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February 26, 2001

Mr. Dale H. Roberts  
Secretary/Chief Regulatory Law Judge  
Public Service Commission  
P. O. Box 360  
Jefferson City, MO 65102

**FILED<sup>3</sup>**

FEB 26 2001

**RE: Empire District Electric Company)**  
**Case No. ER-2001-452**

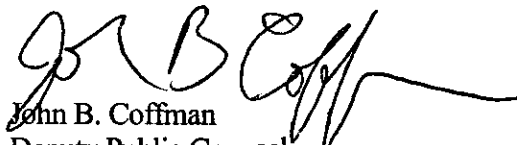
Missouri Public  
Service Commission

Dear Mr. Roberts:

Enclosed for filing in the above-referenced case please find the original and eight copies of **Motion to Dismiss and Motion to Remove Highly Confidential Designations**. Please "file" stamp the extra-enclosed copy and return it to this office.

Thank you for your attention to this matter.

Sincerely,

  
John B. Coffman  
Deputy Public Counsel

JBC:jb

cc: Counsel of Record

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

**FILED<sup>3</sup>**  
FEB 26 2001

In the Matter of the Tariff Revisions of                     )  
The Empire District Electric Company                     )  
Designed to Increase Rates on an Interim                     )      Case No. ER-2001-452  
Basis for Electric Service to Customers in                     )  
Its Missouri Service Area

Missouri Public  
Service Commission

**MOTION TO REMOVE HIGHLY CONFIDENTIAL DESIGNATIONS**

COMES NOW, the Office of Public Counsel (Public Counsel) and pursuant to 4 CSR 240-2.065 and Paragraph N of the Protective Order ordered by the Commission on February 21, 2001, and states as follows:

1.      On February 16, 2001, Empire District Electric Company (Company) filed tariffs establishing this interim rate case along with the prepared (pre-filed) testimony of Company witnesses. The testimony of Company witnesses Mr. Gibson and Mr. Kaplan contain certain information designated "Highly Confidential" and was filed under seal pending a request that the Commission establish a Protective Order in this case.

2.      On February 21, 2001 the Commission established its "standard" Protective Order in this interim rate case, but noted that the Company's explanation of the need for a Protective Order was "very cursory." The Commission also noted that Company had provided no explanation pursuant to 4 CSR 240-2.065(1) as to how the public would be harmed without such a protective order. Ibid. p. 1.

3.      Public Counsel has carefully reviewed Company's prepared testimony in this case, and including those portions of testimony that the Company has designated as "Highly Confidential." While Public Counsel is generally deferential to information that

regulated utilities believe should be designated as highly confidential, certain information so designated in this case does not seem to fit the definitions contained in the Protective Order issued in this case. The portions of prepared testimony which Public Counsel believes are not appropriately designated as "Highly Confidential" are found in Mr. Gibson's Direct Testimony on page 5 (lines 10, 18, and 20), page 7 (lines 8-14), page 11 (line 10), and page 12 (line 2).

4. The Commission's Protective Order provides the following definition of Highly Confidential:

HIGHLY CONFIDENTIAL: Information concerning (1) material or documents that contain information relating directly to specific customers; (2) employee-sensitive information; (3) marketing analyses or other market-specific information relating to services offered in competition with others; (4) reports, work papers or other documentation related to work produced by internal or external auditors or consultants; (5) strategies employed, to be employed, or under consideration in contract negotiations.

Protective Order, p. 1.

Public Counsel does not believe that the Highly Confidential portions of prepared testimony in this case fall into any of these five categories.

5. The information listed in paragraph 3 which Public Counsel believes is inappropriately designated as "Highly Confidential" consists merely of Company's financial projections and current financial data. Some of this information is readily available to the public through published reports and on the Internet. See Attachment 1.

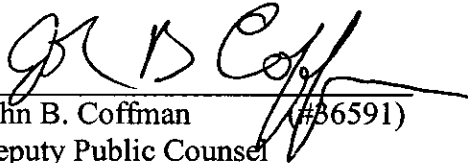
6. When the Commission decides whether or not to keep certain testimony under seal, it should limit the application of such designations as much as possible so that government decisions are made in the most open manner possible.

WHEREFORE, Public Counsel respectfully requests that the "Highly Confidential" designation proposed by Company for those portions of Mr. Gibson's prepared direct testimony listed in paragraph 3 of this Motion be lifted and that those portions of prepared testimony be declassified and treated as "Non-Proprietary."

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

By:

  
John B. Coffman (#36591)  
Deputy Public Counsel

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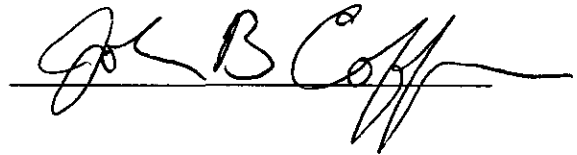
## CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed or hand-delivered to the following this 26<sup>th</sup> day of February 2001:

James Swearengen/Gary W. Duffy  
Brydon, Swearengen & England P. C.  
P O Box 456  
Jefferson City, MO 65102

General Counsel  
Missouri Public Service Commission  
P O Box 360  
Jefferson City, MO 65102

Stuart W. Conrad  
Finnegan, Conrad & Peterson  
3100 Broadway, 1209 Penntower Office  
Kansas City, MO 64111

A handwritten signature in black ink, appearing to read "J. B. Coffey", is written over a horizontal line.

**DOW JONES CONFERENCES****WSJ**  
**.com****COMPANY BRIEFING BOOK**▶ **TABLE OF CONTENTS**▶ **Company Background**  
▶ **Financial Overview**  
▶ **Stock Charts**  
▶ **Earnings Estimates**▶ **Company News**  
▶ **Press Releases**  
▶ **Quote Details**▶ **FRONT PAGE** ▶ **MARKETPLACE** ▶ **MONEY** ▶ **TECH CENTER** ▶ **SPORTS** ▶ **PERSONAL JOURNAL****February 1, 2001****The Empire District Electric Company Declaration of Dividends and Earnings Report, Election of Executive Vice President and Vice President-Finance**

JOPLIN, Mo.--(BUSINESS WIRE)--Feb. 1, 2001--(NYSE:EDE) At the Board of Directors meeting, the Directors declared a quarterly dividend of 32 cents per share on common stock payable March 15, 2001, to holders of record as of March 1, 2001.

Excluding expenses related to the proposed merger with UtiliCorp United Inc. (which was terminated on January 2, 2001), the Company reported earnings of \$23.9 million, or \$1.37 per share, for the twelve months ended December 31, 2000, and \$25.2 million, or \$1.46 per share, for the twelve months ended December 31, 1999. All earnings are expressed as Net Income Applicable to Common Stock.

Including merger expenses, the Company reported earnings for the twelve months ended December 31, 2000, of \$23.6 million, or \$1.35 per share. This compared to earnings of \$19.5 million, or \$1.13 per share, for the twelve months ended December 31, 1999.

Excluding merger expenses, earnings for the fourth quarter of 2000 were \$3.5 million, or \$0.20 per share, as compared to earnings in the same quarter of 1999 of \$3.8 million, or \$0.22 per share. Merger expenses for the fourth quarter of 1999 and 2000 were essentially the same and reduced earnings by \$0.01 per share for both quarters.

Total revenues for the year 2000 were \$260.0 million, compared with \$242.2 million in 1999. For the fourth quarter of 2000, revenues were \$62.3 million, compared with \$52.7 million for the same quarter of 1999.

Revenues for the twelve months ended December 31, 2000, were positively impacted by warmer than normal temperatures during the second and third quarters of 2000 and colder than normal temperatures during the fourth quarter. However, the increase in revenues for the year was more than offset by significantly increased natural gas and purchased power costs which negatively impacted earnings.

Revenues for the fourth quarter of 2000 were positively impacted by the colder than normal temperatures in the quarter, but earnings were negatively impacted by significantly increased natural gas and purchased power costs.

At today's meeting of the Board of Directors, the Directors elected Mr. William L. Gipson as Executive Vice President. Mr. Gipson has held positions in Information Services, Project Management, Economic Development, and was Director of Commercial Operations for the

Attachment 1

Branson, Missouri area. He has served as Vice President-Commercial Operations since April 1997. In addition, the Directors elected Mr. David W. Gibson as Vice President-Finance and Principal Financial Officer replacing Mr. Robert B. Fancher who is retiring effective February 28, 2001. Mr. Gibson has held positions in Internal Auditing, Corporate Planning, Financial and Regulatory Accounting, and has served as Director of Financial Services and Assistant Secretary since 1995.

THE EMPIRE DISTRICT ELECTRIC COMPANY  
FINANCIAL HIGHLIGHTS  
Quarter Ended Dec. 31, Twelve Months

Ended Dec. 31,	2000	1999	2000
1999	----	----	----
-----			
Operating Revenues	\$62,322,000	\$52,650,000	\$260,003,000
\$242,162,000			
Net Income	\$ 3,330,000	\$ 3,626,000	\$ 23,617,000
22,170,000			
Net Income			
Applicable to			
Common Stock	\$ 3,330,000	\$ 3,626,000	\$ 23,617,000
19,463,000			
Merger Expenses	\$ 127,000	\$ 128,000	\$ 327,000
5,772,000			
Net Income			
Applicable to			
Common Stock			
(Excluding Merger			
Expenses)	\$ 3,457,000	\$ 3,754,000	\$ 23,944,000
25,235,000			
Weighted Average			
Common Shares			
Outstanding	17,595,916	17,332,907	17,503,665
17,237,805			
Basic and Diluted			
Earnings Per Share	\$0.19	\$0.21	\$1.35
\$1.13			
Basic and Diluted			
Earnings Per			
Share (Excluding			
Merger Expenses)	\$0.20	\$0.22	\$1.37
\$1.46			

The Empire District Electric Company is an investor-owned utility providing electric service to approximately 145,000 customers in southwest Missouri, southeast Kansas, northeast Oklahoma and northwest Arkansas. The Company provides monitored security, energy services, fiber optic service and decorative lighting as well as water service in three incorporated communities in Missouri.

Certain matters discussed in this press release are "forward-looking statements" intended to qualify for the safe harbor from liability established by the Private Securities Litigation Reform Act of 1995. Such statements address future plans, objectives, expectations, and events or conditions concerning various matters. Actual results in each case could differ materially from those currently anticipated in such statements, by reason of the factors noted in our filings with the SEC, including the most recent Form 10-K and Form 10-Q.

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Jay McBee, 417/625-5100, ext. 2369  
Investor Relations:  
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