

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

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

**STAFF'S SUGGESTIONS IN SUPPORT OF STIPULATION AND AGREEMENTS,
AND REQUEST FOR LEAVE TO FILE OUT OF TIME**

COMES NOW the Staff ("Staff") of the Missouri Public Service Commission ("Commission"), and for its Suggestions In Support Of Stipulation And Agreements And Request For Leave To File Out Of Time , respectfully states as follows:

1. On December 16, 2004, the Staff, The Empire District Electric Company ("Empire" or "Company"), the Office of the Public Counsel Inc., Praxair, Inc., and Explorer Pipeline Company jointly filed a Nonunanimous Stipulation And Agreement Regarding Rate Design ("Rate Design Agreement"). On December 22, 2004, the Missouri Department of Natural Resources joined these four parties in filing a Stipulation And Agreement As To Certain Issues.

2. Because no party filed an objection to either nonunanimous stipulation and agreement, by Commission Rule 4 CSR 240-2.115(2) the Commission may treat each agreement as unanimous and resolve the issues addressed in each on the basis of the applicable agreement.

3. In an Order issued February 22, 2005, the Commission directed the Staff to file suggestions in support of these agreements. Both agreements are addressed below. Due to the demands of other Commission business, the Staff is requesting leave to file out of time. The Staff apologizes for any inconvenience caused by its late filing of these suggestions in support.

Rate Design Agreement

4. The basic elements of the Rate Design Agreement are:
 - a) four revenue-neutral changes to the existing rate design;
 - b) a mechanism to compute the permanent rate components that, when multiplied by current billing units, will equal Empire's revenue requirement authorized by the Commission in this case; and
 - c) Empire's commitment to evaluate the feasibility and impact of implementing a facilities charge in its next rate case.
5. The four revenue-neutral rate design changes are:
 - a) a new substation facilities credit in the Large Power Service rate schedule that applies to those customers who take service at the transmission voltage and supply their own substation;
 - b) modest increases in customer charges for Residential and Small General Service customers;
 - c) a modest shift in the seasonal rate differential which will allow the recovery of a greater proportion of revenues in the winter billing season than the seasonal rate differential in current rates permits.
 - d) a modest shift in class revenue responsibility that will reduce Small General Service rates relative to the rates to be charged other customer classes.

The rates that would result from these revenue-neutral rate design changes are shown on Attachment 1 of the Rate Design Agreement.

6.. The Rate Design Agreement also specifies that any revenue increase reflected in permanent rates be accomplished by increasing all rate components shown on Attachment 1 by the same percentage.

7. Staff witness Janice Pyatte proposed a substation facilities credit for Empire's customers that are served at voltage levels above primary, (*i.e.*, transmission voltage levels), at page 18 of her direct testimony prefiled October 4, 2004 (Ex 68). The Empire District Electric

Company has one customer in the Large Power class that owns its substation and is served at transmission voltage.

8. The Staff's customer class cost-of-service study presented by Staff witness Hong Hu in her direct testimony prefiled September 27, 2004 (Ex. 49) supports the modest increase in Residential and Small General Service customer charges, the modest shift in the seasonal rate differential, and the modest reduction in Small General Service rates relative to the other customer classes.

9. Limiting the revenue-neutral rate design adjustments to modest shifts and spreading any overall permanent increase in revenue authorized by the Commission on an equal percentage basis to all rate components shown on Attachment 1 of the Rate Design Agreement will maintain the integrity of the rate design and the continuity between rate schedules described in the direct testimony of Staff witness Janice Pyatte prefiled October 4, 2004 (Ex. 68).

Stipulation And Agreement As To Certain Issues

10. Just a few days before the commencement of the evidentiary hearings on December 6, 2004, it was indicated to the Regulatory Law Judge that various Staff and Missouri Department of Natural Resources ("MDNR") issues scheduled to be heard imminently by the Commission in Case No. ER-2004-0570 had been settled by the parties. The Staff issues were settled as a package, as were the MDNR issues. On December 6, 2004, the Regulatory Law Judge directed that the Staff should file an updated Reconciliation and appropriate updated Accounting Schedules reflecting the issues and the associated revenue requirement of the issues for which the various parties had just reached resolution and the issues and the associated revenue requirement of the issues that were still scheduled to go to hearing. On December 7, 2004, the Staff filed a brief explanatory cover letter, an updated Reconciliation and an updated

Staff Accounting Schedule 1 showing, among other things, that the various Staff and MDNR issues, which totaled \$2.8 million in revenue requirement, were settled by the parties for \$1.4 million in revenue requirement.

11. The issues and the revenue requirement value for each of these settled issues are shown on (a) the updated Reconciliation filed on December 7, 2004, (b) the Stipulation And Agreement As To Certain Issues that was filed on December 22, 2004 and (c) the January 19, 2005 second updated Reconciliation. These issues and their revenue requirement values are also set out below. The revenue requirement quantification of all of the Staff issues prior to settlement and the revenue requirement quantification of the MDNR issues based on the settlement total in the aggregate \$2.8 million. The updated Staff Accounting Schedule filed on December 7, 2004 and Paragraph 2 of the Stipulation And Agreement As To Certain Issues filed on December 22, 2004 show that these issues were settled at a total dollar value of \$1.4 million to revenue requirement.

12. The Stipulation And Agreement As To Certain Issues that was filed on December 22, 2004 also provided a brief identification of each MDNR program agreed to be funded and the minimum dollar cost agreed to for each of these MDNR programs.¹ Again, in the aggregate, these issues were settled for a revenue requirement value of \$1.4 million.

<u>ISSUE</u>	<u>STAFF</u>
Company Revenue Requirement (Permanent Rates)	\$42,994,883
Stipulation And Agreement As To Certain Issues	
Energy Center Units 3 & 4 Construction Cost	\$ (327,868)
Deferred Tax Balances	(486,440)
Payroll O & M Factor	(287,124)
Energy Center 3 & 4 O & M	(180,899)
Annual Generator Inspections	(410,000)
Tree Trimming	(446,382)
Rate Case Expense	(59,320)
Enron Legal Fees	(64,561)

Incentive Compensation	(117,496)
Stock Options	(176,091)
MDNR: Low-Income Customer Weatherization Assistance Programs ¹	(155,000)
MDNR: Energy Efficiency Programs ^{1,2}	(145,000)
MDNR: Wind Energy Assessment ¹	(26,667)
Pensions	63,927
Late Payment Charge	
Total Revenue Requirement Amount	\$ (2,818,920)

13. The above issues, which were settled out of the contested portion of the case, were issues that had not settled earlier in the case and were issues for which the dollar values at stake, both individually and in the aggregate, were in relative terms not substantial compared to the dollar value of the other remaining issues in the case, which issues were and are Rate Of Return, Depreciation and Fuel & Purchased Power/Interim Energy Charge. Since the major dollars in dispute were limited to a few issues and there were numerous issues of a much smaller revenue requirement consequence and not independently significant, the Staff attempted to make the case more manageable by proposing as a package the settlement of the numerous smaller dollar issues. The Staff proposed settlement at a revenue requirement value that the Staff might not have proposed under other circumstances. Under other circumstances, the Staff might have taken to hearing some or even all of these issues, if the particular issue(s) had independent significance or if the issue could not be resolved at a dollar value at, or closer to, the issue's

¹ In the updated Reconciliation filed on December 7, 2004, the MDNR issues are not disaggregated as shown here or as shown in the Stipulation And Agreement As To Certain Issues filed on December 22, 2004 and the second updated Reconciliation filed on January 19, 2005. The updated Reconciliation filed on December 7, 2004 shows the entry: "DNR Programs \$(326,667)." The December 22, 2004 Stipulation And Agreement As To Certain Issues shows the MDNR Programs disaggregated as "Low-Income Customer Weatherization Assistance Programs," "Energy Efficiency Programs" and "Wind Energy Assessment" and identifies the dollar amounts to be expended by Empire as "not less than" amounts. The second updated Reconciliation filed on January 19, 2005 shows the MDNR Programs disaggregated and the "not less than" revenue requirement dollar values as follows: "Low-Income Customer Weatherization Assistance Programs \$(155,000);", "Energy Efficiency Programs \$(145,000);", and "Wind Energy Assessment \$(26,667)."

² MDNR's Energy Efficiency Programs include the following programs that are discussed in the December 22, 2004 Stipulation And Agreement As To Certain Issues: Lighting, Appliance and HVAC Rebate Program, and Commercial Energy Efficiency Audits.

actual revenue requirement value. Nonetheless, the Staff considers resolution of these issues at the aggregate revenue requirement value agreed upon by the signatory parties as being appropriate and ultimately leading to just and reasonable rates regarding these items.

14. Paragraph 4 of the Stipulation And Agreement As To Certain Issues provides that “Empire’s accounting for pension expense will be governed by the provisions attached hereto as **Appendix A.**” Paragraph 5 of the Stipulation And Agreement As To Certain Issues provides that “Empire will reduce its late payment charges to .5% per month for residential customers. Late payment charges for the other customer classes that are in the current filed and approved tariff will remain the same.”

15. The MDNR issues are a group of programs that MDNR has been consistently proposing in electric rate increase and electric rate decrease cases. The various MDNR proposed programs are addressed in the 2002 settlement of the Staff’s excess earnings/revenues complaint case against Union Electric Company, d/b/a AmerenUE (Case No. EC-2002-1) and the 2004 settlement of the Aquila, Inc. rate increase case (Case No. ER-2004-0034).

16. The remaining category of issues covered by the Stipulation And Agreement As To Certain Issues is the Quality Of Service issues. This category of issues entails Staff testimony requesting that Empire be directed to file quality of service information on a monthly rather than a quarterly basis and that Empire agree to respond to all inquiries and complaints from the Staff’s Consumer Services Department within three (3) business days, except for interruption of service issues, which should be responded to within one (1) business day. Empire agreed to the Staff’s recommendations.

17. Paragraph 13 of the Stipulation And Agreement As To Certain Issues identifies the testimony of witnesses to be received into evidence without the necessity of those witnesses taking the stand.

18. The Stipulation And Agreement As To Certain Issues noted in Paragraph 14 that “[w]hile AmerenUE and Aquila do not join in this Stipulation and Agreement, they nevertheless have indicated that they do not oppose this Stipulation and Agreement and do not request a hearing concerning the issues addressed by this Stipulation and Agreement.” The Stipulation And Agreement As To Certain Issues noted that “[a]dditionally, DNR does not oppose stipulation paragraphs 1-5 and does not request a hearing concerning those issues.”

WHEREFORE, the Staff respectfully requests leave to late-file its Suggestions In Support Of Stipulation And Agreements, and for the reasons stated, recommends Commission approval of both the Nonunanimous Stipulation And Agreement Regarding Rate Design and the Stipulation And Agreement As To Certain Issues, respectively filed in this proceeding on December 16, 2004 and December 22, 2004.

Respectfully submitted,

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to all counsel of record this 4th day of March 2005.

/s/ Dennis L. Frey