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June 1, 2001

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FILED<sup>3</sup>

JUN 01 2001

Missouri Public  
Service Commission

**RE: Case No. ER-2001-299 – 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**

Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and eight (8) conformed copies of **SUGGESTIONS IN SUPPORT OF UNANIMOUS STIPULATION AND AGREEMENT REGARDING STATE LINE COMBINED CYCLE UNIT CAPITAL COSTS.**

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,

Nathan Williams  
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Enclosure  
cc: Counsel of Record

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

**FILED<sup>3</sup>**  
JUN 01 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  
UNANIMOUS STIPULATION AND AGREEMENT  
REGARDING STATE LINE COMBINED CYCLE UNIT CAPITAL COSTS**

**COMES NOW** the Staff of the Missouri Public Service Commission ("Staff") and for its suggestions in support of the Unanimous Stipulation and Agreement Regarding State Line Combined Cycle Unit Capital Costs ("Agreement") respectfully states:

1. The Empire District Electric Company ("Empire") submitted to the Missouri Public Service Commission ("Commission") on November 3, 2000 (1) proposed tariff sheets that would increase rates for electric service provided to its Missouri customers and (2) testimony supporting the proposed rate increases. The proposed tariff sheets bear an effective date of December 3, 2000 and were designed to produce an annual increase of \$41,467,926.00 (approximately 19.3%) in Empire's electric revenues.

2. On November 16, 2000, the Commission established this case and suspended the proposed tariffs for a period of 120 days plus an additional six months beyond the proposed effective date—until October 1, 2001.

3. On December 22, 2000, the Commission granted Praxair, Inc.'s application to intervene.

4. During the week of April 16, 2001, and in accordance with the procedural schedule adopted by the Commission in an Order issued January 4, 2001, the parties—Empire, Staff, the Office of the Public Counsel and Praxair, Inc.—met for the purpose of clarifying,

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narrowing, and exploring settlement possibilities for the numerous issues raised in the case. As a result of these meetings and subsequent negotiations, the parties reached agreement with respect to the appropriate amount of capital costs to include in Missouri jurisdictional rate base for Empire's State Line Combined Cycle ("SLCC") power plant (Issue number 6 (a) in the List of Issues filed in this case on May 14, 2001). Empire owns a sixty percent share of the SLCC power plant and a non-Missouri utility owns the remainder.

5. Empire originally estimated the cost of construction of the SLCC power plant to be about \$173 million on a total project basis, without transmission or Allowance for Funds Used During Construction ("AFUDC") (Beecher Rebuttal, Ex. 15, p. 4). In May of 2001 it estimated the cost of construction of the SLCC power plant to be about \$204 million, without transmission or AFUDC (Beecher Rebuttal, Ex. 15, p. 4). The difference in these estimates is about \$31 million. The Staff has challenged the adequacy of Empire's support for allowing the difference in rate base. In particular, in its direct case, the Staff proposed disallowance, on a total project basis, of approximately \$12 million of this \$31 million in costs for costs incurred in erecting the SLCC Heat Recovery Steam Generators.

6. Empire originally contracted with Fru-Con Construction Corporation ("Fru-Con") to erect the SLCC Heat Recovery Steam Generators. Empire and Fru-Con had a contract dispute that they ultimately settled; however, Fru-Con did not complete the erection of the Heat Recovery Steam Generators. The Staff's proposed \$12 million disallowance (without AFUDC) is for all of the costs (including a settlement with Fru-Con) that Empire incurred in erecting the Heat Recovery Steam Generators that exceed the original contract price with Fru-Con.

7. The Staff recognizes that others could find that Empire has adequately supported inclusion of all or part of this \$12 million in rate base; therefore, the Staff, with the other parties in this case, has agreed to disallowing \$8.3 million (without AFUDC) in settlement of what is identified as Issue number 6 (a) in the List of Issues filed in this case by the parties on May 14, 2001. This cost disallowance equates to a \$3.984 million reduction in Missouri jurisdictional rate base. There will be an additional reduction for related AFUDC. With this agreement, this

issue is fully and finally resolved in Missouri, and Empire agrees not to raise it again in any subsequent rate proceeding in this state.

8. With the foregoing resolution of the \$12 million issue relating to Empire's contract with Fru-Con, \$19 million of the \$31 million originally in dispute for the SLCC power plant remains. The Staff believes that Empire can provide adequate support for inclusion of the full \$19 million, plus related AFUDC; however, it has not done so yet. Moreover, the Staff recognizes that others could find that Empire has adequately supported inclusion of all or part of this \$19 million in rate base. Therefore, the Staff has agreed, with the other parties, to support inclusion of \$18 million, plus related AFUDC, in rate base. Further, if Empire, no later than July 31, 2001, provides to the Staff support for the \$19 million that the Staff finds to be adequate, then the Staff, and other parties, will support in testimony filed in the true-up proceeding for this case, inclusion of the full \$19 million, plus related AFUDC. If Empire fails to sufficiently detail the entire \$19 million difference to the reasonable satisfaction of the Staff, then the Staff will not support inclusion in rate base of the fully \$19 million, plus related AFUDC, but will support at least \$18 million, plus related AFUDC. In any event, this Agreement does not preclude Empire from seeking from this Commission, in this or any future case, inclusion in rate base of any part of the \$19 million for which the Staff recommends disallowance. The difference of \$1 million in costs calculates to \$480,000 in rate base on a Missouri jurisdictional basis. This is because Empire has a 60 percent interest in the SLCC power plant and jurisdictional allocation to Missouri of Empire's interest in the SLCC power plant is about 80 percent since Empire operates in other states.

9. Additionally, to the extent that Empire establishes to the satisfaction of the Staff by July 31, 2001 that its actual SLCC power plant costs exceed the most recent estimate of \$203.2 million and were prudently incurred, then the Staff will support in this case inclusion of these costs, plus related AFUDC, in rate base. However, in any event, this Agreement does not preclude Empire from raising, in this or any future case, inclusion of any of its actual costs to complete the SLCC power plant that exceed \$203.2 million.

10. The dollar impact on rate base (unadjusted for ownership share and Missouri jurisdictional allocation) of the parties' settlement, up to \$203.2 million, is reflected in the following table, which is also found in the parties' settlement agreement on this issue. The dollar amounts shown, however, are for the total SLCC plant (since a portion is owned by a party other than Empire), and for Empire on a total company (i.e., all jurisdictions, not just Missouri) basis.

Current SLCC Cost Forecast, incl. approximately \$31 mil. in additional costs (w/o AFUDC)	\$203.2 M
Less Fru-Con Settlement with Staff and other parties	< <u>8.3 M</u> >
Anticipated Dollar Amount for SLCC Rate Base	\$194.9 M
Less: Contingency for \$19 Million Difference, if not explained to Staff's satisfaction	< <u>1.0 M</u> >
Minimum Dollar Amount for SLCC Rate Base	\$193.9 M


11. As indicated in the Agreement, should the Commission approve the terms of the Agreement, the parties waive, for the issues addressed in the Agreement, all rights of review and objection to the introduction of evidence. The testimony on this issue for Empire is found in: Virgil Brill Direct, Ex. 5; Natalie Rolph Direct, Ex. 12; Natalie Rolph Rebuttal, Ex. 18; Brad Beecher Rebuttal, Ex. 15; Brad Beecher Surrebuttal, Ex. 30; and Jim E. Wilson Rebuttal, Ex. 20. The testimony on this issue for the Staff is found in Mark Oligschlaeger Direct, Ex. 65 & 66; Mark Oligschlaeger Surrebuttal, Ex. 67; David Elliott Direct, Ex. 43 & 44; Cary Featherstone Direct, Ex. 45 & 46; and Cary Featherstone Surrebuttal, Ex. 47 & 48.

12. The parties also expressly agree that this Agreement shall have no binding precedential effect other than as expressly contemplated by the terms of the Agreement.

**WHEREFORE**, the Staff respectfully requests the Commission to issue an order approving the parties' Unanimous Stipulation and Agreement Regarding State Line Combined Cycle Unit Capital Costs, or in the alternative, schedule a date as early as possible for a presentation hearing regarding the Agreement.

Respectfully submitted,

DANA K. JOYCE  
General Counsel

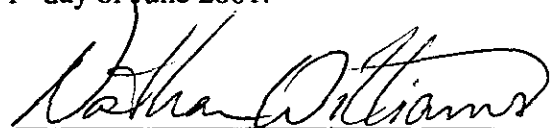


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Attorney for the Staff of the  
Missouri Public Service Commission

#### **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 attached service list this 1<sup>st</sup> day of June 2001.



**Service List for**  
**Case No. ER-2001-299**  
**Verified: May 30, 2001 (ccl)**

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