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At a Session of the Public Service  
Commission held at its office  
in Jefferson City on the 26th  
day of August, 1997.

In the matter of The Empire District  
Electric Company of Joplin, Missouri,  
for authority to file tariffs increasing  
rates for electric service provided to  
customers in the Missouri service area  
of the Company.

## SUSPENSION ORDER AND NOTICE

On August 6, 1997 The Empire District Electric Company (EDE or Company) submitted to the Commission tariffs reflecting increased rates for electric service provided to customers in the Missouri service area of the Company. The proposed tariffs bear a requested effective date of September 5. The proposed tariffs are designed to produce an annual increase of approximately \$3,352,013.00 in the Company's revenues.

Along with its tariff filing, EDE filed a motion to permit rate schedules to become effective without suspension, and suggestions in support thereof. EDE suggests the proposed rate tariffs should become effective due to the fact that EDE's new generation facility, State Line Combustion Turbine No. II (SLCT2) which did not meet the in-service criteria specified in the Stipulation and Agreement in EDE's previous rate proceeding, Case No. ER-97-81, has now met those criteria and therefore should be included in its revenue requirement.

Responses to the tariff filing and motion of EDE were filed by both the Staff of the Commission (Staff) and the Office of the Public Counsel (OPC). The OPC was opposed to the EDE motion to allow the proposed

rate schedules to become effective without suspension and moved to suspend the tariffs. Staff states it does not oppose the EDE request but requests approval only under certain conditions.

The Commission finds that EDE has submitted no evidence as to its current rate base, current revenues and expenses, the appropriate return on its investment, or any other evidence supporting a determination of just and reasonable rates by this Commission. The Commission is required by statute to set just and reasonable rates based on substantial and competent evidence, on the record as a whole. Since the OPC opposes implementation of the revised tariff, and the Staff requires various conditions on approval, the Commission cannot fulfill its responsibility under the state statutes by allowing the tariffs to go into effect without suspension and opportunity for audit and due process.

Therefore, to allow sufficient time to study the effect of the proposed tariffs and to determine if they are just, reasonable and in the public interest, the Commission is of the opinion that the proposed tariffs should be suspended for a period of 120 days plus an additional six months beyond the requested effective date, unless otherwise ordered by the Commission.

Inasmuch as the Commission is required by law to give rate increase cases preference over all other questions pending before it and to decide such cases as quickly as possible, and since the burden of proof that the proposed rates are just and reasonable is upon the company proposing such rates, the Commission is of the opinion that EDE should file its prefiled direct testimony in support of its proposed rate increase within 30 days of the issuance of this order. Company shall include in its prefiled testimony its recommendation concerning the proper test year to be used in these proceedings. The Commission is of the opinion that the

Company should submit any request for a true-up in a motion concurrent with its prefiled direct testimony. This request should include a proposed date to which the Company's financial data is to be brought forward as well as a proposed time for a true-up hearing. The Company's proposal should also specify a complete list of accounts or items of expense, revenues and rate base designed to prevent any improper mismatch in those areas. The Commission will not consider a true-up of isolated adjustments, but will examine only a "package" of adjustments designed to maintain the proper revenue-expense-rate base match at a proper point in time. **Re: Kansas City Power & Light Company**, 26 Mo. P.S.C. (N.S.) 104, 110 (1983).

The Commission will schedule the hearing dates for this case in this order and require Commission Staff to file a proposed procedural schedule for the additional filing dates for prefiled testimony, the prehearing conference, the hearing memorandum, and the reconciliation. Staff should coordinate the proposed schedule with Company and the OPC, where possible. By establishing the hearing dates the Commission will ensure this matter is heard as expeditiously as possible. Additionally, establishment of the hearing dates will allow for notice to be sent to customers. EDE shall give notice to customers as directed in the ordered paragraphs below.

Since the instant case is subject to a statutory time limit, the Commission's general policy provides for the filing of the transcript within two weeks after the conclusion of the hearing. If any party seeks to expedite the filing of the transcript, such a request shall be tendered, in writing, to the administrative law judge at least five days prior to the date of hearing. The administrative law judge will determine whether the transcript can, and should, be expedited.

The Commission's Staff, the Public Counsel and all intervenors shall state their positions regarding EDE's true-up and test year proposals as hereinafter ordered. The test year is the 12-month period which is used to audit a company's books to determine the proper amounts of rate base, expenses and revenues to be used in calculating a revenue requirement for a company. A resolution of the test year issue must be made early in the proceedings so that parties' testimony can be reconciled to the same period. The test year involves an audit of all books and records of a company so that a total revenue requirement can be calculated.

EDE's, Staff's and other parties' test year proposals should include a specific 12-month period as a test year and should include any additional period for which Staff or another party has updated significant items from the test year. The test year with the additional period will be called a test year as updated, or updated test year. In addition to a proposed test year or a proposed test year as updated, a party may request isolated changes, such as those imposed by governmental bodies, as part of its case and the Commission will consider whether those isolated changes are known and measurable and whether they should be included in EDE's revenue requirement. An issue to be considered in this determination is whether the proposed adjustment affects the matching of rate base, expenses and revenue.

The Records Department of the Commission should serve a copy of this order upon the mayor of each city and the county commission of each county in the Company's service area. In addition, the Information Office shall send notice of this order to the publisher of each newspaper located in the counties in which the Company provides service, as listed in the newspaper director of the current **Official Manual of the State of Missouri**,

and to the members of the General Assembly representing the Missouri area served by the Company.

Any city, county, or other proper entity desiring to intervene in this proceeding shall file its application to intervene on or before the date set in this order as provided by 4 CSR 240-2.075 and shall serve a copy of the application on the Company's attorney, James C. Swearngen, 312 East Capitol Avenue, P.O. Box 456, Jefferson City, Missouri 65102-0456.

Testimony and schedules shall not be filed under seal and treated as proprietary or highly confidential unless a protective order has first been established by the Commission. The party which considers information to be proprietary or highly confidential should request a protective order to ensure the information is treated as designated. Any testimony or schedule filed without a protective order first being established shall be considered public information. The Commission has a form protective order which will be used in this proceeding, if requested.

In this order the Commission will authorize Staff to file a complaint seeking a reduction in Company's revenues if its audit reflects that Company's earnings are excessive.

**IT IS THEREFORE ORDERED:**

1. That all proposed tariff sheets submitted on August 6, 1997, by The Empire District Electric Company for the purpose of increasing rates for electric service are hereby suspended for a period of 120 days from September 5, 1997, to January 3, 1998.

2. That the tariffs suspended in ordered paragraph 1 are hereby suspended an additional six months beyond January 3, 1998, to July 3, 1998, unless otherwise ordered by the Commission.

3. That any proper person or entity desiring to intervene and participate in this proceeding shall, except for good cause shown, file its application to intervene and serve a copy of same upon the Company's attorney on or before September 26, 1997.

4. That the Company shall file 15 copies of its prepared direct testimony and schedules and minimum filing requirements with the Executive Secretary of the Commission on or before September 26, 1997. Company shall provide 11 additional copies of its testimony to Staff.

5. That the Company shall file its recommendation concerning the proper test year for use in this case in a separate pleading concurrent with its prepared direct testimony and exhibits.

6. That the Company shall file any request for a true-up audit and hearing in a separate pleading concurrent with its prepared direct testimony and exhibits.

7. That Commission Staff, the Office of the Public Counsel and intervenors shall file, on or before October 24, 1997, a pleading indicating concurrence in Company's recommended test year, or shall recommend alternatives to Company's recommended test year.

8. That Commission Staff, the Office of the Public Counsel and intervenors shall file, concurrent with their prefiled direct testimony, a pleading stating their recommendation concerning a true-up.

9. That Commission Staff shall file a proposed procedural schedule as described in this order on or before October 24, 1997.

10. That an evidentiary hearing is hereby scheduled for this case beginning March 31, 1998, to continue through April 4, 1998. The hearing will commence at 10:00 a.m. on March 31, 1998, and be held in the Commission's hearing room, Floor 5A, Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri. Any person(s) with special

needs as addressed by the Americans With Disabilities Act should contact the Missouri Public Service Commission at least 10 days prior to the hearing at one of the following numbers: Consumer Services' Hotline -- 1-800-392-4211, or TDD Hotline -- 1-800-829-7541.

11. That Company shall notify each affected customer of the hearings scheduled in this case by either a notice on or accompanying a bill, or in a separate notice, at least 10 days but not more than 45 days prior to the first day of the hearings, unless otherwise ordered by the Commission. The notice shall be in the following form:

#### NOTICE

The Empire District Electric Company has filed revised tariffs with the Missouri Public Service Commission (PSC) which would increase Company's Missouri jurisdictional annual gross revenues by approximately \$3.35 million. For the average residential customer, the proposed increase would be approximately \$\_\_\_\_\_ per month.

An evidentiary hearing has been set before the PSC at 10:00 a.m., March 31, 1998, in the PSC's hearing room on the fifth floor of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri. If you wish to comment or secure information, you may contact the Office of the Public Counsel, Post Office Box 7800, Jefferson City, Missouri 65102, telephone (573)751-4857.

If any person has special needs as addressed by the Americans With Disabilities Act, please contact the Missouri Public Service Commission at least 10 days prior to the hearing at one of the following numbers: Consumer Services' Hotline -- 1-800-392-4211, or TDD Hotline -- 1-800-829-7541.

12. That testimony and any attachments to a witness's testimony shall be marked and filed only in the manner prescribed by 4 CSR 240-2.130.

13. That all counsel and parties to this proceeding shall review 4 CSR 240-4.020, comply with its terms and communicate the meaning

and importance of that rule to all personnel whom counsel believes or reasonably should believe ought to be made aware of that rule.

14. That all counsel shall immediately report to the Commission all future possible violations of any Commission rule by any party, including the party they represent.

15. That the Records Department and Information Office of the Commission shall serve a copy of this order and provide notice as described in this order.

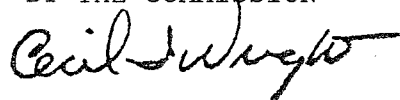
16. That requests for expedited transcript shall be filed as described in this order.

17. That prefiled testimony shall only be filed under seal pursuant to a protective order approved by the Commission.

18. That Commission Staff is authorized to file a complaint seeking a reduction in Company's revenues if its audit reflects that Company's earnings are excessive.

19. That this order shall become effective on the date hereof.

BY THE COMMISSION



Cecil I. Wright  
Executive Secretary

(S E A L)

Lumpe, Ch., Crumpton, Drainer,  
and Murray, CC., Concur.

ALJ: Derque