

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 3rd day of March, 2010.

In the Matter of The Empire District Electric)	
Company of Joplin, Missouri for Authority to)	
File Tariffs Increasing Rates for Electric)	<u>File No. ER-2010-0130</u>
Service Provided to Customers in the Missouri)	Tariff File No. YE-2010-0303
Service Area of the Company)	

**ORDER APPROVING STIPULATION AND AGREEMENT
AND APPROVING PROPOSED PROCEDURAL SCHEDULE**

Issue Date: March 3, 2010

Effective Date: March 3, 2010

On February 25, 2010, the parties in this general rate case filed both a procedural schedule and a Stipulation and Agreement. Through this Stipulation and Agreement, the parties¹ address concerns surrounding Iatan 1, Iatan 2 and the Plum Point generating units and attempt to address those concerns through agreements having to do with: accounting treatment; the prudence of capital expenditures; and, the relationship between this Agreement and Empire's Experimental Regulatory Plan in Commission File No. EO-2005-0263. The parties point out that the Agreement, among other things:

- Acknowledges that Empire does not seek to recover in the rates resulting from this case, the costs associated with its investment in Iatan 2.
- Acknowledges that this case is not the "Rate Filing" called for in Section III.D.7 of the Empire Experimental Regulatory Plan Stipulation and Agreement in File No. EO-2005-0263.

¹ The parties to the Agreement are: The Empire District Electric Company; The Staff of the Missouri Public Service Commission; the Office of the Public Counsel; the Missouri Energy Users' Association; and the City of Joplin, Missouri. The Missouri Department of Natural Resources and Kansas City Power & Light did not enter into the Agreement but do not oppose it.

- Provides that the signatory parties will support “Construction Accounting”² for certain of Empire’s investment in Iatan 1 environmental upgrades/air quality control systems, Iatan 2, Iatan common plant, and Plum Point for the periods and as specified in the Stipulation and Agreement.
- Provides that questions of prudence related to Iatan 1 Environmental Upgrades, Iatan 2, Iatan common plant and Plum Point will be addressed in Empire’s next general rate case proceeding.

Finally, the signatories represent that the only parties not participating in the Agreement, and who do not oppose the Agreement or the procedural schedule, are the Missouri Department of Natural Resources and Kansas City Power & Light Company.

As a result of the agreements, the parties propose the following procedural schedule:

Empire Direct Testimony	October 29, 2009
Direct Case - Revenue Requirement All parties except Empire	February 26, 2010
Direct Case – Class Cost of Service and Rate Design All parties except Empire	March 9
Case Reconciliation (not filed)	March 10
Prehearing Conference	March 10 - 12, 15 & 16
List of Issues (Preliminary, not filed)	March 22
Local Public Hearings Joplin	March 22 & 23
Reed Springs	March 23
Rebuttal Testimony	April 2
Surrebuttal Testimony	April 23
Joint List of Issues, List and Order of Witnesses Order of Cross Examination	April 26

² Defined in the Stipulation and Agreement at page 1.

Reconciliation of Issues Heard	April 28
Statements of Position	April 28
Evidentiary Hearing	May 3-7 and 10-14
True-Up Direct Testimony	June 3
True-Up Rebuttal	June 17
Initial Briefs	June 22
True-Up Hearings	June 28 – July 2 (28 th – 30 th in Room 310) (1 st and 2 nd in Room 305)
Reply Briefs and True-Up Briefs	July 20
Hearing Regarding Plum Point In-Service	August 20 (Room 305)
Report and Order	August 27
Operation of Law Date	September 28

Additionally, the parties propose that the test year be the 12 months ending June 30, 2009, as updated through December 31, 2009. Further, that the true-up period end on March 31, 2010. Finally, the Commission directs the parties to abide by the following proposed procedural considerations:

- 1) All parties shall provide copies of testimony (including schedules), exhibits and pleadings to other counsel by electronic means and in electronic form essentially concurrently with the filing of such testimony, exhibits or pleadings where the information is available in electronic format. Parties shall not be required to put information that does not exist in electronic format into electronic format for purposes of exchanging it.
- 2) An effort should be made to not include in data requests questions requiring either highly confidential or proprietary information. If either highly confidential or proprietary information must be included in data request questions, the highly confidential or proprietary information should be appropriately designated as such pursuant to 4 CSR 240-2.135.
- 3) Counsel for each party shall receive electronically from each other party, an electronic copy of the text of all data requests “descriptions” served by that party on another party in the case contemporaneously with service of the request. If the description contains

highly confidential or proprietary information, or is voluminous, a hyperlink to the EFIS record of that data request shall be considered a sufficient copy. If a party desires the response to a data request that has been served on another party, the party desiring a copy of the response must request a copy of the response from the party answering the data request – in this manner the party providing a response to a data request has the opportunity to object to providing the response to another party and is responsible for copying information purported to be highly confidential or proprietary – thus, if a party wants a copy of a data request response by Empire to a Staff data request, the party should ask Empire, not the Staff, for a copy of the data request response unless there are appropriate reasons to direct the discovery to the party originally requesting the material. Data requests, objections, or notifications respecting the need for additional time to respond shall be sent via e-mail to counsel for the other parties. Counsel may designate other personnel to be added to the service list but shall assume responsibility for compliance with any restrictions on confidentiality. Data request responses will be served on counsel for the requesting party and on the requesting party's employee or representative who submitted the data request and shall be served electronically, if feasible and not voluminous as defined by Commission rule.

4) Until the filing of direct testimony on rate design pertinent issues, the response time for all data requests shall be 20 calendar days, and 10 calendar days to object or notify that more than 20 calendar days will be needed to provide the requested information. After direct filing and until the filing of rebuttal testimony, the response time for data requests shall be 10 business days to provide the requested information, and 5 business days to object or notify that more than 10 business day will be needed to provide the requested information. After the filing of rebuttal testimony, the response time for data requests shall be 10 calendar days to provide the requested information, and 5 calendar days to object or notify that more than 10 calendar days will be needed to provide the requested information.

5) Workpapers that were prepared in the course of developing a witness' testimony should not be filed with the Commission but should be submitted to each party within 2 business days following the filing of the particular testimony without further request. Workpapers containing highly confidential or proprietary information should be appropriately marked. Since workpapers for certain parties may be voluminous and generally not all parties are interested in receiving workpapers or a complete set of workpapers, a party shall be relieved of providing workpapers to those parties indicating that they are not interested in receiving workpapers or a complete set of workpapers. Counsel shall undertake to advise other counsel if the sponsored witness has no workpapers related to the round of testimony.

6) Where workpapers or data request responses include models or spreadsheets or similar information originally in a commonly available format where inputs or parameters may be changed to observe changes in inputs, if available in that original format, the party providing the workpapers or responses shall provide this type of information in that original format.

7) For purposes of this case, the Staff requests the Commission waive 4 CSR 240-2.045(2) and 2.080(11) with respect to prefiled testimony and other pleadings, and treat filings made through the Commission's Electronic Filing and Information System (EFIS) as timely filed if filed before midnight on the date the filing is due.

8) The Staff requests that documents filed in EFIS be considered properly served by serving the same on counsel of record for all other parties via e-mail essentially contemporaneously with the EFIS filing.

The Commission has reviewed the agreements regarding the Iatan 1, Iatan 2 and Plum Point generating units reached by the parties and will approve the Stipulation and Agreement and the resulting procedural schedule. Additionally, the Commission finds that it is reasonable and that good cause exist to waive 4 CSR 240-2.045(2) and 2.080(11) in order to accommodate the parties in filing pleadings and testimony in this case.

THE COMMISSION ORDERS THAT:

1. The Stipulation and Agreement entered into by all of the parties except the Missouri Department of Natural Resources and Kansas City Power & Light Company, who do not oppose the Agreement, is approved and the parties shall abide by its terms.

2. The proposed procedural schedule is approved and the parties shall abide by the procedural considerations set out in the body of this order.

3. Commission rule 4 CSR 240-2.045(2) and 2.080(11) are waived.

4. This order shall become effective upon issuance.

BY THE COMMISSION



Steven C. Reed
Secretary

(S E A L)

Clayton, Chm., Davis, Jarrett,
Gunn, and Kenney, CC., concur.

Jones, Senior Regulatory Law Judge