



Missouri Public Service Commission

Commissioners
KELVIN L. SIMMONS
Chair
CONNIE MURRAY
SHEILA LUMPE
STEVE GAW
BRYAN FORBIS

POST OFFICE BOX 360
JEFFERSON CITY, MISSOURI 65102
573-751-3234
573-751-1847 (Fax Number)
<http://www.psc.state.mo.us>

February 15, 2002

ROBERT J. QUINN, JR.
Executive Director
WESS A. HENDERSON
Director, Utility Operations
ROBERT SCHALLENBERG
Director, Utility Services
DONNA M. PRENGER
Director, Administration
DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge
DANA K. JOYCE
General Counsel

FILED³

FEB 15 2002

**Missouri Public
Service Commission**

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

RE: Case No. EF-98-120 – In The Matter of the Application of the Empire District Electric Company for Authority to Issue And Sell Under Its Existing Indenture of Mortgage and Deed of Trust Dated as of September 1, 1944, as Amended and Supplemented, up to and Including \$80,000,000 Principal Amount of its First Mortgage Bonds, in One or More Series and to, among Other Things, Execute and Deliver a Supplemental Indenture or Indentures to Provide for the Terms of Said Bonds.

Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and eight (8) conformed copies of the **STAFF STATUS REPORT**.

This filing has been mailed or hand-delivered this date to all counsel of record.

Thank you for your attention to this matter.

Sincerely yours,

Steven Dottheim
Chief Deputy General Counsel
(573) 751-7489
(573) 751-9285 (Fax)

Enclosure
cc: Counsel of Record

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED³
FEB 15 2002

Missouri Public
Service Commission

In the Matter of the Application of The Empire District)
Electric Company for Authority to Issue and Sell under)
Its Existing Indenture of Mortgage and Deed of Trust)
Dated as of September 1, 1944, as Amended and)
Supplemented, up to and Including \$80,000,000)
Principal Amount of its First Mortgage Bonds, in One)
or More Series and to, among Other Things, Execute)
and Deliver a Supplemental Indenture or Indentures to)
Provide for the Terms of Said Bonds.)

Case No. EF-98-120

STAFF STATUS REPORT

Comes now the Staff of the Missouri Public Service Commission ("Staff") and submits the following report on the status of the captioned proceeding:

1. On January 3, 2002, the Commission issued an Order Directing Filing in this case. The Order directed the Staff and The Empire District Electric Company ("Empire") to file a joint report concerning the status of this case.

2. On September 16, 1997 Empire filed, pursuant to Sections 393.180 and 393.190 RSMo. 1994 and at that time 4 CSR 240-2.060(8), an Application for Commission authorization to issue, sell and deliver in one or more new series, at such time, or from time to time, its first mortgage bonds, which principal amounts, in the aggregate, would not exceed \$80,000,000. Empire stated that it had filed a Registration Statement with the Securities And Exchange Commission ("SEC") on September 8, 1997 for \$80,000,000 universal shelf registration for debt securities, preferred and common stock. Empire related that said registration with the SEC allows Empire to offer, from time to time, its first mortgage bonds under its Indenture Of Mortgage And Deed Of Trust, and shares of its common and/or preferred stock, at prices and terms to be determined at the time of sale, in any combination such that the aggregate principal

15

amount of all such series of first mortgage bonds, the aggregate initial public offering price of all such offerings of common stock and the aggregate par value of all such series of new preferred stock not exceed \$80,000,000.

3. The Commission in a March 17, 1998 Order Approving Financing granted Empire authority to issue up to \$80,000,000 of first mortgage bonds.

4. In April 1998, Empire issued \$50,000,000 principal amount of its first mortgage bonds, 6.50% series due 2010, pursuant to the authority granted in the Commission's March 17, 1998 Order Approving Financing. The closing of this particular transaction occurred on April 28, 1998, and Empire advised the Commission of this transaction in a filing with the Commission on May 18, 1998.

5. On February 14, 2002, in compliance with the Commission's January 3, 2002 Order Directing Filing, Empire filed a Second Status Report. Empire's Second Status Report states that its Registration Statement No. 333-35129 filed with the SEC for authority to issue up to and including \$80,000,000 of first mortgage bonds, common and/or preferred stock is closed, and, as a consequence, Empire will not be issuing, selling or distributing any new series of first mortgage bonds pursuant to the authority obtained from the Commission in this case.

6. Empire further states in its February 14, 2002 Second Status Report that under the circumstances, the Commission may close this case because there will be no further financing activity by Empire under the registration statement that was the subject of its Application in this case, but in doing so, the Commission should not take any action to revoke any lawful authority pursuant to which the \$50,000,000 in first mortgage bonds were issued, sold and delivered in April 1998.

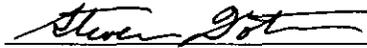
7. The Staff, in the attached Staff Recommendation, reports that it has no objection

to the Commission closing this case, so long as the Commission takes no action to revoke any lawful authority pursuant to which Empire issued, sold and delivered \$50,000,000 in first mortgage bonds in April 1998.

8. On February 14, 2002, undersigned Staff counsel informed Senior Regulatory Law Judge Bill Hopkins that Empire and the Staff sought leave to file separate status reports rather than file a joint status report. Judge Hopkins suggested to undersigned Staff counsel that such a request should appear in this pleading. The Staff herewith requests leave for the Staff and Empire to file separate status reports in response to the Commission's January 3, 2002 Order Directing Filing.

Wherefore the Staff states that it has no objection to the Commission closing this case, so long as the Commission takes no action to revoke any lawful authority pursuant to which Empire issued, sold and delivered \$50,000,000 in first mortgage bonds in April 1998.

Respectfully submitted,



Steven Dottheim Mo. Bar No. 29149
Chief Deputy General Counsel
Missouri Public Service Commission
Governor Office Building, Suite 800
P.O. Box 360
Jefferson City, MO 65102-0360
Telephone (573) 751-7489
Facsimile (573) 751-9285
E-Mail: sdotthei@mail.state.mo.us

Attorney for the Staff of the
Missouri Public Service Commission

Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was sent by U.S. mail, postage prepaid, or hand-delivered, on this 15th day of February, 2002, to:

Paul A. Boudreau
Brydon, Swearengen & England P.C.
312 East Capitol Avenue
P.O. Box 456
Jefferson City, MO 65102-0456
Attorneys for Empire District Electric Company

Office of the Public Counsel
Governor Office Building
200 Madison Street, P.O. Box 7800
Jefferson City, MO 65102



MEMORANDUM

TO: Missouri Public Service Commission Official Case File
Case No. EF-98-120, The Empire District Electric Company

FROM: Ronald L. Bible
Financial Analysis Department

Ronald L. Bible 2/15/02
Project Coordinator / Date

Steven Roth 2/15/02
General Counsel's Office / Date

SUBJECT: Staff's Recommendation regarding the Status of the Application of The Empire District Electric Company for Authority to Issue Debt in the Form of First Mortgage Bonds.

DATE: February 15, 2002

The Empire District Electric Company

On September 16, 1997, The Empire District Electric Company (Empire or Company) filed an application requesting authority to issue and sell under its existing Indenture of Mortgage and Deed of Trust dated September 1, 1944, as amended and supplemented, up to and including \$80,000,000 principal amount of First Mortgage Bonds. On January 20, 1998, the Staff of the Commission (Staff) filed its memorandum in which Staff recommended that the Commission approve the application with a proposed date of transaction of any time over the next two years and with certain conditions. The Commission issued its Order Approving Financing on March 17, 1998, based on Staff's recommendations and with the Staff's conditions included.

On May 18, 1998 Empire filed notice with the Commission in compliance with Ordered Paragraph No. 8 of the Commission's March 17, 1998 Order Approving Financing. The filing stated that Empire had recently issued \$50,000,000 of the \$80,000,000 First Mortgage Bonds authorized by the Commission's order. On July 1, 1998, the Commission issued an Order Directing Compliance requiring Empire to file with the Commission any information concerning communication of The Empire District Electric Company with credit rating agencies concerning the debt authorized in the Commission's March 17, 1998 order. If no communications were had, The Empire District Electric Company was required to notify the Commission of its full compliance with the Commission's March 17, 1998 order. On July 8, 1998, Empire filed Notice To The Commission, stating that it did verbally inform the relevant rating agencies concerning the terms and conditions of its April 28, 1998, First Mortgage Financing. Empire further noted that its issuance on April 28, 1998 had not exhausted the authority under the shelf registration, and it would be premature to close the docket at that time.

On March 29, 2000, the Commission issued its Order Directing Filing requiring Empire to file a report with the Commission regarding the status of this case including the time expected before the transaction authorized by the Commission in its March 17, 1998 order will be complete. On April 5, 2000, Empire filed a Status Report stating that it had advised the Commission on May 18, 1998 that it had issued \$50,000,000 First Mortgage Bonds pursuant to the Commission's March 17, 1998 Order Approving Financing, and since that time there has been no financing undertaken by Empire subject to the Application in this case. Empire went on to state that it may yet issue additional First Mortgage Bonds under the shelf registration, but it is not possible at this time to specify when that event might take place. In addition, Empire proposed that should the Commission be inclined to close the case, there is no reason it should not do so.

On June 14, 2000, Staff filed a recommendation that the case remain open. Empire was then undergoing a merger that might affect its future financing requirements and abilities. Furthermore, Empire indicated it might issue the remaining bonds under the existing authorization. Therefore, Staff recommended the current authorization remain in effect, but not for an unlimited amount of time. The Staff recommended that the current authorization remain in effect until the earlier of March 27, 2001, which was three years after the effective date of the Commission's Order Approving Financing, or the date of the Empire - Utilicorp merger. Staff further recommended that should the Commission be inclined to close the case, the Commission should cancel the existing authorization to issue the full \$80,000,000 in First Mortgage Bonds. The Staff recommended that the Commission should make clear that it was not canceling its authorization for Empire to have issued the \$50,000,000 First Mortgage Bonds that Empire issued in 1998.

On January 3, 2002, the Commission issued its Order Directing Filing requiring Staff and Empire to file a joint status report on this case by February 15, 2002. On February 14, 2002, Empire filed its status report stating that in April of 1998, Empire issued \$50,000,000 principal amount of its First Mortgage Bonds, 6.50% series due 2010, pursuant to the authority granted in the Commission's March 17, 1998 Order Approving Financing. Empire has advised the Staff that the remaining \$30,000,000 of unsold securities under Securities and Exchange Commission (SEC) Registration No. 333-35129 are now included in Empire's SEC Registration No. 333-55210 that provides for the issuance of Empire's unsecured debt obligations in conjunction with trust preferred securities for which Empire asserts no authorization of the Missouri Public Service Commission ("Commission") is required under Missouri law. Empire states in its February 14, 2002 filing that the Registration No. 333-35129 it filed with the SEC for authority to issue up to and including eighty million dollars (\$80,000,000) of First Mortgage Bonds, common stock and/or preferred stock is closed. Consequently, Empire will not be issuing any further First Mortgage Bonds pursuant to the authority obtained from the Commission in this case.

Staff has no objection to the Commission closing this case. The Staff further recommends that the Commission should make clear that it is not canceling its authorization for Empire to have issued the \$50,000,000 First Mortgage Bonds that Empire issued in 1998.