

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

In the Matter of the Propriety of the)
Rate Schedules for Electric Service of) Case No. ER-2018-0228
The Empire District Electric Company)

In the Matter of a Proceeding Under Section)
393.137 (SB 564) to Adjust the Electric) Case No. ER-2018-0366
Rates of The Empire District Electric Company)

NON-UNANIMOUS STIPULATION AND AGREEMENT

COME NOW The Empire District Electric Company (“EDE” or “Company”), the City of Joplin, Missouri (“Joplin”), and the Staff of the Missouri Public Service Commission (“Staff”) (collectively, the “Signatories”), by and through their respective counsel, and for their Non-Unanimous Stipulation and Agreement (the “Tax Stipulation”), respectfully state as follows to the Missouri Public Service Commission (“Commission”):

1. This Tax Stipulation is being entered into solely for the purpose of settling all contested issues in the two cases captioned above except the issue specifically identified in paragraph 4 below. Unless otherwise explicitly provided herein, none of the Signatories shall be deemed to have approved or acquiesced in any ratemaking or procedural principle, including, without limitation, any method of cost of service or valuation determination or cost allocation, rate design, revenue recovery, or revenue-related methodology. Except as explicitly provided herein, none of the Signatories shall be prejudiced or bound in any manner by the terms of this Tax Stipulation in this or any other proceeding.

2. EDE filed a Motion to Dismiss or for Summary Determination in Case No. ER-2018-0366 and has entered into and is filing this Tax Settlement subject to and without waiving its position that Case No. ER-2018-0366 should be dismissed or that summary determination should be granted in favor of EDE on the basis that the entirety of RSMo. §393.137 is inapplicable to Empire

and that the Commission lacks authority or jurisdiction to proceed in Case No. ER-2018-0366.¹

3. The Signatories stipulate and agree as follows. EDE commits to these regardless of how the Commission rules on EDE's Motion to Dismiss or for Summary Determination.

a. EDE shall file revised retail tariff sheets in an appropriate timeframe that would allow such tariffs to take effect October 1, 2018. The tariffs shall reflect a reduction in base rate revenue as the result of the implementation of the Tax Cuts and Jobs Act of 2017. The reduction in the annual revenue requirement represents the calculated revenue requirement utilized in current base rates utilizing a federal corporate income tax rate of 35%, compared to a recalculated revenue requirement using the reduced federal corporate income tax rate of 21%. The attached **Appendix A** displays the annual reduction, along with the revised annual revenue requirement as well as the allocation of the reduced revenue requirement to the individual rate classes.

b. EDE shall establish a regulatory liability to account for the tax savings associated with excess Accumulated Deferred Income Taxes ("ADIT").

(i) EDE will record a regulatory liability for the difference between the excess ADIT balances included in current rates, which was calculated using the 35% federal corporate income taxes, versus the now lower federal corporate income tax rate of 21%.

(ii) EDE is evaluating the cost and ability to use the Average Rate Assumption Method ("ARAM") as a method for computing and normalizing excess ADIT. If EDE determines that it is unable to use the ARAM, EDE shall notify the Signatories within thirty (30) days of such determination. EDE shall provide

¹ Staff and Joplin did not take positions on Empire's Motion to Dismiss.

testimony and support in its next general rate case of its proposed methodology in dealing with the balances.

(iii) The calculation of the Regulatory Liability of excess ADIT will begin as of January 1, 2018.

(iv) The Signatories intend to appropriately reflect excess ADIT in future customer rates using a methodology consistent with the tax normalization requirements specified by IRS normalization principles. The Signatories agree that, in the event the IRS asserts that the terms of this Stipulation create a violation of normalization requirements, this Stipulation shall be amended to cure and prevent any normalization violation.

4. The only issue remaining regarding implementation of the Tax Cuts and Jobs Act of 2017 is the design of rates to flow back to customers the annual revenue requirement reduction provided for above in paragraph 3(a).

5. The provisions of paragraphs 3(a), 3(b), and 4 above are identical to the “Provisions Stemming from File No. ER-2018-0228 (Tax Rate Reduction – EDE)” contained in the Non-Uniform Stipulation and Agreement executed and filed on April 24, 2018, by certain parties to Case Nos. EO-2018-0092 and ER-2018-0228.

6. This Tax Stipulation has resulted from extensive negotiations among the parties, and the terms herein are interdependent and non-severable. If the Commission does not approve this Tax Stipulation unconditionally and without modification, or if the Commission approves the Tax Stipulation with modifications or conditions to which a Signatory objects, then this Tax Stipulation shall be void and none of the Signatories shall be bound by any of the agreements or provisions hereof.

7. This Tax Stipulation is based on the unique circumstances presented by Empire to the Signatories. Except to the extent necessary to implement the terms of this Tax Stipulation, this agreement shall not be construed to have precedential impact in any other Commission proceeding.

8. The non-utility Signatory Parties enter into this Tax Stipulation in reliance upon information provided to them by Empire, and this Tax Stipulation is explicitly predicated upon the representations made by Empire.

9. When approved by the Commission, this Tax Stipulation shall constitute a binding agreement among the Signatories hereto.

10. In the event the Commission accepts the specific terms of this Tax Stipulation without condition or modification, the Signatories waive their respective rights to seek rehearing pursuant to §536.500 and their respective rights to judicial review pursuant to §386.510. These waivers apply only to a Commission order approving this Tax Stipulation without condition or modification issued in this proceeding and only to the issues that are resolved hereby. These waivers do not apply to any issues explicitly not addressed by this Tax Stipulation.

11. The Signatories agree that any and all discussions, suggestions, or memoranda reviewed or discussed, related to this Tax Stipulation shall be privileged and shall not be subject to discovery, admissible in evidence, or in any way used, described or discussed.

12. This Tax Stipulation contains the entire agreement of the Signatories concerning the issues addressed herein.

13. This Tax Stipulation does not constitute a contract with the Commission. Acceptance of this Tax Stipulation by the Commission shall not be deemed as constituting an agreement on the part of the Commission to forego the use of any discovery, investigatory powers or other statutory powers which the Commission presently has. Thus, nothing in this Tax Stipulation is intended to

impinge or restrict in any manner the exercise by the Commission of any statutory right, including the right to access information.

WHEREFORE, the Signatories respectfully request approval of this Tax Stipulation as a full and complete resolution of all contested issues in the two cases captioned above (except the issue specifically identified in paragraph 4 above). The Signatories request such further relief as is just and proper under the circumstances.

Respectfully submitted,

For Empire:

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CERTIFICATE OF SERVICE

I hereby certify that the above document was filed in EFIS on this 17th day of July, 2018, with notification of the same being sent to all parties of record.

/s/ Diana C. Carter