

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

In the Matter of the Assessment Against	)	
the Public Utilities in the State of Missouri	)	Case No. AO-2002-1156
for the Expenses of the Commission for the	)	
Fiscal Year Commencing July 1, 2002.	)	

**APPLICATION FOR REHEARING AND STAY**

COMES NOW The Empire District Electric Company (hereinafter, the "Applicant"), pursuant to §386.500 RSMo. 2000 and 4 CSR 240-2.160, and respectfully applies to the Missouri Public Service Commission ("Commission") that it grant rehearing and hold a hearing with respect to its June 25, 2002, Assessment Order for Fiscal Year 2003 (the "Assessment Order") issued in the captioned case. For the reasons stated herein, the order is unlawful, unjust, unreasonable, arbitrary, capricious, involves an abuse of discretion, is unsupported by competent and substantial evidence upon the whole record, is in excess of statutory authority, and is unconstitutional in all material matters of fact and law, individually or cumulatively, or both, in the particulars hereinafter stated for the following reasons and in the following respects:

1. On June 25, 2002, the Commission issued its Assessment Order in the captioned case pursuant to which it estimated the amounts of expenses directly attributable to all groups of utilities and, also, the amounts of expenses not directly attributable to any such group. The stated purpose of the order is to make the public utility assessments provided for in §386.370 RSMo. 2000, for the Commission's fiscal year commencing July 1, 2002 (hereinafter "the 2003 fiscal year").

2. The cover letter accompanying the assessment to Applicant dated June 26, 2002 (copy attached) provides no detail or explanation with respect to the manner in which the assessment was derived; however, certain information is available on the Commission's web site.

3. The amount of Applicant's assessment for fiscal year 2003 is over seventy thousand dollars (\$70,000.00) more than Applicant's assessment for the immediately preceding fiscal year of 2002. This represents an approximate eighteen percent (18%) increase from the year prior.

4. The magnitude of the increase in Applicant's assessment is astonishingly high and presumptively excessive. A rehearing is required in order to give Applicant an opportunity to explore the reason or reasons for the dramatic increase in its assessment from the immediately preceding fiscal year.

5. It is also Applicant's understanding that the Commission assessment for fiscal year 2003 includes amounts associated with an assessment made by the Office of Administration ("OA") on the Commission for certain government support services from the OA and other state agencies. Applicant submits that a rehearing is necessary and appropriate to explore the appropriateness of allocation of these government costs to determine whether they are in fact reasonable and "reasonably attributable to the regulation of public utility." *See*, §386.370.1 RSMo. 2000.

6. Applicant is aware that the OA assessment for government support services may be a factor external to the Commission's customary budgetary considerations and is, therefore, the result of circumstances not entirely of the Commission's making and, consequently, not entirely with the Commission's control. Nevertheless, Applicant believes that it, like the Commission, has an obligation to identify and challenge items that are not eligible to be included in the calculation of the Commission's assessment. The use of the Public Service Commission Fund (the "Fund") for any purpose other than to pay the Commission's cost of regulating utilities subject to its jurisdiction is a serious matter and one worthy of serious and thoughtful inquiry. Granting this Application for Rehearing would facilitate the examination and dialogue.

7. The depletion of the Fund for any purpose other than is authorized by law adversely impacts Applicant and its customers because any reserve left in the Fund at the end of a particular fiscal year is carried over into the next year and reduces the following year's assessment. §386.370.4 RSMo. 2000. It logically follows that a reduction in the reserve in the fund to facilitate unauthorized costs can result in higher assessments in the following years than would otherwise be the case.

8. Applicant has only had a limited opportunity to review the Commission's order and the support information posted on the Commission's website regarding the 2003 fiscal year assessment. Consequently, there may be other issues of which Applicant is not currently aware that deserve examination and consideration as well.

9. Applicant also contends that the Commission should stay the effectiveness and enforcement of the order beyond the current effective date of July 1, 2002, so as to give all interested parties a reasonable opportunity to better understand the method of and basis for the Commission's assessment to particular industries and, more particularly, particular companies.

WHEREFORE, Applicant respectfully requests the Commission to stay the effectiveness and enforcement of its assessment order for fiscal year 2003 issued in the captioned docket, grant a rehearing and enter upon a hearing concerning the propriety of its public utility assessment and other matters related thereto, and, upon reconsideration, issue a new order setting aside its June 25, 2002, Assessment Order for Fiscal Year 2003, which new order is consistent with the evidence and applicable law as more fully set forth above in this pleading.

Respectfully submitted,



James C. Swearngen #21510

Paul A. Boudreau #33155

BRYDON, SWEARENGEN & ENGLAND P.C.

312 East Capitol Avenue

P.O. Box 456

Jefferson City, MO 65102-0456

(573) 635-7166

(573) 635-0427 (Facsimile)

E-Mail: [PaulB@brydonlaw.com](mailto:PaulB@brydonlaw.com)

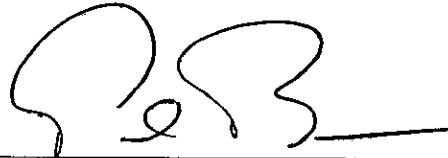
Attorneys for The Empire District Electric Company

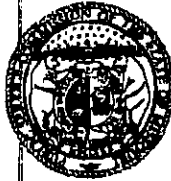
Certificate of Service

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 28<sup>th</sup> day of June, 2002, to:

General Counsel's Office  
Missouri Public Service Commission  
Governor Office Bldg., 200 Madison St.  
Suite 100  
Jefferson City, MO 65101

Office of the Public Counsel  
Governor Office Bldg., 200 Madison St.  
Suite 650  
Jefferson City, MO 65101





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

## Missouri Public Service Commission

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

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

June 26, 2002

EMPIRE DISTRICT ELECTRIC  
ATTN: D W GIBSON  
BOX 127  
JOPLIN MO 64802

Subject: Missouri Public Service Commission Annual Assessment

Dear Sir or Madam:

Pursuant to the provisions of Section 386.370 RSMo Supp 2001, you are subject to assessment as a public utility for expenses of the Missouri Public Service Commission. On June 25 2002, the Commission determined the amount of the assessment in Case No. AO-2002-156. Please visit our website at [www.psc.state.mo.us](http://www.psc.state.mo.us) to view information regarding the annual assessment. The amount of your assessment for the fiscal year beginning July 1, 2002 is \$469,358.11 electric, \$4,664.59 water and \$1,717.26 telephone.

In making payment, please observe the following instructions:

1. Make check payable to: Director of Revenue, State of Missouri  
Mail check to: Missouri Public Service Commission  
Attn: Internal Accounting Department  
P.O. Box 360  
Jefferson City, MO 65102
2. July 15, 2002 is the due date for this assessment. At your option, you may pay the assessment in quarterly installments. If you choose quarterly installments, they are due on the following dates:  

July 15, 2002	October 15, 2002
January 15, 2003	April 15, 2003
3. No further assessment notice will be furnished. If you choose to make quarterly installments, it is your responsibility to make the payments no later than the due date shown above.

Sincerely,

Robert J. Quinn, Jr.  
Executive Director