

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

In the Matter of The Empire District Electric)
Company of Joplin, Missouri Tariffs)
Increasing Rates for Electric Service)
Provided to Customers in the Missouri Service)
Area of the Company)

File No. ER-2012-0345

ORDER MODIFYING PROCEDURAL SCHEDULE

Issue Date: August 24, 2012

Effective Date: August 24, 2012

On July 6, 2012, The Empire District Electric Company submitted tariff sheets designed to implement general and interim rate increases for utility service. On August 6, 2012, the Missouri Public Service Commission issued an order setting a procedural schedule in that matter. The Commission is directing the filing of additional testimony on a possible rate stabilization mechanism as follows.

Among the relief possible in this action is an order to file a new tariff.¹ Any tariff must support safe and adequate service at just and reasonable rates.² Just and reasonable rates must include a fair rate of return, which include a fair return on equity ("RoE"), which lies within a zone of reasonableness ("ZoR").³ The ZoR is a range of amounts from which any choice has support in law and fact and constitutes a sound exercise of discretion.⁴

¹ Section 393.140(11), RSMo 2000.

² Section 393.130.1, RSMo Supp. 2010.

³ *State ex rel. Office of Pub. Counsel v. Pub. Serv. Comm'n*, 367 S.W.3d 91, 111 (Mo. App., S.D. 2012).

⁴ *State ex rel. Praxair, Inc. v. Pub. Serv. Comm'n of the State of Missouri*, 328 S.W.3d 329, 341 (Mo. App., W.D. 2010).

Sound discretion means carefully considering justice, equity, and the logic of the circumstances.⁵ The circumstances of any general rate action include the expense to the utility, the Commission, and the public, of litigating general rate actions with increasing frequency in recent years. To alleviate the resulting expense, the Commission will consider the use of rate stabilization mechanism. The rate stabilization mechanism would see the Commission authorize a range of ROE's as "just and reasonable" in the ZoR. The Commission would then award an RoE that comes from the higher end of the range in exchange for the utility not filing any changes to rates for a period of years ("stabilization period"). However, upon the filing of a rate action within the "stabilization period", the ROE would automatically revert to the lower end of the "just and reasonable" range as set out in a tariff filed, approved, and in effect. A rate stabilization mechanism may also include other terms.⁶

Such tariff is subject to a determination of propriety, including just and reasonable rates,⁷ for the stabilization period. A conclusion of propriety, in a contested case, must stand on a record of substantial and competent evidence. Such evidence includes, without limitation, testimony on RoEs in the last five years for:

- The applicant as set by the Commission in the applicant's last five general rate actions;
- Utilities in proxy groups in the applicant's last five general rate actions;
- Retail electric suppliers nationally;

⁵ *Peters v. ContiGroup*, 292 S.W.3d 380, 392 (Mo. App., W.D. 2009).

⁶ See, e.g., *Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Orange and Rockland Utilities, Inc. for Electric Service*, ___ P.U.R.4th ___, Case 11-E-0408, 2012 WL 2499860, 5-8 (N.Y.P.S.C. June 15, 2012).

⁷ Section 393.150.1, RSMo 2000.

as well as, evidence on Treasury securities of differing maturities⁸ (“additional testimony”). Additional testimony may also address other evidentiary and policy matters relevant to the use of a rate stabilization mechanism.

Therefore, the Commission will order the pre-filing of the additional testimony.

THE COMMISSION ORDERS THAT:

1. No later than January 15, 2013, The Empire District Electric Company shall, and any other party may jointly or separately, file the additional testimony as described in the body of this order.
2. This order is effective immediately upon issuance.

BY THE COMMISSION



Steven C. Reed
Secretary

(S E A L)

Michael Bushmann, Regulatory Law
Judge, by delegation of authority
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 24th day of August, 2012.

⁸ See *Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Niagara Mohawk Power Corporation for Electric Service.; Comprehensive Management Audit of Niagara Mohawk Power Corporation d/b/a National Grid's Electric Business*, 286 P.U.R.4th 401, 443-444 (N.Y.P.S.C. 2011).