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September 14, 2001

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

FILED
SEP 14 2001
Missouri Public
Service Commission

Re: Case No. ER-2001-299

Dear Mr. Roberts:

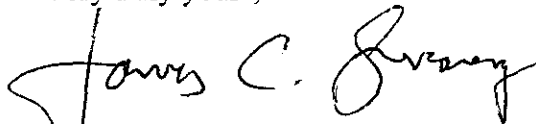
Enclosed for filing on behalf of The Empire District Electric Company, please find an original and eight (8) copies of a Reply to Staff's Motion to Strike.

Copies of this filing will be provided to all parties of record.

Would you please see that this filing is brought to the attention of the appropriate Commission personnel.

I thank you in advance for your cooperation in this matter.

Very truly yours,


James C. Swearngen

JCS/lar
Enclosure
cc: All Parties of Record

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

FILED

SEP 14 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

**REPLY OF THE EMPIRE DISTRICT ELECTRIC COMPANY
TO STAFF'S MOTION TO STRIKE**

Comes now The Empire District Electric Company ("Empire"), by counsel, and for its reply to the Missouri Public Service Commission Staff ("Staff") Motion to Strike respectfully states as follows to the Missouri Public Service Commission ("Commission"):

1. The Staff's motion is not well-taken. The Staff concedes at paragraph 3 that capital structure and cost of capital are true-up issues. In fact, these issues are addressed in the true-up testimony of both the Staff and Public Counsel.

2. Public Counsel witness Burdette testified at page 3 of his true-up direct testimony as follows:

Q. What is your recommended cost of common equity for Empire?

A. Empire should be allowed a return on common equity of 10.0% to 10.25%.
(Exhibit 126, page 3, lines 19-20).

Likewise, at page 3 of the true-up direct testimony of Staff witness McKiddy is the Staff's recommendation of a return on equity range for Empire of 8.50% to 9.50%. (Exhibit 124, page 3, lines 11-12). Furthermore, at the true-up hearing Public Counsel witness Burdette testified that he continued to recommend that Empire be allowed a return on common equity of 10% to

10.25% and that it was his understanding that the Staff continued to recommend a range of 8.5% to 9.5%. (Tr. 1231, 1232). Simply stated, the Staff's motion is misleading when it suggests that neither Public Counsel or Staff witnesses addressed the return on equity issue.

3. In addition, Staff witness McKiddy's testimony addressed the issue of capital structure (Exhibit 124, page 1, lines 21-23; page 2, lines 1-11; Exhibit 125, pages 1-4) as did the testimony of Public Counsel witness Burdette. (Exhibit 126, pages 2-3).

4. The Staff is also incorrect and misleads the Commission when it suggests that Empire has raised a new "issue" concerning the Staff's proposed "minimal solvency" standard. The minimal solvency issue is not a concept introduced for the first time in Empire's Reply Brief. Beginning at page 7 of his rebuttal testimony, Empire witness Donald A. Murry explained why the Staff's proposed indenture coverage standard is inappropriate and fundamentally wrong. At page 9 Dr. Murry testified, "This Commission should not adopt a standard of simply keeping a utility barely above the line of insolvency." Pages 40-42 of Empire's Initial Brief and page 30 of its Reply Brief address this issue.

5. Finally, with reference to recent decisions of the Kansas Corporation Commission, the Staff makes the unprecedented claim that reported cases from other jurisdictions somehow cannot be cited in a brief. The KCC's cases are reported on the KCC's Internet site <http://www.kcc.state.ks.us>.¹ The absurdity of this position is so apparent that nothing further need be said on this point.

WHEREFORE, Empire respectfully urges the Commission to deny the Staff's Motion to Strike. Accordingly, Empire sees no basis for the Staff's request to file a further brief, and points

¹The web address was incorrect in the Reply Brief.

out that could set a troublesome precedent. But if the Commission deems that necessary under the circumstances, then Empire has no objection to the Commission granting the Staff the opportunity to respond to Empire's Reply Brief.

Respectfully submitted,



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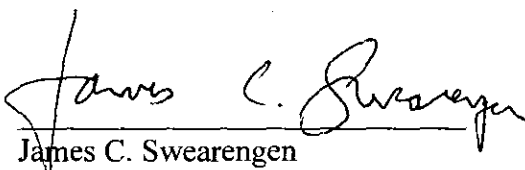
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Attorneys for The Empire District Electric Company

Certificate of Service

The undersigned certifies that a true and correct copy of the foregoing document was either hand delivered or placed with the U.S. Postal Service, first class postage prepaid, this 14 TH day of September, 2001, to the Office of the General Counsel, Office of the Public Counsel and Stuart W. Conrad.



James C. Swearengen