

21,047

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

IN THE MATTER OF THE APPLICATION OF THE )  
EMPIRE DISTRICT ELECTRIC COMPANY FOR AN )  
ORDER APPROVING A GENERAL RATE CHANGE )  
FOR ELECTRICAL SERVICE WITHIN THE STATE )  
OF OKLAHOMA )

CAUSE NO. PUD 200300121

ORDER NO. 478532

HEARING: July 28, 2003  
Before Jacqueline T. Miller, Administrative Law Judge

APPEARANCES: Jim Swearingen, Jay M. Galt, Attorneys for The Empire District Electric Company

Elizabeth Wade, Assistant Attorney General, Attorney for  
Attorney General's Office

Lynn Williams and David Dykeman, Assistant General Counsels,  
Public Utility Division, Oklahoma Corporation Commission

**FILED**

FINAL ORDER

DEC 28 2004

BY THE COMMISSION:

Missouri Public  
Service Commission

The Oklahoma Corporation Commission ("Commission"), being regularly in session and the undersigned Commissioners being present and participating, there comes on for decision the July 28, 2003 hearing of the Application of The Empire District Electric Company ("Empire").

Procedural History

Empire initiated this case by filing a Notice of Intent pursuant to OAC 165:70-3-7 on December 10, 2002 and January 23, 2003, which did not meet the literal intent of the Commission rule concerning the filing of a Notice of Intent, so Empire requested a waiver of the Notice of Intent filing from the Director of Public Utilities Division by a letter dated March 4, 2003, which request was granted that same date. On March 4, 2003, Empire filed its Application for a General Rate Change. The Application included pre-filed testimony and related schedules to support a requested rate increase of \$954,540 for Empire's Oklahoma jurisdictional customers.

The Office of the Attorney General ("AG") entered an appearance on March 5, 2003.

Exhibit No. 121  
No(s). EP-2001-0570  
12-13-01 Rptr. EF

On April 8, 2003, the Commission issued Order No. 474351, prescribing the notice to be given in this cause. The Commission required that notice of the hearing be published in a newspaper of general circulation in Ottawa, Delaware and Craig Counties, Oklahoma, once each week for two consecutive weeks, at least fifteen days prior to the hearing on the merits in this cause. The Commission also required that notice be given to affected customers by including a specified notice in regular customer billings. The record in this cause includes proofs of publication that reflect publication in compliance with the Commission's order, and an affidavit of service that reflects that notice was given to customers by bill insert as required by the order.

On April 16, 2003, the Commission issued Order No. 474716 establishing the procedural schedule to be observed in this case. The procedural schedule set a deadline of June 2, 2003, for motions to intervene in this case. No party sought to intervene in this cause.

On July 2, 2003, the Staff and the AG filed responsive testimony to Empire's Application. On July 15, 2003, Empire filed its rebuttal testimony.

Settlement discussions began in July 2003, and on July 23, 2003, a Joint Stipulation and Settlement Agreement ("Joint Stipulation") was agreed to by Empire, the Commission Staff ("Staff") and the AG ("Stipulating Parties").

On July 24, 2003, the Stipulating Parties filed the Joint Stipulation with the Commission. A copy of the Joint Stipulation is attached to this Order as "Exhibit A".

On July 28, 2003, the cause came before the Administrative Law Judge for hearing. At which time, the Attorney General filed amended testimony of Mr. Neil H. Talbot. At the hearing Ms. Kelly Walters, Empire District's Director of Planning and Regulatory matters, testified that Empire has had no Oklahoma customer complaints in the last 18 months; explained Staff's adjustments, from Empire's point of view, and confirmed Empire's acceptance of those adjustments. She further testified that Empire has a little over 3,000 Oklahoma residential customers, whose rates were last increased in October 1994. Ms. Walters sponsored the Joint Stipulation and testified that, pursuant to the Joint Stipulation, Empire's Oklahoma revenue requirement is agreed to be \$8,126,630, with a resulting revenue deficiency of \$766,500. She indicated that the parties proposed agreement, as to the revenue requirement, was based upon adjustments to Staff's calculations, which were presented in "Attachment A" to the Joint Stipulation. Ms. Walters also indicated that the agreed-to rate design is set out in

"Attachment B" to the Joint Stipulation. Ms. Walters further testified that the Joint Stipulation reflects a rate of return on equity of 11.27%.

Ms. Walters also testified that the Stipulating Parties inadvertently left out of the Joint Stipulation details governing certain customer related charges. Ms. Walters testified that Empire had requested to change certain customer related charges and that none of the stipulating parties had objected. Ms. Walters testified that the following adjustments are recommended for approval and she indicated that Empire's tariff sheet number 11 should be changed to reflect the following:

1. The customer advance for temporary service lines will be reduced from \$30 to \$20.
2. The trip charge to a customer's premises to collect for non-payment of a bill is increased from \$8 to \$13.
3. The charge for reconnecting electric service during normal working hours is increased from \$18 to \$25.
4. The charge for reconnecting electric service after normal working hours is increased from \$33 to \$50.

Ms. Walters also indicated that all of Empire's other charges on this tariff should remain unchanged. Ms. Walters also testified that, if the Commission approves this matter, the average residential customers' monthly bill would increase by approximately \$4.75 per month, based upon an average monthly usage of 750 kwh. Ms. Walters stated that, in her opinion, this Joint Stipulation and Settlement Agreement is fair, just, reasonable, and in the public interest. Ms. Walters concluded her testimony and indicated that the Joint Stipulation requests that the new rates become effective for bills rendered on and after the date of the Commission Order and after approval of Empire's new tariffs.

Staff then called Dr. Ken Zimmerman, Energy Chief for the Staff, who testified that he agreed with Ms. Walters' testimony concerning the accuracy of the numbers presented in the Joint Stipulation. Dr. Zimmerman also explained the attachments to the Joint Stipulation, Attachments "A" and "B", and indicated that, in his opinion, the Joint Stipulation was both fair, just, reasonable, and in the public interest.

Based on the Joint Stipulation, the testimony of the witnesses, statements of counsel and the record in this Cause, the ALJ recommends approval of this matter.

**Findings of Fact and Conclusions of Law**

After review of the record in this cause, including the pre-filed testimony and schedules in support of the parties' respective litigation positions, after consideration of the testimony and evidence presented at the hearing in support of the Joint Stipulation, and after careful evaluation of the Joint Stipulation in light of the entire record, the Commission finds as follows:

The Commission finds that it has jurisdiction over the parties in this cause and over the subject matter of these proceedings pursuant to Article 9, Section 18 of the Oklahoma Constitution, 17 O.S. 2001, § 152 *et seq.*, OAC 165:35 and OAC 165:70.

The Commission further finds that notice of the application and of the hearing on the merits in this cause has been provided according to law, the Commission rules and the provisions of Order No. 474351 issued in this cause on April 8, 2003, and that notice is sufficient.

The Commission further finds that the Joint Stipulation presented in this cause is the unanimous agreement of Empire, Staff and the AG.

The Commission further finds that the Stipulating Parties inadvertently left out of the Joint Stipulation details governing the following customer related charges, which are contained in Empire's tariff sheet number 11:

1. The customer advance for temporary service lines will be reduced from \$30 to \$20.
2. The trip charge to a customer's premises to collect for non-payment of a bill is increased from \$8 to \$13.
3. The charge for reconnecting electric service during normal working hours is increased from \$18 to \$25.
4. The charge for reconnecting electric service after normal working hours is increased from \$33 to \$50.
5. That all of Empire's other charges on this tariff page should remain unchanged.

The Commission further finds that these changes should be and are hereby made a part of the Joint Stipulation and that with these changes, incorporated therein, the Joint Stipulation disposes of all issues raised in this cause.

The Commission further finds that the provisions of the Joint Stipulation, including the rates and charges therein set forth, are fair, just and reasonable.

The Commission further finds that the Joint Stipulation sets forth rates, terms and conditions of service for Empire and is supported by substantial evidence in the record. The Joint Stipulation should be approved.

The Commission further finds that the Joint Stipulation represents a negotiated settlement and that its provisions shall not bind the Commission, nor any party to the Joint Stipulation, in any subsequent general rate proceeding in which new rates, charges, terms and conditions are considered for Empire.

The Commission further finds that the increase in rates to Empire will permit Empire to continue to upgrade its electric distribution and generation system.

The Commission further finds that within five (5) days of the date of this Order, Empire shall submit to the Director of the Commission's Public Utility Division new tariffs that implement and conform to the provisions of the Joint Stipulation and this Order, and that such new tariffs shall be effective for bills rendered on and after the date of the Commission Order and approval of new tariffs.

### ORDER

IT IS THEREFORE THE ORDER OF THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA that the Joint Stipulation attached to this Order as "Exhibit A", with the incorporated changes to Empire's tariff sheet number 11 set-out above, is hereby approved in its entirety.

IT IS FURTHER ORDERED that the rates, charges, terms and conditions set forth in the Joint Stipulation are hereby approved for implementation in Empire tariffs, and that Empire shall file its tariffs implementing the provisions of the Joint Stipulation and this Order within five (5)

days of the date hereof. Empire's new tariffs shall be effective and applicable for bills rendered on and after the date of the Commission Order and approval of new tariffs.

OKLAHOMA CORPORATION COMMISSION

DENISE A. BODE, Chairman

Bob Anthony  
BOB ANTHONY, Vice Chairman

Jeff Cloud  
JEFF CLOUD, Commissioner

DONE AND PERFORMED THIS 31 DAY OF JULY, 2003, BY ORDER OF THE COMMISSION:

Joyce Conner  
PEGGY MITCHELL, Secretary

JOYCE CONNER, Acting Secretary

REPORT OF THE ADMINISTRATIVE LAW JUDGE

The foregoing Findings and Order are the Report and Recommendations of the Administrative Law Judge.

Jacqueline T. Miller  
JACQUELINE T. MILLER  
Administrative Law Judge

July 29, 2003  
Date

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

In the matter of the Application of )  
THE EMPIRE DISTRICT ELECTRIC )  
COMPANY for an order approving )  
a general rate change for electrical service )  
within the State of Oklahoma )

Cause No. PUD 200300121

**FILED**  
JUL 24 2003

**JOINT STIPULATION AND SETTLEMENT  
AGREEMENT**

COURT CLERK'S OFFICE - OKC  
CORPORATION COMMISSION  
OF OKLAHOMA

COME NOW the undersigned parties to the above entitled cause and pursuant to 17 O.S. §282 present the following Joint Stipulation and Settlement Agreement ("Joint Stipulation") for the Commission's review and approval as their compromise and settlement of all issues in this proceeding between the parties to this Joint Stipulation ("Stipulating Parties"). The Stipulating Parties represent to the Commission that this Joint Stipulation represents a fair, just and reasonable settlement of these issues, that the terms and conditions of the Joint Stipulation are in the public interest, and the Stipulating Parties urge the Commission to issue an Order in this Cause adopting and approving this Joint Stipulation.

It is hereby stipulated and agreed by and between the Stipulating Parties as follows:

**TERMS OF THE JOINT STIPULATION AND SETTLEMENT AGREEMENT**

This Joint Stipulation represents a comprehensive total settlement package as specified below.

**I. Revenue Requirement**

1. The Applicant, The Empire District Electric Company ("Empire District"), which provides service in Missouri, Kansas, Oklahoma and Arkansas, has an Oklahoma jurisdictional revenue requirement of \$8,126,630 with a resulting revenue deficiency of \$766,500 for Oklahoma jurisdictional customers. The parties agree that the revenue requirement was derived by adjusting the Staff's case as presented in Schedule A-1 to reflect a rate of return on equity of 11.27%, and the following adjustments to expenses: (See Attachment "A")
  - a. The Staff's adjustment to regulatory expense (H-15) is reduced to \$893.
  - b. Staff's adjustment to fuel expense (H-17) is withdrawn.

"Exhibit A"

- c. Staff's adjustment to incentive compensation (H-18) is reduced to \$6,910.
- d. Staff's adjustment to bad debts (H-10) is withdrawn.
- e. Staff's adjustment to maintenance expense (H-21) is reduced to \$9,146.
- f. The rate increase will be effective for bills rendered on and after the date of the Commission order and approval of new tariffs.

## II. Revenue Allocation

The Rate increase of \$766,500 for Oklahoma jurisdictional customers will be allocated as follows:

	Increase
Res Gen	219,955
Res WH	31,497
Res RH	74,824
Total Residential	326,276
Comm CB	112,674
TEB	25,758
GP	181,002
PT	95,513
Str Lights SPL	6,049
Pr Lights PL	18,591
Spec Lights LS	463
Total Lighting	25,104
TOTAL	766,327
Target Increase	766,500
Difference	173

(See Attachment "B")



### III. General Provisions

1. Discovery. As between and among the Stipulating Parties, all pending requests for information or discovery and all motions pending before the Administrative Law Judge are hereby withdrawn.
2. General Reservations. The Stipulating Parties represent and agree that, except as specifically otherwise provided herein:
  - a. This Joint Stipulation represents a negotiated settlement for the purpose of compromising and resolving all issues which were raised relating to this proceeding;
  - b. Each of the undersigned counsel of record affirmatively represents to the Commission that he or she has fully advised their respective client(s) that the execution of this Joint Stipulation constitutes a resolution of all issues which were raised in this proceeding; that no promise, inducement or agreement not herein expressed has been made to any party to this Joint Stipulation; that this Joint Stipulation constitutes the entire agreement between and among the Stipulating Parties; and each of the undersigned counsel of record affirmatively represents that he or she has full authority to execute this Joint Stipulation on behalf of his or her client(s);
  - c. None of the signatories hereto shall be prejudiced or bound by the terms of this Joint Stipulation in the event the Commission does not approve this Joint Stipulation; and
  - d. None of the signatories hereto shall be deemed to have approved or acquiesced in any ratemaking principle, capital structure, rate of return, recovery of costs, valuation method, cost of service determination, depreciation principle or method cost allocation method or rate design proposal underlying or allegedly underlying any of the rate schedules to be filed by Empire District upon approval by the Commission of this Joint Stipulation, and nothing contained herein shall constitute an admission by any party that any allegation or contention in these

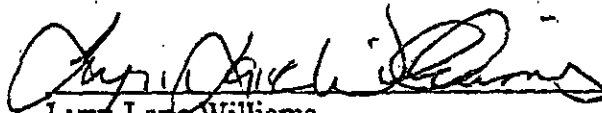
proceedings, or as to any of the foregoing matters, is true or valid and shall not in any respect constitute a determination by the Commission as to the merits of any allegations or contentions made in this rate proceeding.

- e. The Stipulating Parties agree that the provisions of this Joint Stipulation are the result of extensive negotiations, and the terms and conditions of this Joint Stipulation are interdependent. The Stipulating Parties agree that settling the issues in this Joint Stipulation is in the public interest and, for that reason they have entered into this Joint Stipulation to resolve among themselves the issues in this Joint Stipulation. This Joint Stipulation shall not constitute nor be cited as precedent nor deemed an admission by any Stipulating Party in any other proceeding except as necessary to enforce its terms before the Commission or any state court of competent jurisdiction. The Commission's decision, if it enters an order consistent with this Joint Stipulation, will be binding as to the matters decided regarding the issues described in this Joint Stipulation, but the decision will not be binding with respect to similar issues that might arise in other proceedings. A Stipulating Party's support of this Joint Stipulation may differ from its position or testimony in other causes. To the extent there is a difference, the Stipulating Parties are not waiving their positions in other causes. Because this is a stipulated agreement, the Stipulating Parties are under no obligation to take the same position as set out in this Joint Stipulation in other dockets.

- 3. Non-Severability. The Stipulating Parties stipulate and agree that the agreements contained in this Joint Stipulation have resulted from negotiations among the Stipulating Parties and are interrelated and interdependent. The Stipulating Parties hereto specifically state and recognize that this Joint Stipulation represents a balancing of positions of each of the Stipulating Parties in consideration for the agreements and commitments made by the other Stipulating Parties in connection therewith. Therefore, in the event that the Commission does not approve and adopt the terms of this Joint Stipulation in total and without modification or condition (provided, however, that the affected party or parties may consent to such modification or condition), or in the event that the rate schedules proposed herein do

not become effective for bills rendered in accordance with the provisions contained herein, this Joint Stipulation shall be void and of no force and effect, and no Stipulating Party shall be bound by the agreements or provisions contained herein. The Stipulating Parties agree that neither this Joint Stipulation nor any of the provisions hereof shall become effective unless and until the Commission shall have entered an Order approving all of the terms and provisions as agreed by the parties to this Joint Stipulation.

WHEREFORE, the Stipulating Parties hereby submit this Joint Stipulation and Settlement Agreement to the Commission as their negotiated settlement of this proceeding with respect to all issues, which were raised with respect to the Application filed herein by The Empire District Electric Company. The Stipulating Parties respectfully request the Commission to issue an Order approving this Joint Stipulation and Settlement Agreement.



Lynn Lane Williams,  
Assistant General Counsel,  
Public Utility Division,  
Oklahoma Corporation Commission



Elizabeth B. Wade,  
Assistant Attorney General,  
Office of the Attorney General of the State of Oklahoma



James C. Szwarcengren  
Jay M. Galt  
Attorneys for The Empire District Electric Company

## SECTION A

The Empire District Electric Company  
 Staff Revenue Requirement  
 Test Year End November 30, 2002  
 Cause No. PUD 200300121

LINE NO.	DESCRIPTION	( A ) EMPIRE PRO FORMA AMOUNT	REFERENCE	( B ) STAFF ADJUSTED AMOUNT
1	PRO FORMA RATE BASE	\$18,894,715	B-1	\$18,988,321
2	RATE OF RETURN	9.760%	F-1	9.430%
3	OPERATING INCOME REQUIRED	\$1,844,124	1 times 2	\$1,790,599
4	PRO FORMA OPERATING INCOME	1,260,901	H-1	1,322,267
5	DIFFERENCE	\$583,223	3 minus 4	\$468,332
6	INCOME TAX GROSS UP FACTOR	1.63666		1.63666
7	REVENUE CHANGE	\$954,538	5 times 6	\$766,500
<b>REVENUE REQUIREMENT:</b>				
8	RETURN REQUIREMENT	\$1,844,124	Line 3	\$1,790,599
9	INCOME TAX GROSS-UP	371,315	7 minus 5	298,168
10	EXPENSES (including income taxes)	6,098,090	H-1	6,037,863
11	REVENUE REQUIREMENT	\$8,313,529	Lines 8, 9 and 10	\$8,126,630

OKLAHOMA RATE CASE tye 11-30-02

PROOF OF REVENUE SUMMARY  
10% increase to residential; rest spread evenly

	Current Structure			Adjusted Test Year Revenue	Correction Factor	Fuel Revenue	Total Revenue with Fuel	Proposed Structure			Corrected Revenue	Fuel Revenue	TOTAL REVENUE	Increase	% Increase
	Summer	Winter	Total					Summer	Winter	Total					
Res Gen	961,983	1,079,643	2,041,626	2,039,406	1.00109	138,575	2,177,981	1,132,072	1,268,474	2,400,547	2,397,936	0	2,397,936	219,955	10.0990
Res WH	145,566	148,734	294,300	290,101	1.01448	24,071	314,172	172,233	178,439	350,672	345,669	0	345,669	31,497	10.0252
Res RH	291,888	418,241	710,129	699,543	1.01513	65,469	765,012	346,480	506,065	852,545	839,836	0	839,836	74,824	9.7808
Total Resic	1,399,437	1,646,618	3,046,055	3,029,050	1.00561	228,115	3,257,165	1,650,785	1,952,979	3,603,763	3,583,441	0	3,583,441	326,276	10.0172
Comm CB	355,204	546,530	901,734	898,189	1.00397	51,894	950,083	420,679	646,276	1,066,955	1,062,737	0	1,062,737	112,674	11.8596
TEB	98,264	108,534	206,798	200,777	1.02003	16,971	217,748	115,430	132,953	248,383	243,506	0	243,506	25,758	11.8293
GP	433,792	977,020	1,410,812	1,402,944	1.00561	125,817	1,528,761	527,902	1,191,449	1,719,351	1,709,763	0	1,709,763	181,002	11.8398
PT	272,025	457,758	729,784	727,010	1.00381	81,007	808,017	338,981	567,996	906,977	903,530	0	903,530	95,513	11.8206
Str Lights S	16,260	32,520	48,779	48,599	1.00371	3,422	52,021	19,429	38,857	58,286	58,070	0	58,070	6,049	11.6280
Pr Lights PL	51,311	101,784	153,095	153,268	0.99887	4,226	157,494	58,950	118,936	175,887	176,085	0	176,085	18,591	11.8045
Spec Lights	1,610	2,199	3,810	3,753	1.01515	162	3,915	1,879	2,565	4,445	4,378	0	4,378	463	11.8353
Total Lightir	69,181	138,503	205,684	205,620	1.00031	7,810	213,430	80,258	158,359	238,617	238,534	0	238,534	25,104	11.7620
TOTAL	2,625,903	3,872,963	6,498,866	6,463,570	1.00546	511,614	6,975,184	3,134,035	4,850,011	7,784,046	7,741,511	0	7,741,511	766,327	10.9885
													Target Increase	766,500	
													Difference	173	