

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

In the Matter of the Application of The)	
Empire District Electric Company for)	
Authority to Sell and Transfer Part of its)	Case No. EA-2009-_____
Works or System to the City of Monett,)	
Missouri.)	

APPLICATION

COMES NOW The Empire District Electric Company, hereinafter referred to as "Empire" or the "Company," and for its Application pursuant to § 393.190.1, RSMo; 4 CSR 240-2.060; and 4 CSR 240-3.110 states to the Missouri Public Service Commission ("Commission") as follows:

1. Empire is a Kansas corporation with its principal office and place of business at 602 Joplin Street, Joplin, Missouri 64801. Empire is engaged in the business of providing electrical and water utility services to customers in its Missouri service areas. Empire is an "electrical corporation," a "water corporation," and a "public utility" as those terms are defined in § 386.020, RSMo, and is subject to the jurisdiction and supervision of the Commission as provided by law.

2. Other than complaint cases on file with the Commission and the following pending appellate cases, Empire has no pending or final unsatisfied judgments or decisions against it from any state or federal agency or court that involve customer service or rates and that have occurred within the three years immediately preceding the filing of this Application: Case No. SC89176-2006 (Missouri Supreme Court), Case No. 08AC-CC00811 (Cole County Circuit Court), and Case No. 08AC-CC00812 (Cole County Circuit Court). Empire has no overdue Commission Annual Reports or assessment fees. The Company's documents of incorporation previously were filed with the Commission in Case No. EF-94-39 and said documents are incorporated herein by reference as provided by 4 CSR 240-2.060(1)(G). A Certificate of Authority from the

Missouri Secretary of State to the effect that Empire, a foreign corporation, is duly authorized to do business in the State of Missouri is attached to this Application as **Appendix 1** and is incorporated herein by reference.

3. Correspondence, communications, and orders regarding this Application should be directed to:

Paul A. Boudreau
Brydon, Swearengen & England, P.C.
312 E. Capitol Ave.
P.O. Box 456
Jefferson City, Missouri 65102
Attorney for Applicant

Bill Eichman
The Empire District Electric Company
602 Joplin Street
Joplin, Missouri 64801

Amy Boxx
405 East Broadway
Monett, MO 65708

Pete Rauch,
Supt. of Utilities
The City of Monett
217 Fifth Street
P.O. Box 110
Monett, Missouri 65708

4. The City of Monett, Missouri (the "City"), is a municipality of the third class. The City currently provides electric utility service within its corporate limits through its municipal electric utility, City Utilities. The City completed its annexation of the Valley View Estates subdivision and areas adjacent thereto in October 2003, and its annexation of the Heim Trailer Court and areas adjacent thereto in May 2005. The legal descriptions of the two areas annexed by the City (the "Annexed Areas") are set forth in certified copies of documents related to the annexation, including each of the annexation ordinances, that are attached as **Appendix 2** and incorporated herein by reference.

5. Each of the Annexed Areas is within the Company's certificated service area, as documented in the Company's tariff (P.S.C. Mo. No. 5, Sec. B, Original Sheet No. 18, effective November 14, 2007). In the Annexed Areas, Empire currently provides electrical service to 42 residential customers, 5 Private Outdoor Lighting accounts, and 1 commercial structure in Valley View Estates and areas adjacent thereto, and 46 residential customers (including occupied and unoccupied mobile homes, mobile home lots, and permanent residential structures) and one vacant commercial structure located within the Heim Trailer Court and areas adjacent thereto.

6. Following the annexation, the City expressed its desire that customers located within the Annexed Areas be served by City Utilities; therefore, the City and the Company began discussions to determine the feasibility and terms under which Empire would relinquish a portion of its certificated service area and would transfer to the City all facilities located therein.

7. Empire proposes to relinquish that portion of its certificated service area coincident with the Annexed Areas and to sell and transfer to the City the portion of the Company's works and system located therein. The terms and conditions of the proposed transaction are contained in the "Agreement for the Sale Of Electric Utility Facilities," dated August 29, 2008, by and between the Company and the City (the "Agreement"), a copy of which is attached hereto as **Appendix 3** and is incorporated herein by reference. The facilities to be sold are more particularly described in the Agreement; generally, however, the facilities comprise all electric distribution assets and associated rights-of-way located within the Annexed Areas that are used to serve customers in the Valley View Estates subdivision, the Heim Trailer Park, and areas adjacent thereto.

8. The purchase price for the facilities, which is based on the depreciated book value of the assets that Empire proposes to sell to the City, will be \$56,052.14, subject to certain specified adjustments.

9. The City has all authority necessary to provide electric service to customers located within the City's corporate limits through its municipal electric utility, City Utilities, which currently serves approximately 3800 residential customers, 670 commercial customers, and 36 industrial customers; has a total of approximately 233,500,000 annual KWh sales; and has a peak annual system demand of approximately 47 MW. City Utilities has the expertise, experience, and staff necessary to serve this customer base – as well as the additional customers located within the Annexed Areas – including 24 hour dispatching capability through the Monett Police Department.

10. The proposed transaction is not detrimental to the public interest. City Utilities possesses the managerial, engineering, and operating expertise and the financial capacity necessary to provide safe and reliable electric service to customers in the Annexed Areas; its rates for electric service are not substantially different than those currently charged by the Company; and network reliability for customers in the Annexed Areas should not be harmed and may, in fact, be enhanced because those customers would be transferred to a City Utilities substation closer in proximity to the customers' loads. A comparison of Empire's and City Utilities' rates for residential, small commercial, and private outdoor lighting services is attached to this Application as **Appendix 4** and is incorporated herein by reference. In addition, the transfer also will improve Empire's ability to demark its service area because the Annexed Areas currently constitute two islands of the Company's customers located wholly within City Utilities' service area.

11. The proposed transaction also should not have a substantial impact on the tax revenues of the political subdivisions in which any of the structures, facilities, and equipment of the Company are located. In 2007 Empire paid property taxes of only \$ 1,930 on the facilities and equipment located within the Annexed Areas. The City, as a

municipality, will be exempt from paying these property taxes; however, if the proposed transaction is approved, the City, through City Utilities, will benefit from the increased operating revenues it will receive for providing electric service to customers located in the Annexed Areas.

12. In August 2007 the City published notice in *The Monett Times* of its intent to provide electric utility service to customers located in the Annexed Areas. Copies of those notices are attached to this Application as **Appendix 5** and are incorporated herein by reference. No public hearings or meetings have been scheduled or held to further inform Empire's current customers in the Annexed Areas about the proposed transactions; however, the City has stated it will schedule such meetings or hearings if the Commission believes they are necessary or would be useful.

13. Because the City is not subject to the jurisdiction of the Commission and will not become subject to the Commission's jurisdiction if the proposed transaction is approved, no *pro forma* balance sheet or income statement is submitted herewith as otherwise would be required by 4 CSR 240-3.114(1)(E). No resolution of Empire's board of directors is required in order for the Company to consummate this transaction; however, in compliance with 4 CSR 240-3.114(1)(C), the verification that accompanies this Application confirms that Michael E. Palmer, in his capacity as the Company's Vice President – Commercial Operations, has full authority to both enter into the Agreement with the City on behalf of Empire and to seek the Commission's approval of the transaction through this Application. Although not required by the Commission's rules, a certified copy of Ordinance No. 7882, dated August 20, 2008, duly adopted by the governing body of the City and authorizing the proposed transaction, is attached to this Application and made a part hereof as **Appendix 6** and is incorporated herein by reference.

WHEREFORE, for the reasons stated above, Empire respectfully requests that the Commission issue an order in this case that:

(1) Finds that the transaction described in the Agreement is not detrimental to the public interest;

(2) Approves the sale and transfer to the City of those parts of the Company's works or system located in the Annexed Areas in accordance with the terms of the Agreement;

(3) Authorizes Empire to discontinue providing electric service within the Annexed Areas as of the date of the sale and transfer of the Company's assets to the City and to exclude from the Company's Certificate of Public Convenience and Necessity the following described areas:

The Northeast Quarter of the Northeast Quarter of Section 29, Township 26, Range 27, Lawrence County, Missouri EXCEPT the North 821.3 feet thereof AND ALSO EXCEPT the South 198 feet thereof, AND ALSO beginning at the northwest corner of the South Half of the Northwest Quarter of the Northeast Quarter of Section 29, Township 26, Range 27, thence South 665 feet thence East 1320 feet, thence North 665 feet, thence West 1320 feet to the point of beginning, now platted as Valley View Estates, said plat being recorded in Plat Book D, Page 127 Recorder's Office, Lawrence County, Missouri.

AND:

Part of the South Half of the Southwest Quarter of Section 28, Township 26N, Range 27W, Lawrence County Missouri described as beginning at a point 1296.84 feet West and 282.50 feet South of the Northeast Corner thereof, thence South 89 degrees, 59'39" West 341.19 feet, the feet, thence North 23 degrees, 47'33" East 352.47 feet, thence South 89 degrees 59' 39" West 43.73 feet, thence South 23 degrees 47' 33" West 663.62, thence North 89 degrees 58'11" West 135.0 feet, thence South 33 degrees 58'05" West 336.51 feet, thence South 89 degrees 58'11" East 159.53 feet, thence South 444.47 feet parallel to the East line of the Southwest Quarter of said Section 28 to the North right-of-way line of Business Route 60, thence South 89 degrees 58'11" East 674.0 feet along said right-of-way line, thence North 1331.36 feet parallel to the East line of the Southwest Quarter of said Section 28 to the point of beginning and containing 14.87 acres and Part of the Southwest Quarter of the Southwest Quarter of Section 28, Township 26N, Range 27W, Lawrence County, Missouri, described as beginning at the Southwest corner thereof, thence North 0 degrees 31'27" East 230 feet along the West line of said

Quarter-Quarter, thence South 89 degrees 55'19" East 678.07 feet, thence South 230 feet parallel to the east line of the Southwest Quarter of Section 28, to the South line thereof, thence North 89 degrees 55'19" West 680.17 feet along said South line to the point of beginning and containing 3.59 acres, subject to right-of-way for Business Route 60 and Chapel Drive.

AND:

Part of the Southwest Quarter of Section 28, Township 26N, Range 27W, Lawrence County, Missouri described as beginning at a point 1296.84 feet West and 40 feet North of the Northeast corner of the Southeast Quarter of the Southwest Quarter of said Section 28, thence South 89 degrees, 59'39" West 198.99 feet, thence South 23 degrees, 47'33" West 352.47 feet, thence North 89 degrees, 59'39" East 341.19 feet, thence North 00 degrees, 00'00" East 322.50 feet parallel to the East line of the Southwest Quarter to the point of beginning and containing 2.00 acres, subject to any easements, right-of-ways, or restrictions of record.

AND:

The Northeast Quarter of the Northeast Quarter of Section 29, Township 26, Range 27, Lawrence County, Missouri, EXCEPT the North 821.3 feet thereof and also EXCEPT the South 198 feet thereof;

(5) Authorizes the Company to do such other acts and things, as well as make, execute, and deliver any and all documents as may be necessary, advisable, or proper to consummate the transaction in accordance with the terms of the Agreement; and

(6) Grants such other relief as is appropriate under the circumstances.

Respectfully submitted,

/s/ Paul A. Boudreau

Paul A. Boudreau - MO Bar # 33155
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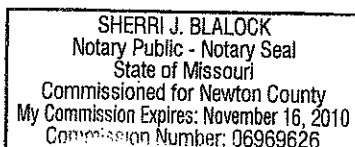
STATE OF MISSOURI)
) ss
COUNTY OF JASPER)

He further says that he has full authority to: (a) enter into the "Agreement for the Sale of Electric Utility Facilities," dated August 29, 2008, by and between The Empire District Electric Company and the City of Monett, and (b) to file this Application.

BY: Michael E Palmer
Michael E. Palmer

Shawn J. Blawie
Notary Public

Nov. 16, 2010



CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was delivered by first class mail, electronic mail or hand delivery, on the 28th day of October, 2008, to the following:

/s/ Paul A. Boudreau
Paul A. Boudreau