

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

**January 4, 2001**

**CASE NO: ER-2001-299**

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Jefferson City, MO 65102

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Missouri Public Service Commission

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**Gary Duffy**

Brydon, Swearngen & England, P. C.

P. O. Box 456

Jefferson City, MO 65102-0456

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

**Sincerely,**



**Dale Hardy Roberts**

**Secretary/Chief Regulatory Law Judge**

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service  
Commission held at its office  
in Jefferson City on the 4th  
day of January, 2001.

In the Matter of The Empire District Electric	)	
Company's Tariff Sheets Designed to Implement	)	<b>Case No. ER-2001-299</b>
a General Rate Increase for Retail Electric	)	<b>Tariff No. 200100518</b>
Service Provided to Customers in the Missouri	)	
Service Area of the Company.	)	

**ORDER SETTING TEST YEAR, SETTING TRUE-UP HEARING  
AND ADOPTING PROCEDURAL SCHEDULE**

On November 3, 2000, Empire District Electric Company (Empire or Company) submitted to the Commission proposed tariff sheets intended to implement a general rate increase for electric service provided to retail customers in the Missouri service area of the Company. The proposed tariff sheets bear a requested effective date of December 3, 2000. The proposed electric service tariff sheets are designed to produce an annual increase of approximately 19.3 percent (\$41,467,926) in the Company's revenues. Together with its proposed tariff sheets and other minimum filing requirements, the Company also filed prepared direct testimony in support of its requested rate increase.

On November 13, 2000, Praxair, Inc. (Praxair), filed its application to intervene. On November 16, 2000, the Commission issued its Suspension Order and Notice, suspending the proposed tariff sheets until October 2, 2001. The Commission also directed notice and established an intervention period, set dates for the filing of test year and true-up recommendations, set an early prehearing conference, directed the parties to jointly prepare and file a proposed procedural schedule, set an

evidentiary hearing, and proposed dates for a true-up hearing. On November 22, 2000, Company filed its motion for a protective order, which the Commission granted on November 28. On November 30, Empire filed its Test Year Recommendation and its Motion for True-up and Motion to Reschedule True-up Hearing. On December 15, 2000, Staff filed its Test Year Recommendation, and its True-up Recommendation and Concurrence in Empire's Motion to Reschedule True-up Hearing. Also on December 15, Praxair filed its Statement Regarding Test Year. On December 21, 2000, an early prehearing conference was held. On December 22, the Commission granted intervention to Praxair. On December 28, the parties timely filed their joint Proposed Procedural Schedule and Clarification of True-up and Updates.

### **Test Year and True-up:**

Empire recommends that the Commission establish the test year herein as the twelve months ending December 31, 2000; updated through May 31, 2001, except for costs related to the new State Line Combined Cycle Plant (SLCC Plant), which should be addressed in the true-up. Staff concurred in Empire's recommendation and Praxair deferred to Staff.

Empire also requested a true-up audit and hearing because its new SLCC Plant is not scheduled to go on line until June 1, 2001, and its costs will not be fully booked until July 31, 2001. Empire therefore requests a true-up hearing on August 22 and 23, 2001. Staff concurs with Empire's request.

The test year is a central feature of a rate case such as the present. It is the starting point for the determination of the amount of additional revenue, if any, required by a public utility:

"The accepted way in which to establish future rates is to select a test year upon the basis of which past costs and revenues can be ascertained as a starting point for future projection." State ex rel. Southwestern Bell

Co. v. Public Serv. Comm'n, 645 S.W.2d 44, 53 (Mo. App. 1982). A test year is a tool used to find the relationship between investment, revenues, and expenses. Certain adjustments are made to the test year figures; "normalization" adjustments used to eliminate non-recurring items of expenses or revenues and "annualization" adjustments used to reflect the end-of-period level of investment, expenses and revenues. Adjustments are also made for events occurring outside the test year. The criteria used to determine whether a post-year event should be included in the analysis of the test year is whether the proposed adjustment is (1) "known and measurable," (2) promotes the proper relationship of investment, revenues and expenses, and (3) is representative of the conditions anticipated during the time the rates will be in effect.

State ex rel. GTE North, Inc. v. Missouri Public Service Commission, 835 S.W.2d 356, 368 (Mo. App., W.D. 1992). The adjustment of the test year figures for known and measurable events outside the test year is referred to as a "true-up." See State ex rel. Missouri Public Service Commission v. Fraas, 627 S.W.2d 882, 888 (Mo. App., W.D. 1981).

The parties are agreed that the proper test year is the twelve-month period ending December 31, 2000, updated for known and measurable changes through June 30, 2001, for utility plant in service, accumulated depreciation, deferred taxes, fuel prices, cash working capital, capital structure and cost of capital, customer growth revenues, payroll, fuel and purchased power expense, depreciation expense, system loads, rate case expense, property insurance, income and property taxes, purchased power demand charges, and allocation factors. The parties agree that "updates" are known and measurable changes which occur within a reasonable time after the close of the test year.

Additionally, the parties are in agreement as to a true-up with respect to various items set out in Staff's true-up recommendation, filed on December 15, 2000, and respecting Empire's new SLCC Plant. This plant is expected to go on line as of June 1, 2001, with related costs to be booked by June 30, 2001; except that the parties agree that the true-up may

also include SLCC-related invoices that are booked in Empire's accounts payable system and approved and authorized for payment prior to July 31, 2001.

The Commission concludes that the test year and true-up recommendations of the parties are reasonable and should be adopted.

### **Procedural Schedule:**

The Commission has reviewed the joint proposed procedural schedule, filed herein on December 28, 2000, and finds the dates appropriate for this case. Therefore, the Commission adopts the proposed schedule with certain additions: the Commission has included a briefing schedule in the procedural schedule and will require that the parties prepare Proposed Findings of Fact and Conclusions of Law. The Commission finds that the following conditions should be applied to the procedural schedule:

(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 establish 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 both paper form and electronically, 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: ktomp099@mail.state.mo.us.

(E) Transcript due dates and briefing schedules are included in the Procedural Schedule.

(F) All pleadings, briefs and amendments shall be filed in accordance with 4 CSR 240-2.080. The briefs to be submitted by the parties 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 remaining unresolved issues that are to be decided by the Commission. Each principal brief shall not exceed 30 pages in length; reply briefs shall not exceed 15 pages in length.

(G) All parties are required to bring an adequate number of copies of exhibits which 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.

(H) Each party shall prepare and file Proposed Findings of Fact and Conclusions of Law as directed in the Procedural Schedule. Each proposed finding of fact shall include specific citations to competent and substantial supporting evidence in the record. Each proposed conclusion of law shall include specific citations of authority.

**IT IS THEREFORE ORDERED:**

1. That the test year and true-up recommendations of the parties, as discussed herein, are adopted. The test year in this matter shall be the twelve months ending December 31, 2000, updated with respect to certain agreed items for known and measurable changes. The Commission further adopts the recommendation of the parties that the true-up with respect to the new SLCC generating plant be extended until July 31, 2001.

2. That the Commission shall hold a Local Public Hearing in Joplin, Missouri, during the week of April 23, 2001. The Commission will issue an Order Setting Local Public Hearing when the preparations are complete.

3. That the following procedural schedule is adopted for this case:

Direct Testimony--Revenue Requirement All parties except Empire	April 3, 2001 3:00 p.m.
Direct Testimony--Rate Design All parties except Empire	April 10, 2001 3:00 p.m.
Prehearing Conference	April 16-20, 2001 10:00 a.m.
Local Public Hearing Joplin City Hall	Week of April 23, 2001 6:00 p.m.
Rebuttal Testimony All Parties	May 3, 2001 3:00 p.m.
List of Issues, List of Witnesses, Order of Cross	May 10, 2001 3:00 p.m.
Position Statements All Parties	May 15, 2001 3:00 p.m.

Surrebuttal & Cross-Surrebuttal Testimony, All Parties	May 17, 2001 3:00 p.m.
Reconciliation	May 23, 2001 3:00 p.m.
Evidentiary Hearing	May 29-June 8, 2001 8:30 a.m.
Transcript Due	June 22, 2001 Noon
Initial Briefs - All Issues Except True-up - All Parties	July 20, 2001 3:00 p.m.
Reply Briefs - All Issues Except True-up - All Parties	August 3, 2001 3:00 p.m.
Proposed Findings of Fact and Conclusions of Law - All Parties	August 3, 2001 3:00 p.m.
Direct Testimony - True-up All Parties	August 7, 2001 3:00 p.m.
Rebuttal Testimony - True-up All Parties	August 13, 2001 3:00 p.m.
Surrebuttal Testimony - True-up All Parties	August 17, 2001 3:00 p.m.
True-up Hearing	August 22-23, 2001 8:30 a.m.
Transcript Due - True-up	August 27, 2001 Noon
True-up Reconciliation	August 30, 2001 3:00 p.m.
True-up Initial Briefs All Parties	August 30, 2001 3:00 p.m.
True-up Reply Briefs All Parties	September 3, 2001 3:00 p.m.

The hearing, true-up hearing and prehearing conference will be held at the Commission's offices at the Governor Office Building, 200 Madison Street, Jefferson City, Missouri, in a facility which meets all requirements of the Americans with Disabilities Act (ADA). The Local Public Hearing will be held in an ADA-compliant facility in Joplin, Missouri. Any person with



special needs as addressed by the ADA should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing or prehearing conference at one of the following numbers: Consumer Services Hotline - 1-800-392-4211, or TDD Hotline - 1-800-829-7541.

4. That this order shall be effective on January 14, 2001.

**BY THE COMMISSION**

A handwritten signature in black ink, appearing to read "Dale Hardy Roberts". The signature is written in a cursive, somewhat stylized script.

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

( S E A L )

Lumpe, Ch., Drainer, Murray,  
Schemenauer, and Simmons, CC., concur.

Thompson, Deputy Chief Regulatory Law Judge

Alt/Sec'y:

Thompson, J. J.

Date Circulated

1-2

CASE NO. ER-2001-299

LL  
Lumpke, Chair

DD  
Draimer, Vice Chair

CM  
Murray, Commissioner

KS  
Schemenauer, Commissioner

KS  
Simmons, Commissioner

1-4  
Agenda Date

Action taken:

5-0 AS

Must Vote Not Later Than

1-12

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 4<sup>th</sup> day of Jan. 2001.

Dale Hardy Roberts

Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge

