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Missouri Public Service Commission

POST OFFICE BOX 360
JEFFERSON CITY, MISSOURI 65102
573-751-3234
573-751-1847 (Fax Number)
<http://www.psc.state.mo.us>
June 30, 2000

BRIAN D. KINKADE
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Director, Research and Public Affairs

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Director, Utility Operations

ROBERT SCHALLENBERG
Director, Utility Services

DONNA M. KOLILIS
Director, Administration

DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

FILED²

JUN 30 2000

Missouri Public
Service Commission

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

RE: Case No. EF-98-120 – In the Matter of the Application of The Empire District Electric Company for Authority to Issue and Sell Under Its Existing Indenture of Mortgage and Deed of Trust Dated as of September 1, 1944, as Amended and Supplemented, Up to and Including \$80,000,000 Principal Amount of Its First Mortgage Bonds, in One or More Series and to, Among Other Things, Execute and Deliver a Supplemental Indenture or Indentures to Provide for the Term of Said Bonds

Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and eight (8) conformed copies of **STAFF'S REPLY TO EMPIRE DISTRICT ELECTRIC COMPANY'S RESPONSE TO STAFF RECOMMENDATION.**

This filing has been mailed or hand-delivered this date to all counsel of record.

Thank you for your attention to this matter.

Sincerely yours,

Steven Dottheim
Chief Deputy General Counsel
(573) 751-7489
(573) 751-9285 (Fax)

Enclosure
cc: Counsel of Record

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

FILED²

JUN 30 2000

Missouri Public
Service Commission

In the Matter of the Application of The Empire)
District Electric Company for Authority to Issue)
and Sell Under Its Existing Indenture of Mortgage)
and Deed of Trust Dated as of September 1, 1944,)
as Amended and Supplemented, Up to and)
Including \$80,000,000 Principal Amount of Its First)
Mortgage Bonds, in One or More Series and to,)
Among Other Things, Execute and Deliver a)
Supplemental Indenture or Indentures to Provide)
for the Terms of Said Bonds.)

Case No. EF-98-120

**STAFF'S REPLY TO EMPIRE DISTRICT ELECTRIC
COMPANY'S RESPONSE TO STAFF RECOMMENDATION**

COMES NOW the Staff of the Missouri Public Service Commission (Staff) in reply to the response of the Empire District Electric Company (Empire), which was filed with the Commission on June 20, 2000. Empire's June 20, 2000 filing was in response to the Staff Recommendation And Request For Leave To Late-File, which was filed on June 14, 2000. The Staff has no desire to burden the record or add to the volume of filings already received by the Commission, but believes that a short response is appropriate. In reply the Staff states as follows:

1. In 1998, The Empire District Electric Company (Empire) issued \$50,000,000 First Mortgage Bonds pursuant to a March 17, 1998 *Order Approving Financing*, in the instant docket, which permitted Empire to issue up to and including \$80,000,000 principal amount of First Mortgage Bonds. Empire has not issued any additional amount of First Mortgage Bonds since that time. One of the concerns that the Staff sought to raise in its filing on June 14, 2000 was the indefinite term for which Empire had been authorized to issue up to and including

\$80,000,000 principal amount of First Mortgage Bonds, of which \$30,000,000 has not been issued by Empire, but respecting which Empire indicated in its April 5, 2000 Status Report that it might yet issue. The authorization for which the Staff recommended in its June 14, 2000 filing that the Commission cancel if the Commission should close the instant case is the \$30,000,000 principal amount of First Mortgage Bonds if this authorization has not been utilized by Empire by the time that the Commission were to close this case.

2. The Staff in a filing on June 27, 2000 in Case No. EF-97-204 (In the Matter of the Application of Kansas City Power & Light Company, a Missouri Corporation, for Authority to Issue Medium-Term Notes) stated as follows:

The Staff notes that the Commission's effort to address the matter of cases kept open for an extended period comprising years encounters, in particular, the situation of financing cases involving shelf registrations of an indefinite term. The public utilities regulated by the Commission have explained that they seek such authority for indefinite terms for flexibility to deal with dynamic and rapidly changing market conditions and in doing so they may engage in issuances of securities, under the same Commission authorization in a particular case, at different times over a period of years. Other Commission financing cases where this situation has been encountered recently include Case No. EF-98-120 (Empire District Electric Company), which is currently before the Commission for action, and, consolidated cases, Case Nos. EF-2000-385 and EF-94-25 (Union Electric Company, d/b/a AmerenUE), which were before the Commission for action at the end of last year and the early part of this year.

3. Given the arguments raised by Empire in its June 20, 2000 filing in the instant proceeding, the Staff would further relate the situation in Case Nos. EF-2000-385 (In the Matter of the Application of Union Electric Company d/b/a AmerenUE for an Order Authorizing the Issue and Sale of up to \$750,000,000 Aggregate Principal Amount of Additional Long-Term Debt) and EF-94-25 (In the Matter of the Application of Union Electric Company for an Order Authorizing the Issue and Sale of up to \$310,000,000 Principal Amount of First Mortgage Bonds for the Purpose of Discharging Outstanding Long-Term Indebtedness). In 1993 in Case No. EF-

94-25, the Commission authorized Union Electric Company (UE) to issue and sell from time-to-time, in several transactions up to \$310,000,000 principal amount of First Mortgage Bonds. UE issued and sold \$100,000,000 principal amount of First Mortgage Bonds. On December 23, 1999 UE filed an application in Case No. EF-2000-385 to issue and sell from time-to-time, in several transactions up to \$750,000,000 aggregate principal amount of long term indebtedness including, among other forms of debt, First Mortgage Bonds. At page 5 in section 5.f., of UE's Application in Case No. EF-2000-385, UE stated as follows:

. . . By this Application, Applicant requests that the authority sought herein, if granted by the Commission, be ruled to supercede [sic] and terminate the \$210,000,000 of First Mortgage Bond authorization remaining under the Order issued in Case No. EF-94-25.

In a Motion To Consolidate filed by UE on January 11, 2000 in Case No. EF-2000-385 and in Case No. EF-94-25, UE stated at page 2 in section 3. as follows:

As a part of its application in Case No. EF-2000-385, AmerenUE requests that the authority sought therein, if granted by the Commission, be ruled to supercede [sic], replace and terminate the \$210,000,000 of First Mortgage Bond authorization remaining under the Commission's Order Approving Financing issued effective October 8, 1993, in Case No. EF-94-25. The authorization granted in Case No. EF-94-25 would only continue in effect with respect to the \$100,000,000 principal amount of First Mortgage Bonds previously issued and sold thereunder.

In an Order Approving Financing dated February 17, 2000 in Case Nos. EF-2000-385 and EF-94-25 the Commission in Ordered item 7. directed as follows:

That the remaining and unissued authority of \$210,000,000 approved by the Commission in Case No. EF-94-25 is canceled and that Case No. EF-94-25 shall be closed.

WHEREFORE the Staff submits the foregoing in reply to the response of Empire, which was filed with the Commission on June 20, 2000.

Respectfully submitted,

DANA K. JOYCE
General Counsel



Steven Dottheim
Chief Deputy General Counsel
Missouri Bar No. 29149

Attorney for the Staff of the
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
(573) 751-7489 (Telephone)
(573) 751-9285 (Fax)
sdotthei@mail.state.mo.us

Certificate of Service

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel or parties of record as shown on the attached service list this 30th day of June 2000.



Steven Dottheim

Service List for
Case No. EF-98-120
June 30, 2000

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

Paul A. Boudreau
Brydon, Swearngen & England
P.O. Box 456
Jefferson City, MO 65102

Myron W. McKinney
The Empire District Electric Company
602 Joplin St.
Joplin, MO 64801