<u>Case No. ER-2002-424</u>
Rates for Electric Service Provided to Customers in the)	Tariff No. 200200743
Missouri Service Area of the Company.)	

SUSPENSION ORDER AND NOTICE

This order suspends the tariff of Empire District Electric Company, directs notice of the tariff, and sets certain procedural dates.

On March 8, 2002, Empire filed proposed tariff sheets intended to implement a general electric service rate increase in the company's Missouri service area. The proposed tariff sheets bear a requested effective date of May 15, 2002. According to the company, the proposed electric service tariff sheets are designed to increase Empire's gross electric revenues by approximately \$19,779,916 annually. Together with its proposed tariff sheets and other minimum filing requirements, Empire also filed supporting Direct Testimony.

In order to allow sufficient time to study the effect of the proposed tariffs and to determine if they are just, reasonable, and in the public interest, the proposed tariffs shall be suspended for a period of 120 days beyond the requested effective date. Furthermore, because a hearing on the proposed tariffs cannot be concluded within the 120-day suspension period, the proposed tariffs shall be suspended for an additional six months.

The Commission is required by law to give rate increase cases preference over all other questions pending before it and to decide such cases as quickly as possible. The burden of proof that the proposed rates are just and reasonable is upon the company

proposing the rates. Empire included in its prefiled Direct Testimony of David W. Gibson its recommendation concerning the proper test year to be used in these proceedings.

On March 22, 2002, Empire, the Staff of the Missouri Public Service Commission, Praxair, Inc., and the Office of the Public Counsel jointly filed a Joint Recommendation Regarding Test Year and Proposed Procedural Schedule. The parties have agreed to a proposed procedural schedule and to an updated test year. The parties propose the 12-month period ending on December 31, 2001, as the test year with an update period ending on June 30, 2002. The parties agreed that with the update period, no true-up hearing will be necessary.

The parties also agreed that Empire will make its books and records for the update period available to the other parties no later than July 15, 2002. If Empire fails to make the information available by July 15, 2002, the parties agreed that the update of the test year will only extend through the last calendar month for which all the information is available. The information that Empire will provide is as follows:

- a) Empire's monthly kilowatt-hour sales for Missouri retail, Missouri wholesale, Oklahoma, Arkansas and Kansas;
- b) Empire's monthly system-wide net generation, energy purchases and sales, net system input and company usage;
- c) Empire's hourly off-system purchases and sales by transaction;
- d) Empire's monthly Missouri retail, Missouri wholesale, Oklahoma, Arkansas and Kansas load during the system peak hour;
- e) Monthly customer counts by rate schedule;
- f) Monthly individual customer billing data for each individual customer taking service under the Large Power Service or Special Transmission Service rate schedules that became active, became inactive, or significantly changed its usage during the period of time between the beginning of the test year and the end of the update period; and

- g) Monthly individual customer billing data for each individual customer taking service under the Large Power Service or Special Transmission Service rate schedules for which billing data is not available in every month of the test year.

The Commission has reviewed the proposed procedural schedule and recommendations for an updated test-year and finds them to be appropriate for this case. The Commission will adopt the parties' proposed procedural schedule. In addition, the Commission finds 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. 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.

(B) The parties shall agree on and file a list of issues to be determined herein by the Commission. 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.

(C) 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 propose the order of cross-examination and file a joint pleading indicating the same.

(D) 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. The position statement shall be filed in the official case papers and, if available electronically,

shall be submitted to the Regulatory Law Judge either on computer disk or by e-mail. Electronically-submitted documents shall be in Word, WordPerfect, or ASCII format. The Regulatory Law Judge's e-mail address is: ndippell@mail.state.mo.us.

(E) The Commission's general policy provides for the filing of the transcript within two weeks after the hearing. If any party seeks to expedite the filing of the transcript, such request shall be tendered in writing to the Regulatory Law Judge at least five days prior to the date of the hearing.

(F) All pleadings, briefs and amendments shall be filed in accordance with 4 CSR 240-2.080 with the exception that the dates for filing are set out below. The briefs 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 issues that are to be decided by the Commission. The briefing schedule is set out below.

(G) Each party shall file proposed findings of fact and conclusions of law with its briefs. Proposed findings of fact and conclusions of law shall be filed in paper form and submitted electronically, either on computer disk or by e-mail to the Regulatory Law Judge.

(H) 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 three copies of the exhibit are necessary for the court reporter. If an exhibit has not been prefiled, the party offering it should bring, in addition to the three copies for the court reporter, copies for the five Commissioners, the Regulatory Law Judge, and all counsel.

The Commission finds that proper persons should be allowed time to file a motion for leave to intervene. The Commission's Data Center shall serve a copy of this order upon the county commission of each county in Empire's service area. In addition, the

Commission's Public Information Office shall make notice of this order available to the media serving Empire's service area and to the members of the General Assembly representing the residents of the Company's service area.

The Commission also finds that Empire shall give notice to customers as directed in the ordered paragraphs below. The parties have recommended September 17, 2002, as a possible date for a local public hearing at the City Hall in Joplin, Missouri. The Commission will set the dates and times for local public hearing in a separate order. The Commission will, however, reserve the recommended date on its calendar and take the appropriate steps to determine if that date and location are available.

IT IS THEREFORE ORDERED:

1. That the proposed electric service tariff sheets (File No. 200200743) submitted on March 8, 2002, by Empire District Electric Company for the purpose of increasing rates for electric service to retail customers are hereby suspended for a period of 120 days from May 15, 2002, to September 12, 2002. The specific sheets suspended are:

Schedule of Rates for Electricity, PSC No. No. 5

Section A, 16th Revised Sheet No. 1, Canceling Section A, 15th Revised Sheet No. 1
Section 1, 11th Revised Sheet No. 1, Canceling Section 1, 10th Revised Sheet No. 1
Section 2, 10th Revised Sheet No. 1, Canceling Section 2, 9th Revised Sheet No. 1
Section 2, 10th Revised Sheet No. 2, Canceling Section 2, 9th Revised Sheet No. 2
Section 2, 10th Revised Sheet No. 3, Canceling Section 2, 9th Revised Sheet No. 3
Section 2, 11th Revised Sheet No. 4, Canceling Section 2, 10th Revised Sheet No. 4
Section 2, 10th Revised Sheet No. 5, Canceling Section 2, 9th Revised Sheet No. 5
Section 2, 10th Revised Sheet No. 6, Canceling Section 2, 9th Revised Sheet No. 6
Section 2, 10th Revised Sheet No. 7, Canceling Section 2, 9th Revised Sheet No. 7
Section 2, 6th Revised Sheet No. 9, Canceling Section 2, 5th Revised Sheet No. 9
Section 2, 5th Revised Sheet No. 13, Canceling Section 2, 4th Revised Sheet No. 13
Section 3, 11th Revised Sheet No. 1, Canceling Section 3, 10th Revised Sheet No. 1
Section 3, 15th Revised Sheet No. 2, Canceling Section 3, 14th Revised Sheet No. 2
Section 3, 10th Revised Sheet No. 3, Canceling Section 3, 9th Revised Sheet No. 3
Section 3, 10th Revised Sheet No. 4, Canceling Section 3, 9th Revised Sheet No. 4
Section 3, 2nd Revised Sheet No. 5, Canceling Section 3, 1st Revised Sheet No. 5
Section 4, 8th Revised Sheet No. 2, Canceling Section 4, 7th Revised Sheet No. 2

**Section 4, 7th Revised Sheet No. 3, Canceling Section 4, 6th Revised Sheet No. 3
Section 4, 3rd Revised Sheet No. 9, Canceling Section 4, 2nd Revised Sheet No. 9
Section 4, 2nd Revised Sheet No. 10, Canceling Section 4, 1st Revised Sheet 10**

2. That the electric service tariff sheets suspended in ordered paragraph 1, above, File No. 200200743, are hereby suspended an additional six months beyond September 12, 2002, to March 12, 2003, unless otherwise ordered by the Commission.

3. That any proper person or entity desiring to intervene in this matter shall file an application no later than April 22, 2002, with:

Dale Hardy Roberts, Secretary
Missouri Public Service Commission
Post Office Box 360
Jefferson City, Missouri 65102

and send copies to:

Legal Department
The Empire District Electric Company
Post Office Box 127
Joplin, Missouri 64802

Stuart W. Conrad
Finnegan, Conrad & Peterson, L.C.
1209 Penntower Office Center
3100 Broadway
Kansas City, Missouri 64111

and:

Office of the Public Counsel
Post Office Box 7800
Jefferson City, Missouri 65102

4. That the test year in this matter shall be the 12-month period ending December 31, 2001, updated for known and measurable changes through June 30, 2002. Empire District Electric Company shall update its accounting information consistent with the test year.

5. That if Empire District Electric Company does not provide all the updated information as listed in the body of this order by July 15, 2002, the update period shall only extend through the last calendar month for which all the information is available on that date.

6. That the following procedural schedule is adopted:

Supplemental Direct Testimony (reflecting the test year ending 12/31/01; update period will be reflected in Empire's September 24, 2002 filing.)	March 29, 2002
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Direct testimony-Revenue Requirement Issues (all parties except Empire)	August 16, 2002
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Direct testimony-Rate Design Issues (all parties except Empire)	August 23, 2002
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Prehearing Conference	September 9-13, 2002 10:00 a.m. first day
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Rebuttal Testimony-all issues (all parties with a 10-day discovery turnaround after September 24, 2002; Empire's filing will reflect the test year updated through June 30, 2002)	September 24, 2002
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Joint Statement of Issues, Order of Witnesses, Order of Cross-Examination and identification of relevant pages in testimony	October 1, 2002
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Statement of Positions on the Issues (each party)	October 4, 2002
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Surrebuttal/Cross-Surrebuttal testimony (all parties)	October 16, 2002
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Reconciliation	October 23, 2002
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Evidentiary Hearing	Oct. 28–Nov. 8, 2002 Begin 8:30 a.m. first day
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Initial Briefs and
Proposed Findings of Fact
and Conclusions of Law

December 20, 2002

Reply Briefs

January 10, 2003

The prehearing conference and evidentiary hearing will be held in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. The Governor Office Building meets accessibility standards required by the Americans With Disabilities Act. If any person needs additional accommodations to participate in the hearing, please call the Public Service Commission's Hotline at 1-800-392-4211 (voice) or 1-800-829-7541 (TDD) prior to the hearing.

7. That the parties shall comply with the procedural conditions set out in the body of this order.

8. That the Commission shall conduct a local public hearing on the proposed rate increase and shall set the time, date and location of the local public hearing in a subsequent order. On or before May 2, 2002, the parties and intervenors may file additional recommendations for dates and locations of a local public hearing.

9. That Empire District Electric Company shall notify each affected customer of the hearings scheduled in this case, either by a notice on or accompanying a bill or by a separate notice, at least ten days, but not more than 45 days, prior to the first day of the hearings, unless otherwise ordered by the Commission. The notice shall be in the following form:

NOTICE

The Empire District Electric Company has filed revised electric service tariff sheets with the Missouri Public Service Commission (PSC) which would increase the Company's Missouri jurisdictional annual gross revenues by approximately \$19,779,916. For the

average residential customer, the proposed increase would be approximately \$_____ each month.

An evidentiary hearing has been set before the PSC beginning at 8:30 a.m., October 28, 2002, in the PSC's hearing room on the third floor of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. If you wish to comment or secure information, you may contact the Office of the Public Counsel, Post Office Box 7800, Jefferson City, Missouri 65102, telephone (573) 751-4857.

Any person planning to attend the hearing who has special needs as addressed by the Americans With Disabilities Act, should contact the Missouri Public Service Commission at least ten days prior to the hearing at one of the following numbers: Consumer Services Hotline -- 1-800-392-4211, or TDD Hotline -- 1-800-829-7541.

10. That the Data Center of the Missouri Public Service Commission shall serve a copy of this order upon the county commission of each county in Empire District Electric Company's Missouri service area.

11. That the Commission's Public Information Office shall make notice of this order available to the media serving the Empire District Electric Company's service area and to the members of the General Assembly representing the residents of the company's service area.

12. That this order shall become effective on April 12, 2002.

BY THE COMMISSION



**Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge**

(SEAL)

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

Dated at Jefferson City, Missouri,
on this 2nd day of April, 2002.

FYI: To Be Issued By Delegation

ALJ/Secretary: Diprell / Pope

3-27
Date Circulated

4-1, 10am
Return Not Later Than

ER-2002-424
CASE NO.

KS
Simmons, Chair

am
Murray, Commissioner

SL
Lumpe, Commissioner

7/1
Gaw, Commissioner

PK 2,4
Forbis, Commissioner

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and
I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City,
Missouri, this 2nd day of April 2002 .

Dale Hardy Roberts

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

