

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office
in Jefferson City on the 10th
day of August, 2016.

In the Matter of The Empire)	
District Electric Company's Request)	<u>File No. ER-2016-0023</u>
For Authority to Implement a General)	Tracking No.: YE-2016-0104
Rate Increase for Electric Service)	

ORDER APPROVING STIPULATION AND AGREEMENT

Issue Date: August 10, 2016

Effective Date: September 9, 2016

Procedural History:

On July 31, 2015, The Empire District Electric Company ("Empire") submitted a *Notice of Intended Case Filing*. On October 16, Empire filed a tariff (Tracking No. YE-2016-0104) designed to implement a general rate increase. The Commission issued an order suspending Empire's tariff and directed notice be provided of the contested case. The City of Joplin, Missouri ("Joplin"), Midwest Energy Consumers Group ("MECG"), Midwest Energy Users' Association ("MEUA"), and Missouri Division of Energy were all granted applications to intervene. The Commission conducted three local public hearings. The Commission conducted an evidentiary hearing on June 2, 2016. On June 20, 2016, Empire, the Office of the Public Counsel, the Commission's Staff, Joplin, MECG, and the Missouri Division of Energy submitted a *Stipulation and Agreement* settling all contested issues in the case. The following day, MEUA filed a *Joinder in Settlement*. The Commission conducted on-the-record hearings on June 8 and June 29.

Stipulation and Agreement:

All parties have either signed the *Stipulation and Agreement* or joined in the settlement. The Commission will therefore treat the agreement as a unanimous agreement. The parties agreed to waive procedural rights for all issues resolved in the *Stipulation and Agreement* if approved by the Commission without condition or modification. The parties also consent to the admission of pre-filed written testimony by the parties. The *Stipulation and Agreement* includes an increase in Empire's annual revenues by \$20,390,000, exclusive of any applicable license, occupation, franchise, gross receipts taxes, of similar fees or taxes, to become effective on September 14, 2016. The revenue requirement is based on a return on equity range of 9.5 to 9.9 percent. Under the *Stipulation and Agreement*, the monthly residential customer charge will be increased to \$13.00 and a \$3 million revenue neutral shift to the residential class is credited to the general power, commercial service, and large power service classes. The *Stipulation and Agreement* also supports the Commission's approval of Staff's depreciation rates, the amortization rates for discontinued Vegetation/Infrastructure and O&M trackers for Iatan Common, Iatan 2 and Plum Point, and the sharing of rate case expense by the mechanism ordered in ER-2014-0370, which links Empire's recovery of rate case expense to the percentage of its rate increase request found or agreed to be just and reasonable. The agreement supports the continuation of the trackers for Riverton 12 O&M and Pension/OPEB expenses.

The *Stipulation and Agreement* also requests the Commission adopt Staff's recommended in-service criteria for the conversion of Empire's Riverton Unit 12 from a simple cycle gas turbine to a combined cycle gas turbine. Riverton Unit 12 first went into

service in 2007, but became fully operational and used for service as a combined cycle gas turbine on May 1, 2016.¹

Decision:

Empire is an electric corporation and public utility subject to Commission regulations pursuant to Chapters 386 and 393, RSMo.² When seeking to increase the rates it charges its customers, Empire has the burden of proof to show by a preponderance of the evidence that increased rates are just and reasonable.³ The Commission will balance the interests of Empire's investors in making a reasonable return with the interest of the consumers.⁴ The Commission is not bound to the use of any single formula when determining just and reasonable rates.⁵ It is the results reached, not the method employed which are controlling.⁶

The Commission will grant the parties' request to enter all pre-filed testimony prepared by the parties into the record. Evaluating the *Stipulation and Agreement* based on the competent evidence of the whole record, the Commission independently finds and concludes that Empire has met its burden of proof that the rates proposed in the *Stipulation and Agreement* are just and reasonable. After reviewing the whole record and the terms of the unanimous *Stipulation and Agreement*, the Commission independently concludes that the terms of the agreement support safe and adequate

¹ See EFIS Item No. 160, pre-filed true-up testimony of Timothy Wilson, pg. 1-2.

² All statutory references are to the 2000 Missouri Revised Statutes, as cumulatively supplemented.

³ Section 393.150. *Bonney v. Environmental Engineering, Inc.*, 224 S.W.3d 109, (Mo.App. 2007).

⁴ *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591 (1944).

⁵ *State ex rel. Associated Natural Gas Co. v. Pub. Serv. Comm'n*, 706 S.W.2d 870, (Mo.App. W.D. 1985).

⁶ *Id.*

service and result in just and reasonable rates. The Commission will therefore approve the *Stipulation and Agreement*.

The Commission is not required to state separately findings of facts or conclusions of law for those issues disposed of by stipulation and agreement.⁷

Low-Income Pilot Program:

The *Stipulation and Agreement* also states that if the Commission orders a low-income rate pilot program, the cost of the program will receive the same regulatory asset/ rate base treatment as demand side management program costs.⁸ At the on-the-record hearing on June 29, it was acknowledged that the inclusion of this language in the *Stipulation and Agreement* represented an agreement by the parties as to how to fund a program, if ordered by the Commission.⁹ Counsel for Empire stated that the parties were unable to reach a consensus on the amount to be included and the parameters for a potential low-income pilot program and would be looking for an order by the Commission directing the amount to be used for such a program and possibly the program's design.¹⁰

Decision:

Section 393.140(11) authorizes the Commission to regulate the rates Empire charges its customers. The Commission has the authority to grant interim test rates or experimental rates as a matter of necessary implication from practical necessity.¹¹ The Commission will authorize Empire to implement an experimental residential low-income

⁷ §536.090.

⁸ See paragraph 13, h of the *Stipulation and Agreement* and paragraph 15, in which the signatories agree Empire will continue to amortize demand side management costs incurred after the end of the Regulatory Plan and prior to the implementation of any plan under MEEIA for a total term of six years. EFIS Item no. 172.

⁹ Transcript June 29, 2016, Volume 7, Hearing, pg. 211.

¹⁰ Transcript June 29, 2016, Volume 7, Hearing, pg. 216.

¹¹ *State ex rel. Laclede Gas Co. v. Pub. Serv. Comm'n*, 535 S.W.2d 561, 567, n1 (Mo.App. 1976).

pilot program that provides a 100 percent discount on the customer charge for eligible low-income customers, based on LIHEAP eligibility. The goal of the temporary pilot program shall be to evaluate the impact a discount in the customer charge for low-income residential customers has on the disconnection and bad debt rates for Empire both during and after participation in the program. The results of the experimental program shall be reviewed in Empire's next general rate case.

THE COMMISSION ORDERS THAT:

1. The following exhibits are admitted into the record: Empire Exhibits 1-31; Staff Exhibits 1-24, OPC Exhibits 1-18, Division of Energy Exhibits 1-5, Joplin Exhibit 1; MEUA Exhibits 1-3, and MCEG Exhibits 1-5.

2. The *Stipulation and Agreement*, filed on June 20, 2016, is approved. The parties shall comply with the terms of the *Stipulation and Agreement*. A copy of the *Stipulation and Agreement* shall be attached to this order as "Attachment A" and is incorporated by reference as if fully set forth herein.

3. The tariff submitted by Empire on October 16, 2015, and assigned Tracking No. YE-2016-0104, is rejected.

4. No later than August 15, 2016, Empire shall file new tariff sheets consistent with this order and the terms of the *Stipulation and Agreement* bearing an effective date of September 14, 2016.

5. Empire shall establish an experimental low-income pilot program with a total program budget of \$250,000, no later than January 1, 2017, with a goal of studying the impact removing the customer charge for certain low-income residential customers has on the company's disconnection and bad debt percentages. The

program shall be implemented by January 1, 2017, or as soon as possible thereafter, and shall run until either the funds are exhausted or until rates are implemented from Empire's next general rate case, whichever occurs first. Empire shall track the program's cost as a regulatory asset for recovery consideration by the Commission in the company's next general rate case. The Commission shall assign a separate file from File No. ER-2016-0023 for monitoring the low-income pilot program and establishing standards and guidelines for the program. All parties to this general rate case shall be made parties to the low-income pilot program file.

6. The Commission adopts Staff's recommended in-service criteria for the conversion of Riverton Unit 12 to a combined cycle gas turbine and finds that it was operational and used for service as of May 1, 2016.

7. Empire shall file the information required by Section 393.275.1, RSMo. 2000, and Commission Rule 4 CSR 240-10-060 no later than October 5, 2016.

8. This order shall become effective on September 9, 2016.

BY THE COMMISSION



A handwritten signature in black ink that reads "Morris L. Woodruff". The signature is written in a cursive style.

Morris L. Woodruff
Secretary

Hall, Chm., Stoll, Kenney, and Rupp, CC., concur;
Coleman, C., absent.

Burton, Senior Regulatory Law Judge.