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November 30, 2004

FILED⁴

DEC 01 2004

MISSOURI PUBLIC
SERVICE COMMISSION

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Public Service Commission
Governor's Office Building
Madison & E. Capitol
Jefferson City, MO 65101

RE: *In the Matter of Empire District Electric Company's Application for Authority to File Tariffs Increasing Electric Rates for the Service Provided to Customers*, Case No. ER-2004-0570

Dear Judge Roberts:

Enclosed for filing in the above-referenced case are the original and 8 copies of the Missouri Department of Natural Resources' Outreach and Assistance Center, Missouri Energy Center's Position Statement. Thank you for your attention to this matter.

Sincerely,

JEREMIAH W. (JAY) NIXON
Attorney General

Ronald Molteni
Assistant Attorney General

Enclosures

cc: All Parties on the Service List

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

FILED⁴
DEC 01 2004
Missouri Public
Service Commission

In the Matter of the Tariff Filing of The)
Empire District Electric Company to)
Implement a General Rate Increase for)
Retail Electric Service Provided to)
Customers in its Missouri Service Area)

Case No. ER-2004-0570

**MISSOURI DEPARTMENT OF NATURAL RESOURCE'S
POSITION STATEMENT¹**

The Missouri Department of Natural Resources ("MDNR"), an intervenor in this case, sets forth its statement of positions through this filing. Because, of course, additional evidence will be adduced at hearing through cross examination, the MDNR reserves the right to change its position on any or all of the specific issues presented to the Commission for adjudication:

REVENUE REQUIREMENT

Rate of Return

1. What capital structure is appropriate for Empire?

MDNR takes no position on this issue at this junction, but reserves the right to assert a position on this issue after more evidence is adduced at hearing.

2. What return on common equity is appropriate for Empire?

MDNR takes no position on this issue at this junction, but reserves the right to assert a position on this issue after more evidence is adduced at hearing.

¹ DNR's counsel is scheduled to be in court in St. Louis on December 1, 2004, the due date for filing position statements. Accordingly, DNR is filing these positions based on the what may be a non-final draft of the PSC Staff's Statement of Issues. The undersigned thought it better practice to file timely and apologizes for any inconvenience working off the non-final version of the statement of issues may cause.

Rate Base.

3. Energy Center 3 and 4 disallowance. Should there be a prudence disallowance of a certain portion of the costs associated with the construction/installation of Energy Center units no. 3 and no. 4?

MDNR takes no position on this issue at this junction, but reserves the right to assert a position on this issue after more evidence is adduced at hearing.

4. Deferred tax balances

a) Post-Retirement Benefits Other than Pensions ("PBOP"): Should cost of service be increased to compensate for Empire's inability to obtain full deductibility of its contributions to its Voluntary Employment Beneficiary Association ("VEBA") plan for management?

MDNR takes no position on this issue at this junction, but reserves the right to assert a position on this issue after more evidence is adduced at hearing.

5. Alternative Minimum Tax ("AMT"): Should cost of service be increased to reflect payment by Empire of AMT?

MDNR takes no position on this issue at this junction, but reserves the right to assert a position on this issue after more evidence is adduced at hearing.

Revenue Issues

6. Customer Growth: What is the total impact on revenues associated with rate switching between the CB and GP rate classes?

MDNR takes no position on this issue at this junction, but reserves the right to assert a position on this issue after more evidence is adduced at hearing.

Expense Issues

7. Depreciation: How shall the depreciation for plant accounts be calculated?

(a) Should life span be applied to production accounts?

MDNR takes no position on this issue at this junction, but reserves the right to assert a position on this issue after more evidence is adduced at hearing.

(b) Should the Commission use the whole-life or the remaining life technique?

MDNR takes no position on this issue at this junction, but reserves the right to assert a position on this issue after more evidence is adduced at hearing.

(c) How should the cost of removal net of salvage component be treated?

MDNR takes no position on this issue at this junction, but reserves the right to assert a position on this issue after more evidence is adduced at hearing.

8. Fuel and Purchased Power

(a) What natural gas price should be used in determining base rates?

MDNR takes no position on this issue at this junction, but reserves the right to assert a position on this issue after more evidence is adduced at hearing.

(b) What is the appropriate availability and the appropriate average annual cost per MWH of purchased power for use in base rates?

MDNR takes no position on this issue at this junction, but reserves the right to assert a position on this issue after more evidence is adduced at hearing.

9. Interim Energy Charge ("IEC")

(a) May the Commission lawfully order an IEC absent a unanimous stipulation and agreement?

No.

- (b) If yes to (a) above, should an IEC for Empire be implemented in this proceeding? If so, at what floor and ceiling levels? How should the IEC be structured? How should the charge be designed?

No.

10. Payroll O&M Factor: Should the payroll O&M factor be calculated using a three-year average or a five-year average?

MDNR takes no position on this issue at this junction, but reserves the right to assert a position on this issue after more evidence is adduced at hearing.

11. Energy Center 3 & 4 Twenty-Year Inspections: Should cost of service include an annual funding for an inspection expected to occur some twenty years into the future?

MDNR takes no position on this issue at this junction, but reserves the right to assert a position on this issue after more evidence is adduced at hearing.

12. Annual generator inspections: Is it appropriate to include in cost of service an amount for annual inspections of Empire's generators? If so, what amount should be included?

MDNR takes no position on this issue at this junction, but reserves the right to assert a position on this issue after more evidence is adduced at hearing.

13. Tree Trimming: What amount should be included in cost of service to reflect on-going tree trimming costs?

MDNR takes no position on this issue at this junction, but reserves the right to assert a position on this issue after more evidence is adduced at hearing.

14. Rate Case Expense: Should the costs of retaining Empire consultants Mr. Pfeiffer and Dr. Vander Weide be included in the rate case expense reflected in cost of service?

MDNR takes no position on this issue at this junction, but reserves the right to assert a position on this issue after more evidence is adduced at hearing.

15. Enron Legal Fees: Should the legal fees associated with the settlement of a dispute with Enron be included in cost of service?

MDNR takes no position on this issue at this junction, but reserves the right to assert a position on this issue after more evidence is adduced at hearing.

16. Incentive Compensation: Should all costs associated with incentive compensation be included in cost of service? If not, what costs/amounts should be excluded?

MDNR takes no position on this issue at this junction, but reserves the right to assert a position on this issue after more evidence is adduced at hearing.

17. Stock Options

(a) Should the cost of stock options be expensed before they are exercised?

MDNR takes no position on this issue at this junction, but reserves the right to assert a position on this issue after more evidence is adduced at hearing.

(b) Should the cost of stock options be included in cost of service?

MDNR takes no position on this issue at this junction, but reserves the right to assert a position on this issue after more evidence is adduced at hearing.

18. Low-Income Customer Weatherization Assistance Programs: Should an amount for low-income customer weatherization assistance programs be included in cost of service? If so, what amount should be included?

Yes. The amount should be \$181,250 per year. See Wyse Direct, p. 16.

19. Energy Efficiency Services To Residential and Commercial Customers: Should an amount for energy efficiency services, specifically a lighting, an appliance and HVAC rebate program, and commercial customer energy audits, as applicable, be included in cost of service?

If so, what amount should be included?

Yes. The amounts should be \$35,000 per year for lighting, \$100,000 for appliance and HVAC rebates, and \$25,000 per year for commercial audits. See Wyse Direct, p. 16-17.

20. Wind Energy: Should an amount for wind energy assessment included in cost of service? If so, what amount should be included?

Yes. The amount should be \$80,000 to pay for two wind assessment sites. See Anderson Direct, p. 9-10.

21. Experimental Low-Income Program ("ELIP"):

MDNR takes no position on this issue at this junction, but reserves the right to assert a position on this issue after more evidence is adduced at hearing.

22. Pensions: What is the appropriate standard to use as the basis for determining pension expense to be included in Empire's cost of service?

MDNR takes no position on this issue at this junction, but reserves the right to assert a position on this issue after more evidence is adduced at hearing.

23. Late payment charge: Should Empire's late payment charge be calculated based on a single percentage? If so, at what level?

MDNR takes no position on this issue at this junction, but reserves the right to assert a position on this issue after more evidence is adduced at hearing.

CLASS COST OF SERVICE/RATE DESIGN

24. What is the appropriate allocation of any increase in revenues to customer classes?

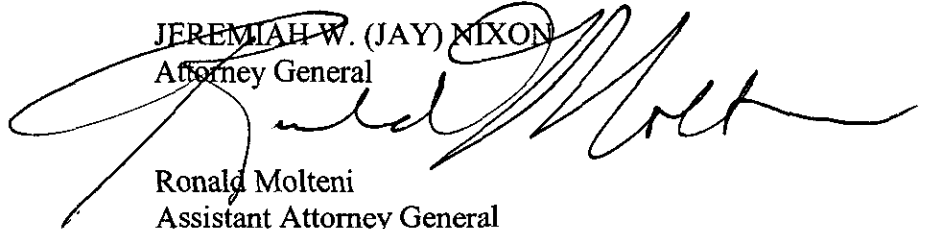
MDNR takes no position on this issue at this junction, but reserves the right to assert a position on this issue after more evidence is adduced at hearing.

25. What are the appropriate adjustments to the rate components for each of the various rate schedules?

MDNR takes no position on this issue at this junction, but reserves the right to assert a position on this issue after more evidence is adduced at hearing.

Respectfully submitted,

JEREMIAH W. (JAY) NIXON
Attorney General

A large, stylized handwritten signature in black ink, which appears to read 'Ronald Molteni', is written over the typed name and title of the Assistant Attorney General.

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Attorneys for Department of
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was mailed, postage prepaid, by United States mail, this 30th day of November, 2004, to:

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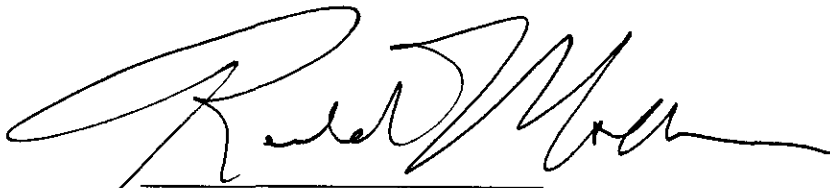
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