

In the Matter of the tariff filing of The)
 Empire District Electric Company)
 to implement a general rate increase for) Case No. ER-2004-0570
 retail electric service provided to customers)
 in its Missouri service area)

Comes now The Empire District Electric Company (EDE, Empire or Company),
by counsel, and respectfully states as follows to the Missouri Public Service
Commission (Commission) for its Statements of Position:

POSITIONS

2. Return on Equity

Issue Description: What return on common equity recommendation is appropriate in estimating Empire's cost of common equity?

Value of Issue: Approximately \$11,649,060 according to Staff adjustment
Approximately \$11,051,669 according to OPC position

EDE Position: EDE should be authorized to earn a return of at least 11.65% on its common equity.

EDE Witnesses: Don Murry, Direct testimony, pages 4-31
Don Murry, Rebuttal testimony, all
Don Murry, Surrebuttal testimony, all
James VanderWeide, Direct testimony, pages 5-52
James Vander Weide, Rebuttal testimony, all
James Vander Weide, Surrebuttal testimony, all
W. L. Gipson, Direct testimony, pages 7-10
W. L. Gipson, Surrebuttal testimony, page 3
Greg Knapp, Rebuttal testimony, all
Greg Knapp, Surrebuttal testimony, all

3. Embedded Cost of Debt

Issue Description: What embedded cost of debt is appropriate for Empire?

Value of Issue: [Not yet determined]

EDE Position: The Company's embedded cost of debt should be 7.25% as of December 31, 2003.

EDE Witness: Don Murry, Direct testimony, page 7

Rate Base

4. Energy Center Units 3 & 4 Construction Cost

Issue Description: What is the appropriate level of construction costs to be included in rate base for Empire's Energy Center Units 3 & 4?

Value of Issue: Approximately \$327,868 according to Staff adjustment
Approximately \$401,922 according to OPC position

EDE Position: EDE acted prudently regarding the construction of Energy Center Units 3 & 4 based on the applicable standard and should be allowed to include in rate base the total cost of construction for Energy Center Units 3 & 4. Staff and OPC's position would require the Company to write off the amount of construction expenditures disallowed for financial reporting and negatively impact retained earnings.

EDE Witnesses: Brad Beecher, Rebuttal testimony, pages 16-28
Brad Beecher, Surrebuttal testimony, pages 1-4

5. Deferred Tax Balances

(a) Post-Retirement Benefits Other than Pensions

Issue Description: Should cost of service be increased to compensate for Empire's inability to obtain full deductibility of its contributions to its Voluntary Employment Beneficiary Association ("VEBA") plan for management?

Value of Issue: Approximately \$335,252 at Staff's rate of return

EDE Position: The deferred tax asset for PBOP was created from funded amounts to the Voluntary Employee Benefit Association trust for the required actuarial amounts for health care benefits. This funding was not currently deductible for tax purposes. EDE should be allowed to include the PBOB deferred tax component in rate base.

EDE Witness: Jay Williams, Rebuttal testimony, pages 3-5

(b) Alternative Minimum Tax

Issue Description: Should the alternative minimum tax be included in rate base in calculating EDE's cost of service?

Value of Issue: Approximately \$151,188 at Staff's rate of return

EDE Position: The Alternative Minimum Tax (AMT) provides a company with a current federal tax liability where the ordinary tax liability is less than the AMT liability. As a result, Empire incurred actual cash expenditures greater than the ordinary current tax liability because of the AMT. EDE should be allowed to include the AMT component in its rate base.

EDE Witness: Jay Williams, Rebuttal testimony, pages 2-3

Expense Issues

6. Expense – Depreciation - Lives

Issue Description: How shall the depreciation for plant accounts be calculated?

- (a) Should life span be applied to production accounts?
- (b) Should the Commission use the whole-life or the remaining life technique?

Value of Issue: \$2,576,063 according to Staff
\$1,316,063 according to OPC

EDE Position: The Life Span Approach is an acceptable method for determining annual depreciation expense.

EDE Witness: Don Roff, Direct testimony, pages 3-12; 14-19; 22-28; 30-31
Don Roff, Rebuttal testimony, pages 4-9; 20-21; 23-26; 30-38
Don Roff, Surrebuttal testimony, pages 10-19
Greg Knapp, Rebuttal testimony, all

- (c) How should the cost of removal net salvage component be treated?

Value of Issue: \$4,643,191

EDE Position: It is the Company's position that cost of removal and gross salvage components should be included in the depreciation rate and is required by regulatory rules.

EDE Witness: Don Roff, Direct testimony, pages 3-14; 19-22; 27-31
Don Roff, Rebuttal testimony, pages 9-22; 26-30; 35-38
Don Roff, Surrebuttal testimony, pages 2-9; 14-22
Greg Knapp, Rebuttal testimony, all
Greg Knapp, Surrebuttal testimony, pages 3-4

7. Expense - Fuel & Purchased Power/ Interim Energy Charge (IEC)*

* The design of the IEC charge is listed with rate design issues.

Issue Description: What is the appropriate level of total Company on-system fuel and purchased power expense, and what cost recovery method should be used in this case?

(a) What natural gas price should be used in determining permanent rates?

(b) May the Commission lawfully order an IEC absent a unanimous stipulation and agreement?

(c) If yes to (a) above, should an IEC for Empire be implemented in this proceeding? If so, at what floor and ceiling levels? How should the IEC be structured? How should the charge be designed?

Value of Issue: \$22,134,119 at Staff's base
\$12,066,483 at OPC's base
\$21,930,039 at Praxair's base

EDE Position: The appropriate level of total company on-system fuel and purchased power expense is \$137,548,710 or 27.01 \$/MWh. This is based on an average natural gas price of 5.69 \$/MMBtu. As an alternative to this approach, the company would support a properly crafted \$20 million interim energy charge (IEC), with a base of \$120 million and a ceiling of \$140 million. This represents an average natural gas price in the range of roughly 4.00 to 6.00 \$/MMBtu. The company supports a 5-year term for the IEC but would accept a range of 3 to 5 years. Any term less than 3 years would not be acceptable.

However, the company reserves the right to withdraw its support for this alternative method if the other parties do not agree to not challenge the lawfulness and/or reasonableness of the IEC.

EDE Witness: Jill Tietjen, Direct testimony, all
Bradley P. Beecher, Direct testimony, pages 2-16
Bradley P. Beecher, Rebuttal testimony, pages 2-16
Bradley P. Beecher, Surrebuttal testimony, pages 4-7

8. Expense – Payroll Expense Allocation Factor

Issue Description: Should the payroll O&M factor be calculated using a three-year average or a five-year average?

Value of Issue: Approximately \$278,124

EDE Position: The Company utilized a test year level payroll expense allocator in the cost of service. The Company agrees to the use of a three year average. Staff recommended a five year average be used in this case.

EDE Witness: Kelly Walters, Direct testimony, pages 11-13
Kelly Walters, Rebuttal testimony, pages 1-3

9. Expense – Energy Center Units 3 & 4 O&M

Issue Description: Should cost of service include annual turbine inspection costs and long term (twenty-year accrual) inspection costs for the recently installed Energy Center Units 3 & 4?

Value of Issue: Approximately \$180,899

EDE Position: Energy Center Units 3 & 4 became commercially operational in April of 2003. Inspection and maintenance costs relating to these units were covered under manufacturer warranty and therefore at no cost to Empire during the test year. Empire has

requested the cost of annual inspections, estimated at \$82,900 per year by the manufacturer, be included in its cost of service. Also, Empire has requested \$138,500 be included in its cost of service to represent long-term maintenance costs. The \$138,500 was arrived at by amortizing the value of a hot-path inspection, estimated at \$1,385,000 by the manufacturer, for each unit over a 20-year time frame.

EDE Witness: Blake Mertens, Direct testimony, pages 13-14
Blake Mertens, Rebuttal testimony, pages 4-6
Blake Mertens, Surrebuttal testimony, pages 1-4, 7-8

10. Expense – Annual Generator Inspections

Issue Description: Is it appropriate to include in cost of service an amount for annual inspections of Empire's generators? If so, what amount should be included?

Value of Issue: Approximately \$410,000

EDE Position: Empire currently has 10 regularly operating units whose generator inspection costs are not included in its cost of service. These generators have recommended generator inspection intervals of nominally 5 years. Generator inspections are required to provide safe and reliable operation of Empire's generating units and therefore, should be included in the cost of service.

EDE Witness: Blake Mertens, Direct testimony, pages 7-8
Blake Mertens, Rebuttal testimony, pages 6-7
Blake Mertens, Surrebuttal testimony, pages 1-6

11. Expense – Tree Trimming

Issue Description: What amount should be included in cost of service to reflect ongoing tree trimming costs?

Value of Issue: Approximately \$446,382.

EDE Position: The Company believes its actual tree trimming expense should be allowed in the cost of service as opposed to a five year average as recommended by Staff. Tree trimming costs continue to increase due to higher labor and gas prices. Due to these increases in costs, reducing tree trimming expenses to a five year average would in effect decrease the amount of service recovered in rates. Tree trimming services are a critical factor in reliability and should be included at the actual test year level.

EDE Witness: Mike Palmer, Rebuttal testimony, pages 1-4

12. Expense – Rate Case Expense

Issue Description: Should the costs of retaining Empire consultants Mr. Pfeifenberger and Dr. Vander Weide be included as rate case expense reflected in cost of service?

Value of Issue: Approximately \$59,320.

EDE Position: All rate case expense incurred by the Company is prudent and reasonable and should be included in this case.

EDE Witness: Kelly Walters, Direct testimony, page 12
Kelly Walters, Rebuttal testimony, pages 5-7

13. Expense – Legal Fees

Issue Description: Should legal fees associated with the settlement of a dispute with Enron be included in cost of service?

Value of Issue: Approximately \$64,561.

EDE Position: Legal fees associated with the Enron settlement should be included in EDE's cost of service as legal fees of this type are an ongoing expense for Empire.

EDE Witness: Kelly Walters, Rebuttal testimony, page 4

14. Expense – Incentive Compensation

Issue Description: Should all costs associated with incentive compensation be included in cost of service? If not, what costs/amounts should be excluded?

Value of Issue: Approximately \$117,496.

EDE Position: The Company believes that incentive compensation and stock options should be included in the cost of service as they are part of the executive compensation package designed to align the executive's interests with that of the employer which is in business to provide electric power service to customers.

EDE Witness: Dr. Gene Bauer, Rebuttal testimony, all

15. Stock Options

Issue Description:

- (a) Should the cost of stock options be expenses before they are exercised?
- (b) Should the cost of stock options be included in cost of service?

Value of Issue: Approximately \$176,091

EDE Position: The Company believes that incentive compensation and stock options should be included in the cost of service as they are part of the executive compensation package designed to align the executive's interests with that of the employer which is in business to provide electric power service to customers.

EDE Witness: Dr. Gene Bauer, Rebuttal testimony, all

16. Low-Income Customer Weatherization Assistance Programs

Issue Description: Should an amount for low-income customer weatherization assistance programs be included in cost of service? If so, what amount should be included?

Value of Issue: \$181,250.

EDE Position: The Company agrees to the proposals as long as the ratepayers funding is agreed upon. If EDE should be responsible to administer any of these programs, any overhead fees should be provided from the funding before being given to the participants.

EDE Witness: Mike Palmer, Rebuttal testimony, pages 4-6

17. Energy Efficiency Programs

Issue Description: Should an amount for energy efficiency programs, specifically a lighting program, a residential appliance and HVAC rebate program, and a commercial customer energy audit program, be included in cost of service? If so, what amount should be included?

Value of Issue: \$160,000

EDE Position: The Company agrees to the proposals as long as the ratepayers funding is agreed upon. In the Change a Light Program the Company would want agreement that the funds would be used in the Empire territory. If EDE should be responsible to administer any of these programs, any overhead fees should be provided from the funding before being given to the participants.

EDE Witness: Mike Palmer, Rebuttal testimony, pages 4-6

18. Wind Energy Research

Issue Description: Should an amount for wind energy assessment be included in cost of service? If so, what amount should be included?

Value of Issue: \$80,000

EDE Position: The Company agrees to the proposals as long as the ratepayers funding is agreed upon.

EDE Witness: Mike Palmer, Rebuttal testimony, pages 4-6

19. Expense – Pension Expense

Issue Description: What is the appropriate method of determining pension expense for inclusion in the cost of service?

Value of Issue: Approximately (\$647,000)

EDE Position: The Company requests that the method used for calculating pension expense be determined by the FAS 87 calculation as opposed to the minimum ERISA amount of \$0.0. If the Commission decides not to adopt the FAS 87 method, at a minimum the Commission should adopt language which allows consistency between financial reporting and the pension expense collected in rates and which will support the Company's efforts to remain financially sound.

EDE Witness: Ken Vogl, Direct testimony, all
Ken Vogl, Rebuttal testimony, all
Ken Vogl, Surrebuttal testimony, all
Greg Knapp, Surrebuttal testimony, pages 1-3
William Eads, Direct testimony, all

20. Miscellaneous Revenue – Late Payment Charge

Issue Description: Should Empire's late payment charge be calculated based on a single percentage? Is so, at what level?

Value of Issue: Not Applicable

EDE Position: EDE currently has different percentage charges for each rate by customer class and collection conditions such as the amount of days allowed for payment and the number of days delinquent. By moving to a simple ½ percent per month as recommended by Staff, the Company believes customer's incentive for timely payments would be

decreased and there exists the potential for increased arrearages. The Company believes that the current charge for late payments should be continued in this case.

EDE Witness: Michael E. Palmer, Rebuttal Testimony, pages 8-9

Class Cost of Service/Rate Design

21. Cost of Service Demand Allocator

Issue Description: What is the appropriate allocation of any increase in revenues to customer classes? What is the appropriate demand allocation factor to allocate generation and transmission capacity costs to the customer classes?

Value of Issue: Not Applicable

EDE Position: The Company has filed an Average and Excess demand allocation factor and finds it more appropriate than the options filed by other parties. The allocation factors filed by other parties are not published and accepted methods and EDE believes they do not accomplish the correct allocations to rate class for generation and transmission costs. Since a large percentage of total costs are represented in these functions, the revenue requirement for each rate is strongly impacted by the demand allocation factor. The best method of allocation is the average and excess approach which should be used in this case.

EDE Witness: Kelly Walters, Direct testimony, pages 24-25
Ed Overcast, Surrebuttal testimony, pages 2-11; 20-21

22. Rate Design

Issue Description: What are the appropriate adjustments to the rate components for each of the various rate schedules?

(a) **Summer Winter Differential** - What changes in rate design regarding summer winter differential should be implemented in this case?

Value of Issue: Not Applicable

EDE Position: EDE is proposing an equal percentage increase in revenues to all rate schedules. In addition, EDE is proposing lowering the summer/winter differential which will level the customer's monthly bills throughout the year and reduce seasonal risk to the Company. Differentials should reflect cost differences to send the appropriate price signal. The energy differential should reflect the energy cost differences between seasons; therefore, summer rates should not be flat, as that overcharges the summer customers. By leaving the summer/winter differential at the current level, risk is added to the Company as weather plays a major role in the collection of the revenue requirement.

EDE Witness: Ed Overcast, Direct testimony, all
Ed Overcast, Rebuttal testimony, all
Ed Overcast, Surrebuttal testimony, pages 11-22
William G. Eichman, Rebuttal testimony, all
William G. Eichman, Surrebuttal testimony, all
Kelly Walters, Direct testimony, pages 14-30

(b) **Customer Charge** - What changes in customer charges should be included in this case?

Value of Issue: Not Applicable

EDE Position: The Company proposes increasing the customer charge to closer represent the fixed charges a customer causes in order to improve the efficiency of rates and eliminate some of the intra rate subsidization.

EDE Witness: Ed Overcast, Direct testimony, pages 1-13; 19-27; 29-30
Ed Overcast, Rebuttal testimony, all
Ed Overcast, Surrebuttal testimony, pages 11-22

(c) Substation Credit - What substation credit should be implemented in this case for customers on the LP rate served at transmission level?

Value of Issue: Not Applicable

EDE Position: The Company proposes a credit per kW for a customer owning their own substation, being served on the LP rate. This credit should correspond with the charge for a transmission customer charge for a substation provided by the Company.

EDE Witness: William G. Eichman, Rebuttal testimony, pages 2-7
William G. Eichman, Surrebuttal testimony, pages 1-2

(c) Facility Charge - Should a facility charge for customers in the Large Power, General Power, Total Electric Building, and Power Feed Mill rates be incorporated to collect part of the fixed demand cost?

Value of Issue: Not Applicable

EDE Position: The Company agrees, in theory, that collecting part of the fixed demand charges using the highest demand of the year for a customer (100% ratchet), is a good idea. Empire feels, if this facility charge is accepted, that the Power Feed Mill, currently a rate with a customer charge and energy charges only, should have the facility charge also to help cover the demand costs incurred serving the Power Feed Mill customers. This would reduce their rather high energy charges, while collecting fixed costs incurred that don't relate to kWh sales

EDE Witness: H. Edwin Overcast, Rebuttal testimony, pages 3; 17-20; 24

(e) IEC Charge - What is the appropriate basis for determining the IEC charge for each customer class?

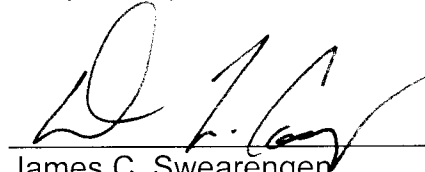
Value of Issue: Not Applicable

EDE Position: This additional charge should be collected on a per kWh basis and be equal for all rates.

EDE Witness: Ed Overcast, Direct testimony, pages 27-30

WHEREFORE, The Empire District Electric Company respectfully requests that the Commission consider the above statements of position.

Respectfully submitted,



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ATTORNEYS FOR THE EMPIRE DISTRICT ELECTRIC COMPANY

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing was, on this 1st day of December, 2004, sent via electronic mail, U.S. Postage, or hand delivered, to all parties of record.

