

**THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS**

Before Commissioners:        Thomas E. Wright, Chairman  
   Michael C. Moffet  
   Joseph F. Harkins

In the Matter of The Empire District Electric        )  
Company Filing Monthly Fuel Purchase Reports        )  
in Compliance with the Policy Established by        ) Docket No. 06-EPDE-1016-EPR  
Commission Order Dated September 25, 2002,        )  
in Docket No. 106,850-U/75-GIMC-009-GIG.        )

**ORDER GRANTING JOINT MOTION AND  
APPROVING STIPULATION AND AGREEMENT**

NOW, the above-captioned matter comes before The State Corporation Commission of the State of Kansas (Commission) on the Joint Motion for an Order Approving Stipulation and Agreement filed by The Empire District Electric Company (Empire) and the Commission Staff (Staff), collectively, "Joint Movants". Having examined its files and records and being duly advised in the premises, the Commission finds and concludes as follows:

**I. BACKGROUND**

1.        On February 6, 2008, Empire and Staff filed their Joint Motion for an Order Approving Stipulation and Agreement (Joint Motion) regarding Empire's natural gas fuel purchasing practices. Since March 16, 2006, Empire has filed with the Commission monthly natural gas purchase reports in this docket in compliance with the policy established by the Commission's September 25, 2002 Order issued in Docket No. 106,850-U/75-GIMC-009-GIG. Joint Movants indicate that recently Staff has been in discussion with Empire concerning the company's natural gas fuel purchases and the reporting of its natural gas contracts through the filing of its monthly Energy Purchase

Reports (EPR). As a result of Staff's discussions with Empire, a number of issues were raised regarding Empire's natural gas fuel purchasing practices. Joint Motion at ¶s 1 and 2.

2. On February 6, 2008, Staff filed its Memorandum in Support of Stipulation and Agreement prepared by James M. Sanderson, Senior Research Economist, recommending Commission approval of Joint Movant's Stipulation and Agreement.

## **II. DISCUSSION**

3. According to Joint Movants, their discussions with regard to Empire's future natural gas purchases and future monthly EPR reporting resulted in Staff's request that certain additional purchasing practices and procedures be implemented by the company. Empire acknowledges its agreement to implement Staff's requested additional purchasing practices and procedures and the same are embodied in subparagraphs 4. a. through 4. c. of the Stipulation and Agreement entered into by Joint Movants on February 5, 2008, designated as Attachment A to the Joint Motion, and presented here for Commission approval. In accordance with the parties' Stipulation and Agreement, Empire has agreed to implement the following additional purchasing and reporting practices and procedures:

a. Empire agrees to provide Staff with futures/forward price and basis assessment market data available at the time Empire enters into any natural gas contract with duration of greater than 30 days or any time Empire enters into a forward contract more than 30 days in advance of the initial delivery date. This information shall be attached to Empire's monthly EPR for the month in which any such contract is transacted.

b. Empire agrees to limit the term of any long term natural gas contract to no more than five years.

c. Staff has raised a concern with the length of the term of a natural gas contract reported in January 2006 which is identified as contract R18. This contract has a term extending through January 2013. Empire agrees in the future it will not transact any natural gas contracts of similar duration and it will only transact future natural gas contracts when reliable market information exists by which to evaluate said contracts.

Empire further acknowledges that its natural gas purchasing practices shall, in all respects, continue to follow the purchasing guidelines and “at market” standard established in the Commission’s June 21, 2001 Order issued in Docket No. 106,850-U/75-GIMC-009-GIG. Stipulation and Agreement at ¶4. Joint Movants conclude that, if accepted and approved by the Commission, the Stipulation and Agreement will address the issues raised by Staff with respect to Empire’s purchasing practices and reporting procedures. Stipulation and Agreement at ¶5. Joint Movants further indicate that Staff counsel has contacted counsel for Citizens’ Utility Ratepayer Board (CURB), the only intervening party in this docket, and CURB does not object to Joint Movants’ Stipulation and Agreement. Joint Motion at ¶4.

### **III. FINDINGS AND CONCLUSIONS**

4. Empire is a corporation duly organized under the laws of the State of Kansas and a certificated electric public utility subject to the regulatory jurisdiction of the Commission. Therefore, the Commission, pursuant to K.S.A. 66-101, *et seq.* has jurisdiction over Empire and the subject matter herein.

5. Settlements are favored in the law, *Bright v. LSI Corporation*, 254 Kan. 853, 858, 869 P.2d 686 (1994); *Farmland Industries, Inc. v. Kansas Corporation Comm’n*, 24 Kan. App. 2d 172, 286-87, 943 P.2d 470, *rev. denied* 263 Kan. 885 (1997). However, the Commission must make an independent judgment concerning whether the

settlement is in the public interest and should be approved. In making this assessment, the Commission takes into consideration the immediate and future effects on consumers.

6. The foregoing additional purchasing practices and reporting procedures agreed to by Joint Movants in their Stipulation and Agreement will further facilitate the reporting and review process envisioned by the Commission's September 25, 2002 Order issued in Docket No. 106,850-U/75-GIMC-009-GIG. Therefore, the Commission finds and concludes that the Stipulation and Agreement is reasonable, in the public interest and should be approved.

**IT IS THEREFORE, BY THE COMMISSION ORDERED THAT:**

(A) The Joint Motion of Staff and Empire filed February 6, 2008 is hereby granted and the Stipulation and Agreement dated February 5, 2008 is hereby approved and incorporated in this Order by reference.

(B) The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further order or orders, as it may deem necessary and proper.

(C) A party may file a petition for reconsideration of this Order within fifteen (15) days from the date of service of this Order. If service is by mail, service is complete upon mailing, and three (3) days shall be added to the above time frame.

**BY THE COMMISSION IT IS SO ORDERED.**

Wright, Chmn.; Moffet, Comm.; Harkins, Comm.

Dated: **FEB 15 2008**

ORDER MAILED

FEB 15 2008

 Executive  
Director

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Susan K. Duffy  
Executive Director

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