

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
JEFFERSON CITY
September 13, 2001**

CASE NO: EE-2002-120

Office of the Public Counsel
P.O. Box 7800
Jefferson City, MO 65102

General Counsel
Missouri Public Service Commission
P.O. Box 360
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Gary W. Duffy
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P.O. Box 456
Jefferson City, MO 65102-0456

Enclosed find certified copy of an ORDER and NOTICE in the above-numbered case(s).

Sincerely,



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

uncertified copies: County clerk of each Missouri county in which Empire provides electric, water, or telecommunications service.

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Application of The Empire)
District Electric Company for Permission to)
Transfer its Centurion Software to a Subsidiary) **Case No. EE-2002-120**
Corporation Pursuant to Certain Conditions)
and for a Variance from 4 CSR 240-20.015)
for the Transaction.)

ORDER AND NOTICE

This order directs notice of this application be issued to the affected customers, county commissioners, legislators and media, and establishes dates for filing.

On August 23, 2001, Empire District Electric Company filed an application with the Missouri Public Service Commission requesting an order approving a proposed transfer of assets to an affiliated company. The application also requested the Commission grant Empire a variance of sections (2), (3), (4), and (5) of the affiliate transaction rule.¹

Empire is a Kansas corporation with its principal office and place of business located at 602 Joplin Street, Joplin, Missouri 64801. The application stated that Empire is a provider of electrical and water utility services to Missouri customers located within its service area. The application also noted that Empire has a certificate of service authority to provide certain telecommunications services. Empire stated that it is an "electric corporation", a "water corporation", and a "public utility" as defined in Section 386.020, RSMo 2000, and is subject to the jurisdiction of the Commission.

¹ Commission Rule 4 CSR 240-20.015, Effective February 29, 2000.

Empire stated that it is seeking the Commission's approval for the proposed transfer by Empire of a developmental version of computer software for a customer information system called Centurion. This software program was developed by Empire employees, who did the original development, installation, and modification to the software, as an effort to deal with the world-wide concerns over expected computer failures or malfunctions on January 1, 2000. Despite Empire's use of the developmental version of Centurion, Empire stated that the computer program is a "work-in-progress", which needs substantial additional investment in time and capital so that future operating risks can be minimized.

Empire stated that Centurion represents a great value to Empire and its customers when the capitalized cost is compared to market alternatives. Empire notes that Centurion is not marketable in its current form. The development version of the Centurion software does not have configuration stability; training and operating documentation; primary interface with other programs, such as accounting; functionality, such as stress testing for stability and scalability; and expansion of core reports. Empire proposes to transfer this computer software program to an unregulated subsidiary affiliate of Empire that will complete the program. Empire indicated that the present plan is to create the affiliated subsidiary after receiving approval from the Commission for this transaction.

In return, certain considerations will be given to Empire, such as continued use of the Centurion system, a completed and documented version of the Centurion software, along with a software license, at no cost to Empire, and annual software maintenance agreements for the first seven years at no cost to Empire. Empire indicated that this transaction would allow it to obtain a complete and documented version of the Centurion software and to avoid expenses in the amount of approximately \$2 million for future

development and maintenance costs. Empire also seeks a variance from the Affiliate Transactions rule of the Commission for this proposed Centurion transaction, only for so long as the Centurion system is used by Empire under the terms and agreements with its affiliate.

The Commission finds that proper persons should be allowed 30 days from the issuance of this order to file a motion for leave to intervene or to file comments addressing whether or not the proposed transfer of assets is in the public interest. The Commission finds that notice of this application should be sent to the county commission of each Missouri county in which Empire provides electric, water or telecommunications service, to each newspaper serving the affected counties, as listed in the newspaper directory of the current *Official Manual of the State of Missouri*, and to the members of the Missouri General Assembly representing persons residing within the affected service areas.

The requirement of a hearing is met when an opportunity to be heard has been provided and no proper party has requested the opportunity to present evidence.² If there are no requests for a hearing, the requested relief may be granted based on the petition.

IT IS THEREFORE ORDERED:

1. That the Data Center of the Commission shall send a copy of this *Order And Notice* to the county clerk of each Missouri county in which Empire provides electric, water or telecommunications service.

2. That the Public Information Officer of the Commission shall give notice of this application to every newspaper serving each county affected by the application, as listed in the newspaper directory of the current *Official Manual of the State of Missouri*, and to the

² *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission*, 776 S.W.2d, 494, 496 (Mo. App. 1989).

members of the Missouri General Assembly representing persons residing within the affected service areas.

3. That any interested party wishing to intervene in this case shall file an application to do so no later than October 15, 2001, with:

Dale Hardy Roberts, Secretary
Missouri Public Service Commission
Post Office Box 360
Jefferson City, Missouri 65102-0360

and send copies to:

Gary W. Duffy
Brydon, Swearingen & England
P.O. Box 456
312 East Capitol Avenue
Jefferson City, Missouri 65102-0456

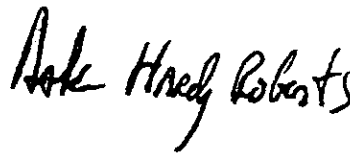
and

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

4. That this order shall become effective on September 23, 2001.

BY THE COMMISSION

(SEAL)



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

Shelly A. Register, Regulatory Law Judge
by delegation of authority pursuant to
Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 13th day of September, 2001.

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 13th day of Sept. 2001.

Dale Hardy Roberts

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

