

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service  
Commission held at its office in  
Jefferson City on the 19th day  
of May, 2010.

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     )  
Missouri Service Area of the Company                             )     **File No. ER-2010-0130**

**ORDER APPROVING UNANIMOUS STIPULATION AND AGREEMENT**

Issue Date: May 19, 2010

Effective Date: May 29, 2010

**Background**

On October 29, 2009, The Empire District Electric Company filed tariffs designed to increase the company's annual electric revenues by approximately \$68,171,501 or 19.6%. If approved by the Commission, this would have resulted in a monthly increase of \$19.21 for a residential customer using 1,000 kilowatt hours of electricity.<sup>1</sup> With its letter, Empire filed direct testimony intended to support its request for a rate increase.

On November 4, the Commission issued an order suspending the company's tariff, gave notice of the proposed rate increase, and invited requests to intervene. The Commission received and granted requests to intervene from Midwest Energy Users' Association, Kansas City Power & Light Company, the City of Joplin and the Missouri Department of Natural Resources.

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<sup>1</sup> Letter dated October 29, 2009 from The Empire District Electric Company to the Missouri Public Service Commission, initiating this rate case; Item No. 1 in the docket sheet

## The Agreement

On May 12, Empire, the Staff of the Commission, the Missouri Department of Natural Resources and the City of Joplin filed a Non-unanimous Stipulation and Agreement. Although all of the parties did not join in the agreement, the signatories represent that those parties who did not join in the agreement have affirmatively stated that they do not oppose the agreement and waive their rights to a hearing.

With the exception of whether the Plum Point generating unit will be fully operational and used for service on or before August 15, 2010, the parties have resolved all of the issues and have submitted sample tariff sheets reflecting Plum Point as being either non-operational or, alternatively, operational.

If the parties later agree or it is later determined by the Commission that Plum Point is operational by August 15, then the agreed-upon increase in Empire revenue will be \$36,800,000. If Plum Point expenditures are not reflected in rates, then the revenue will be \$23,100,000. Comparatively, Empire's initial proposal resulted in the following residential rates:

	<u>Summer Season</u>	<u>Winter Season</u>
Customer Charge	\$13.21	\$13.21
First 600 kWh	0.1133	0.11133
Additional kWh	0.1133	0.0771

If Plum Point is operational and used for service by August 15, then the parties have agreed on the following residential rates:

	<u>Summer Season</u>	<u>Winter Season</u>
Customer Charge	\$12.52	\$12.52
First 600 kWh	0.1074	0.1074
Additional kWh	0.1074	0.0728

On the other hand, if Plum Point is not operational and used by August 15, then the parties have agreed on the following residential rates:

	<u>Summer Season</u>	<u>Winter Season</u>
Customer Charge	\$12.09	\$12.09
First 600 kWh	0.1037	0.1037
Additional kWh	0.1037	0.703

With regard to specific issues, the parties have agreed on the following: Meter Treater Program and Rate Case Rider; Pension/OPEB; Demand Side Management Programs; Fuel Adjustment Clause; Rate Design; and, Vegetation/Infrastructure trackers. The parties also agreed that the carrying cost to be applied to Plum Point, latan 1, and latan 2 shall reflect a 7.75% return on equity. Also, with regard to the pre-1994 state income tax flow-through regulatory asset, Empire will continue to amortize the asset over an additional 18 years. A copy of the agreement is attached to this order.

**Discussion**

The Commission has the authority to accept a stipulation and agreement as offered by the parties.<sup>2</sup> Notably, every decision and order in a contested case shall be in writing and, except in default cases or cases disposed of by stipulation, consent order or agreed settlement, shall include findings of fact and conclusions of law.<sup>3</sup> Consequently, because this case is being disposed of by stipulation and agreed settlement, the Commission need not make findings of fact or conclusions of law.

Commission rules 4 CSR 240-2.115 (2)(B) and (C) state that if no party objects to a non-unanimous stipulation and agreement within 7 days, the Commission may treat the

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<sup>2</sup> Section 536.060, RSMo.

<sup>3</sup> Section 536.090, RSMo.

agreement as unanimous. Because no party has objected to this agreement, the Commission will therefore treat it as unanimous.

The Commission has reviewed the Stipulation and Agreement and finds it reasonable. The Agreement will therefore be approved and the parties will be directed to abide by its terms.

**THE COMMISSION ORDERS THAT:**

1. The following proposed electric tariff sheets submitted on October 29, 2009, by The Empire District Electric Company, Tariff File No. YE-2010-0303, are rejected:

**P.S.C. MO. No. 5**

**Section A, 25<sup>th</sup> Revised Sheet No. 1, canceling 24<sup>th</sup> Revised Sheet No. 1**  
**Section 1, 15<sup>th</sup> Revised Sheet No. 1, canceling 14<sup>th</sup> Revised Sheet No. 1**  
**Section 2, 14<sup>th</sup> Revised Sheet No. 1, canceling 13<sup>th</sup> Revised Sheet No. 1**  
**Section 2, 14<sup>th</sup> Revised Sheet No. 2, canceling 13<sup>th</sup> Revised Sheet No. 2**  
**Section 2, 14<sup>th</sup> Revised Sheet No. 3, canceling 13<sup>th</sup> Revised Sheet No. 3**  
**Section 2, 15<sup>th</sup> Revised Sheet No. 4, canceling 14<sup>th</sup> Revised Sheet No. 4**  
**Section 2, 14<sup>th</sup> Revised Sheet No. 6, canceling 13<sup>th</sup> Revised Sheet No. 6**  
**Section 2, 14<sup>th</sup> Revised Sheet No. 7, canceling 13<sup>th</sup> Revised Sheet No. 7**  
**Section 2, 10<sup>th</sup> Revised Sheet No. 9, canceling 9<sup>th</sup> Revised Sheet No. 9**  
**Section 2, 9<sup>th</sup> Revised Sheet No. 13, canceling 8<sup>th</sup> Revised Sheet No. 13**  
**Section 3, 15<sup>th</sup> Revised Sheet No. 1, canceling 14<sup>th</sup> Revised Sheet No. 1**  
**Section 3, 19<sup>th</sup> Revised Sheet No. 2, canceling 18<sup>th</sup> Revised Sheet No. 2**  
**Section 3, 14<sup>th</sup> Revised Sheet No. 3, canceling 13<sup>th</sup> Revised Sheet No. 3**  
**Section 3, 14<sup>th</sup> Revised Sheet No. 4, canceling 13<sup>th</sup> Revised Sheet No. 4**  
**Section 3, 3<sup>rd</sup> Revised Sheet No. 6, canceling 2<sup>nd</sup> Revised Sheet No. 6**  
**Section 3, 2<sup>nd</sup> Revised Sheet No. 7, canceling 1<sup>st</sup> Revised Sheet No. 7**  
**Section 3, 2<sup>nd</sup> Revised Sheet No. 8, canceling 1<sup>st</sup> Revised Sheet No. 8**  
**Section 3, 2<sup>nd</sup> Revised Sheet No. 9, canceling 1<sup>st</sup> Revised Sheet No. 9**  
**Section 4, 7<sup>th</sup> Revised Sheet No. 7, canceling 6<sup>th</sup> Revised Sheet No. 7**

2. The Stipulation and Agreement, filed by The Empire District Electric Company, the Staff of the Missouri Public Service Commission, the Missouri Department of Natural Resources and the City of Joplin is approved.

3. The parties shall abide by the terms of the Unanimous Stipulation and Agreement.

4. The Empire District Electric Company shall file tariff sheets that reflect the specific terms of the Stipulation and Agreement.

5. This order shall become effective on May 29, 2010.

**BY THE COMMISSION**



Steven C. Reed  
Secretary

( S E A L )

Davis, Gunn, and Kenney, CC., concur.  
Clayton, Chm., concurs, with separate  
concurring opinion to follow.  
Jarrett, C., concurs, with separate  
concurring opinion attached.

Jones, Senior Regulatory Law Judge