

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

CASE NO. ER-81-209

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.

APPEARANCES: ROBERT L. HAWKINS, JR., Attorney at Law, JAMES C. SWEARENGEN,
Attorney at Law, and W. R. ENGLAND III, Attorney at Law,
Post Office Box 456, Jefferson City, Missouri 65102, for
The Empire District Electric Company.

RICHARD W. FRENCH, Assistant Public Counsel, Office of the
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65101, for the Office of Public Counsel and the public.

WILLIAM C. HARRELSON, MARY ANN GARR, and JANE E. KING,
Assistants General Counsel, Missouri Public Service Commis-
sion, Post Office Box 360, Jefferson City, Missouri 65102,
for the Staff of the Missouri Public Service Commission.

REPORT AND ORDER

On December 19, 1980, The Empire District Electric Company (Company) of Joplin, Missouri, filed with the Commission revised tariffs reflecting increased rates for electric service provided to customers in the Missouri service area of the Company. The proposed tariffs bore a requested effective date of January 18, 1981, and would increase gross annual electric service revenues by approximately \$15,300,000. On January 9, 1981, the Commission issued its suspension order wherein the proposed tariffs were suspended to May 18, 1981. On February 13, 1981, the Commission issued its second suspension order and notice of proceedings, wherein the tariffs were further suspended to November 18, 1981, and a schedule of proceedings in this matter was adopted. Those proceedings were modified by the Commission's order of July 16, 1981, whereby the prehearing conference was rescheduled. No interventions were filed in this proceeding.

The prehearing conference was held as scheduled, by which the parties thereto, the Company, the Staff of the Missouri Public Service Commission, and the Office of Public Counsel of the State of Missouri entered into a stipulation and agreement.

Findings of Fact

A hearing was commenced on August 13, 1981, at which the parties presented the stipulation and agreement to the Commission. After presentation and

discussion of the stipulation and agreement before the Commissioners, the hearing was continued.

The stipulation and agreement contained a recital of the course of proceedings of the case and other procedural matters. The substantive portion of the stipulation and agreement is as follows:

As a result of the prehearing conference, the undersigned parties stipulate and agree as follows:

1. That Company be authorized to file revised tariffs designed to increase Missouri jurisdictional gross electric revenues by \$11,629,014, exclusive of applicable gross receipts, franchise, and other local taxes.
2. That the tariffs mentioned in paragraph 1 above shall become effective for service rendered on and after September 1, 1981.
3. That the agreed to increase in gross annual revenues of \$11,629,014 mentioned in paragraph 1 above shall be distributed to and within the various rate schedules for service rendered on and after September 1, 1981, by applying half of the increase on; an [sic] uniform percentage basis and half on an equal cents per kwh basis.
4. That Company, pursuant to the terms of the Stipulation and Agreement submitted to the Commission in Company's last permanent rate case, ER-80-143, installed demand meters for the purpose of determining allocations among its various jurisdictions and reported to the Commission for each month beginning November, 1980, the coincident peak demand by jurisdictions. Company further agrees to continue to maintain said demand meters and report to the Commission on a monthly basis said coincident peak demand by jurisdictions.
5. That the Commission shall enter an order as a result of these proceedings creating a new docket in which to consider an appropriate cost of service and rate design for Company with the hearing in said docket to be held beginning on January 25, 1982, and continuing through February 5, 1982, if necessary. Further, said order will provide that any applications for intervention are to be filed on or before October 19, 1981; that the Staff and Company will be required to submit their respective prefiled direct testimonies on or before November 30, 1981; and that the Public Counsel and any intervenors be required to submit their respective prefiled direct testimonies on or before December 28, 1981. The cost of service and rate design to be determined in this new docket shall be utilized to reallocate and redesign, if necessary, the then existing electric rates of Company for its Missouri jurisdictional operations.

As a result of the preceding, the parties agree that the cost of service and rate design issues raised by the prefiled direct testimony of Staff witnesses Michael S. Proctor, Janice Pyatte, Pheng Kol, James P. Boyle, and D. Terry Price are not to be considered in this docket.

6. That this Stipulation and Agreement represents a negotiated dollar settlement for the sole purpose of disposing of Case No. ER-81-209, and none of the parties to this Stipulation and Agreement shall be prejudiced by or bound by the terms of this Stipulation and Agreement in any future proceeding or in this proceeding, in the event that the Commission does not approve this Stipulation and Agreement in its entirety.

7. That none of the parties to this Stipulation and Agreement shall be deemed to have approved or acquiesced in any ratemaking principle or any method of cost of service determination, or cost allocation underlying any of the rates provided for in this Stipulation and Agreement.

8. That this Stipulation and Agreement is intentionally silent respecting rate of return.

9. That the prefiled testimony and exhibits sponsored by Company witnesses Richard C. Allen, Robert L. Lamb, Byron Mueller, A. R. Puffinbarger, Robert B. Fancher, William B. Goodwin, Daniel A. Burkhardt, and W. R. Chaney, shall be received in evidence without the necessity of these witnesses taking the stand. That the prefiled testimony and exhibits sponsored by Staff witnesses Roy M. Boltz, Jr., Wess A. Henderson, Wendell R. Hubbs, Marilyn K. Smart, Gary R. Bangert, William J. Cochran, Ronald M. Fluegge, John O. Richey, Chris Madden, and Kirk A. Hastain, shall be received in evidence without the necessity of these witnesses taking the stand.

10. That in the event the Commission accepts the specific terms of this Stipulation and Agreement, the parties waive their rights to cross-examine the witnesses named in the foregoing paragraph with respect to their testimony and exhibits.

11. That in the event the Commission accepts the specific terms of this Stipulation and Agreement, the parties waive their rights to present oral argument and written briefs pursuant to Section 536.010(1), their rights pertaining to the reading of the transcript by the Commission pursuant to Section 536.080(3), and their rights to judicial review pursuant to Section 386,510, R.S.Mo. 1978.

12. That the agreements in this Stipulation and Agreement have resulted from extensive negotiations among the signatory parties and are interdependent. In the event that the Commission does not approve and adopt this Stipulation and Agreement in total, and in the event the tariffs agreed to herein do not become effective for service rendered on and after September 1, 1981, the parties agree that this Stipulation and Agreement shall be void and no party shall be bound by any of the agreements or provisions hereof.

Respectfully submitted,

/s/ Richard W. French

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MISSOURI PUBLIC SERVICE
COMMISSION

Conclusions

The Empire District Electric Company is a public utility subject to the jurisdiction of this Commission pursuant to Chapters 386 and 393, R.S.Mo. 1978. The Company's revised tariffs, which are the subject matter of this proceeding, were suspended pursuant to authority vested in this Commission by Section 393.150, R.S.Mo. 1978.

For ratemaking purposes, the Commission may accept a stipulation settlement on any contested matter submitted by the parties. The Commission is of the opinion that the matters of agreement between the parties in this matter are reasonable and proper and should be accepted. The Commission, at this time, in this report and order, hereby accepts into evidence Exhibits 1 through 8 and thereby closes the record.

It is, therefore,

ORDERED: 1. That the stipulation and agreement entered into between The Empire District Electric Company, the Staff of the Missouri Public Service Commission, and the Office of Public Counsel in Case No. ER-81-209 as set forth herein is hereby accepted and adopted in disposition of all matters in this proceeding.

ORDERED: 2. That for the purpose of implementing the stipulation and agreement entered into in this proceeding, the revised tariffs filed by The Empire District Electric Company on December 19, 1980, in Case No. ER-81-209 be, and the same are, hereby disapproved, and the Company is authorized to file in lieu thereof, for approval by this Commission, tariffs designed to increase gross annual electric revenues by \$11,629,014, exclusive of applicable gross receipts, franchise and other local taxes.

ORDERED: 3. That the tariffs to be filed for Commission approval pursuant to this report and order shall be filed on or before August 25, 1981, and may be effective for service rendered on and after September 1, 1981.

ORDERED: 4. That docket No. EO-82-40 be, and hereby is, established to consider the cost of service and rate design for The Empire District Electric Company, with the hearing to be held on January 25, 1982, and continuing through February 5, 1982, if necessary.

ORDERED: 5. That all interventions for the docket established by Ordered 4 of this report and order shall be filed on or before October 19, 1981.

ORDERED: 6. That the Staff of the Missouri Public Service Commission and The Empire District Electric Company shall file their direct testimonies with respect to the docket established by Ordered 4 of this report and order, on or before November 30, 1981; and that the Office of Public Counsel and any intervenors shall file their direct testimonies with respect to the docket established in Ordered 4 of this report and order, on or before December 28, 1981.

ORDERED: 7. That this report and order shall become effective on the 28th day of August, 1981.

BY THE COMMISSION

Harvey G. Hubbs
Harvey G. Hubbs
Secretary

(S E A L)

Fraas, Chm., McCartney, Dority,
Bryant, and Shapleigh, CC., Concur.

Dated at Jefferson City, Missouri,
on this 18th day of August, 1981.