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August 3, 2001

Mr. Dale H. Roberts
Secretary/Chief Regulatory Law Judge
Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

FILED

AUG 3 2001

Missouri Public
Service Commission

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

Dear Mr. Roberts:

Enclosed for filing in the above-referenced case please find the original and eight copies of **PUBLIC COUNSEL'S PROPOSED FINDINGS OF FACT AND CONCLUSION OF LAW.** Please "file" stamp the extra-enclosed copy and return it to this office.

Thank you for your attention to this matter.

Sincerely,

John B. Coffman
Deputy Public Counsel

JBC:jb

cc: Counsel of Record

FILED
AUG 3 2001
Missouri Public Service Commission

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

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 Tariff No. 200100518

PUBLIC COUNSEL'S PROPOSED FINDINGS OF FACT AND CONCLUSION OF LAW

COMES NOW the Office of the Public Counsel (Public Counsel) and for its Proposed Findings of Fact and Conclusion of Law suggest the following:

1. The Commission finds that it is reasonable to utilize Company's actual capital structure as of the of the approved test year in this case, and updated through the true-up process to June 30, 2001 for the purposes of determining the overall rate of return.

2. The best policy to adopt in determining capital structure for the purposes of setting rates that is one that recognizes the actual equity ratio during the audited test period of a rate case.

3. It would be unreasonable to utilize a hypothetical capital structure as Company proposes. Company's management chose to initiate a rate case at this time with the current capital structure in place. Consumers have no ability to influence a utility's capital structure nor do consumers have any ability to influence of rate case requests. Company's management will be under no obligation to alter its capital structure in the future to match the hypothetical capital structure it proposed in this case.

4. Although Company claims that alterations were made to its capital structure as a result of its unsuccessful merger proposal with the UtiliCorp United, Inc. (see Case No.

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EM-2000-369), it is not reasonable for consumers to pay higher rates as a result of actions taken as a result of a failed merger attempt.

5. Company's common equity ratio is currently similar to the average level of common equity for Public Counsel's comparable companies. This actual capital structure falls within a zone of reasonableness for an electric utility and is the most appropriate capital structure to use for the calculation of Company's overall rate of return.

6. All of the recommendations made regarding the appropriate embedded cost of long term debt fall within a range of three basis points. Staff used a methodology, to which Public Counsel essentially agreed, that calculated an embedded cost of long term debt of 7.88%.

7. The Commission adopts the findings of the discounted cash flow (DCF) analysis performed by Public Counsel Financial Analyst Mark Burdette. His DCF analysis generates a cost of common equity of 10.06%.

8. Mr. Burdette performed a standard DCF analysis in the manner that the Commission has approved in numerous prior rate cases for the purposes of determining a proper return on common equity for regulated utilities. The DCF model is represented by the following equation: $k = D/P + g$ where "k" is the cost of equity capital (i.e. investors' required return), "D/P" is the current dividend yield (dividend (D) divided by the stock price (P) and "g" is the expected sustainable growth rate.

9. The growth rate variable included in the DCF analysis represents the growth rate that investors expect for this utility into the indefinite future – the sustainable growth rate.

10. The sustainable growth rate calculated by Mr. Burdette using both historical and projected rates for 1) earnings per share (EPS), 2) dividends per share (DPS), and 3) book value per share (BVPS) for Company and for a group of six comparable companies.

11. The Commission finds Public Counsel's recommended growth rate of 3.5% to be reasonable. It is greater than the calculated overall average, but similar to the projected rate. This growth rate is also at the midpoint of Staff's recommended range for a growth rate (3% - 4%).

12. The appropriate dividend yield for Company in this case is 6.56%, based upon the stock price and expected dividend yield.

13. An appropriate dividend yield calculation is based on a current stock price. Mr. Burdette appropriately utilized a stock price of $19.52 by averaging Company's stock price over the most recent six weeks to reduce daily variability in the stock price. By comparison, Staff utilized a stock price over $24, which was based upon a monthly high/low average market price for a long historical period (October 1, 2000 through March 4, 2001). This difference in how the stock price was determined is the primary reason that Staff and Public Counsel differ in their return on equity recommendations.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

By: ______________________

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed or hand-delivered to the following this 3rd day of August 2001:

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