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May 29, 2001

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P. O. Box 360  
Jefferson City, MO 65102

FILED<sup>3</sup>  
MAY 29 2001

Missouri Public  
Service Commission

**RE: Case No. ER-2001-299**

Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and eight (8) conformed copies of a **SUGGESTIONS IN SUPPORT OF THE STIPULATION AND AGREEMENT REGARDING IN-SERVICE CRITERIA.**

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,

Eric William Anderson  
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EWA:ccl  
Enclosure  
cc: Counsel of Record

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

**FILED<sup>3</sup>**

MAY 29 2001

Missouri Public  
Service Commission

In the matter of The Empire District Electric )  
Company's Tariff Sheets Designed to )  
Implement a General Rate Increase for Retail )  
Electric Service Provided to Customers in the )  
Missouri service area of the Company. )

Case No. ER-2001-299

**SUGGESTIONS IN SUPPORT OF  
THE STIPULATION AND AGREEMENT REGARDING IN-SERVICE CRITERIA**

**COMES NOW** the Staff of the Missouri Public Service Commission ("Staff") and in support of the Stipulation and Agreement regarding in-service criteria (Agreement) filed in this matter states as follows:

1. The new State Line Combined Cycle Unit (SLCC) is a nominal 500 MW combined cycle unit, which is a combination of two 150 MW combustion turbines and a 200 MW steam driven turbine. Empire District Electric Company (Empire) is joint owner with Western Resources, Inc. Under an agreement with Western Resources, Inc., Empire receives 60% of the output of the SLCC.
2. Section 393.135 RSMo 2000 provides: "Any charge made or demanded by an electrical corporation for service, or in connection therewith, which is based on the costs of construction in progress upon any existing or new facility of the electrical corporation, or any other cost associated with owning, operating, maintaining, or financing any property before it is fully operational and used for service, is unjust and unreasonable, and is prohibited."
3. In paragraph 5 of the Agreement the signatories agree and respectfully recommend to the Commission that the above in-service criteria, if met by Empire, will determine that the SLCC unit is "fully operational and used for service" and therefore in compliance with section 393.135 RSMo 2000.

4. The criteria and notes provided in paragraph 4 of the Agreement differ only slightly from the In Service Criteria proposed in Staff witness David Elliot's direct testimony. As presented in Mr. Elliot's direct testimony, "Contract performance guarantee testing" was changed in subparagraph b) to "Contract thermal performance guarantee testing" to clarify by identifying the specific guarantee testing that Staff was concerned with as shown on the specific contract sections listed in subparagraph 5) of the notes. The word thermal was also added to subparagraph 5) of the In Service Criteria notes. The words, "other than those provided by permit" were added to subparagraph i) to read "There are no operational limits on the SLCC imposed by other agencies and/or government entities, such as Missouri Department of Natural Resources, other than those provided by permit." This was to clarify that Staff's concern was for any additional operational limits beyond those already imposed by permit.

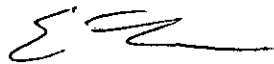
5. In paragraph 6 of the Agreement the signatories have agreed that additional test power costs, to the extent reasonably and prudently incurred, should be included in plant-in-service accounts for the SLCC for recovery of the investment over the useful life of the asset. Also in paragraph 6, the Company has agreed to maintain the necessary records in a daily report with sufficient hourly data to allow a review of the incremental costs relating to the test power amounts. The Staff will examine this information after the July 31, 2001 end of testing date and make a recommendation to the Commission as to the reasonableness of the additional test power costs and the value of these costs to be included as part of the SLCC in the true-up proceeding.

6. In paragraphs 13 and 14 of the Agreement the signatories request Commission action on the Agreement as early as possible as the signatories seek to resolve the issue of what testing is required for the State Line Combined Cycle power plant and the testing of the SLCC unit is scheduled to begin in June.

For all of the foregoing reasons, the Staff believes the Agreement has adequately addressed the relevant issues and should be approved by the Commission. The Staff thereby prays the Commission approve the in-service criteria provided in the Stipulation and Agreement as appropriate for determination of whether the State Line Combined Cycle Unit is "fully operational and used for service" as provided in section 393.135 RSMo 2000.

Respectfully submitted,

DANA K. JOYCE  
General Counsel



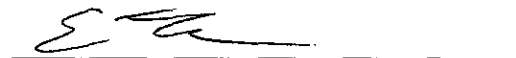
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### **CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown on the service list below this 29<sup>th</sup> day of May 2001.



**Service List for**  
**Case No. ER-2001-299**  
**Verified: May 22, 2001 (ccl)**

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