

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

In the Matter of The Empire District Electric Company)
of Joplin, Missouri for Authority to File Tariff Increasing)
Rates for Electric Service Provided to Customers in the) **File No. ER-2010-0130**
Missouri Service Area of the Company)

**CONCURRING OPINION OF CHAIRMAN ROBERT M.
CLAYTON III**

This Commissioner concurs with the majority's Order Approving Unanimous Stipulation And Agreement in the rate increase request of The Empire District Electric Company. The settlement reached in this case resulted from extensive negotiations among nearly all stakeholders in an agreement that includes a rate increase that reflects the company's increased costs of providing electric service to its customers, including environmental upgrades at the Iatan 1 power plant. The agreement also calls for Empire to continue certain demand side management programs designed to help consumers control their energy costs as well as continuation of a company-funded program to assist low-income customers.

The Commission has little choice but to approve the agreement, which has not been opposed by any party including the Public Counsel, the PSC Staff, several government agencies, other diverse stakeholders and numerous industrial customers. Even though the agreement results in a rate increase, the process has culminated in a global settlement, supported by the rate payer advocate, suggesting reasonableness of the result. This rate increase is not simply raising the return or profit margin allowed to the company but instead represents significant investment in plant and environmental upgrades that will benefit the public.

The settlement leaves one remaining issue to be decided. If the Commission determines that the Plum Point generating unit is “fully operational and used for service” on or before August 15, 2010, Empire is authorized, under the agreement, to receive an electric rate increase of approximately \$46.8 million. For a residential customer using approximately 1,000 kilowatt-hours of electricity a month, the increase would be approximately \$13.03 per month (13.35%).

If the Commission finds that Plum Point generating unit is not “fully operational and used for service” on or before August 15, 2010, Empire is authorized, under the agreement, to receive an electric rate increase of approximately \$33.1 million. For a residential customer using approximately 1,000 kilowatt-hours of electricity a month, the increase would be approximately \$9.22 per month (9.44%).

It should be noted that this increase has been reduced from Empire’s original rate request seeking to increase annual electric operating revenues by approximately \$68.2 million. For a residential customer using approximately 1,000 kilowatt-hours of electricity a month, Empire’s request, if approved as filed, would have increased the monthly electric bill by approximately \$19.21. It should be further noted that much of the increase is based on whether needed infrastructure is in use to serve Empire’s customers.

Regardless of whether the Plum Point generating unit is in service on August 15, 2010, under either scenario, this is a significant rate increase that will certainly have an impact on customers, and the impact on those customers is not to be taken lightly. Any rate increase during challenging economic times may be difficult for customers to understand and rate payers should be aware that this increase is not likely to be the last in the foreseeable future. Additional costs associated with Iatan 1 as well as costs for Empire’s share of Iatan 2 also loom in the near future. However, rate payers should

take solace that the PSC Staff and Public Counsel's review of the expenditures have found these investments to be prudent, found the underlying costs reasonable and found the infrastructure necessary for the public interest.

Finally, the Commission must and will take additional steps at helping customers take control of their utility bills through aggressive energy efficiency programs, empower customers with information to make wise energy choices and embrace new technologies such as customer owned generation and smart grid improvements in a rapidly changing energy environment. Empire will be required to take a new look at energy efficiency programs through the Integrated Resource Planning process rather than simply rely on new power plant construction. This review and resulting programs will provide customers with new tools to save money.

Additionally, this Order will continue the Empire Experimental Low-Income Program (ELIP) which is funded solely by shareholders and provides necessary rate assistance to those customers receiving heating benefits through the Low-Income Home Energy Assistance Program (LIHEAP). ELIP delivered “fixed credits” to low-income customers in an effort to improve low-income home energy affordability. The Commission is aware that we must find new ways to help the most vulnerable among us.

Lastly, it should be noted that the rate increase will not take effect until September. Customers will not be burdened by higher costs during the summer cooling season.

This Commissioner commends the parties for reaching a settlement in this case and believes all parties best interests have been served by the stipulation in this case.

For the foregoing reasons, this Commissioner concurs.

Respectfully submitted,

A handwritten signature in cursive script, reading "Robert M. Clayton III", written in black ink. The signature is positioned above a horizontal line.

Robert M. Clayton III
Chairman

Dated at Jefferson City, Missouri
on this 19th day of May 2010.