BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

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

<u>STAFF'S AMENDED STATEMENT OF POSITIONS</u>

COMES NOW the Staff of the Missouri Public Service Commission, by and through counsel, and files this *Amended Statement of Positions* to reflect that certain new issues have arisen in this case, to-wit: Issues 11.D, 22 and 23, raised by the Office of the Public Counsel, and Issues 24 and 25, raised by the Commission. For those new issues, Staff states its position and identifies its witness or witnesses:

1. Regulatory Policy

> Relying on traditional, cost-of-service ratemaking techniques, the Commission should set rates for Empire that are just and reasonable, designed to permit recovery of the prudent costs incurred in providing service to ratepayers, and which allow a reasonable opportunity to earn a fair return on the value of the private assets committed to the public service. That fair return should reflect the realities of the capital market environment in which Empire operates. Throughout, the Commission's lodestar should be its obligation to protect the ratepayers from the monopoly power of the utility. Staff's position presents the Commission with the most reasonable approach to meet its obligations to allow Empire an opportunity to earn a fair return while also protecting the ratepayers.

2. Prepayments

Should the prepayments related to the working funds for Iatan, Plum Point and KCP&L land lease be included in rate base?

> The working funds for Iatan and Plum Point should be included in rate base. These funds represent working capital funds that were

provided to KCP&L and are therefore considered utility assets. The Prepayments – KCP&L Land Lease account should be excluded from rate base because Staff has not been presented with evidence that this account represents an actual investment in utility assets.

3. Property Tax Expense:

What is the appropriate amount of property tax expense to include in rates?

The appropriate amount of property tax expense is $19,645,845. Staff determined this annualized level by using the tax rate provided by Empire in its direct filing to apply to plant in service balances as of January 1, 2015 which are the most current known and measurable balances used in the property tax assessment process.

4. Fuel Adjustment Clause

A. Should Empire's FAC be continued?

Yes. Empire's FAC should remain in effect with the same list of rate components and cost allocation methodologies as ordered in general rate case ER-2014-0351, except as the Commission may change the Sharing Mechanism in sub-issue D, below.

B. If the Commission approves a FAC, should it contain costs that Empire does not currently include?

Staff has no position on this sub-issue.

C. If the Commission approves a FAC, what additional reporting requirements should it include?

Empire should continue the additional reporting requirements listed on pages 135-136 in Staff's *Cost of Service Revenue Requirement Report*, and report monthly costs and revenues by subaccount in the monthly FAC reports.

D. If the Commission approves a FAC, should the incentive mechanism be changed to 90%/10%?

Staff is not opposed to a change in the Sharing Mechanism.

5. SERP Expense:

What is the appropriate amount of SERP expense to include in rates?

The appropriate amount of SERP expense to include in rates is $334,211 Total Company ($125,359 Missouri Jurisdictional). Staff determined this normalized level by using a four-year average of actual SERP payments.

6. Bad Debt Expense

What level of Bad Debt Expense should be included in rates?

The appropriate level of Bad Debt Expense to include in rates is $2,390,442. Staff determined this normalized level by using a five-year average of the actual write-offs ending September 30, 2015 to develop the effective uncollectible rate of 0.5258% which was then applied to Staff's annualized revenues amount to calculate the above level of expense.

7. Demand Side Management (DSM) Programs:

What DSM programs should Empire offer after the effective dates of rates from this case?

The only DSM programs that should be continued are new low-income DSM programs. The current DSM programs should be discontinued.

8. Low-Income Weatherization:

A. Should there be an increase to the amount of weatherization funds Empire collects in base rates?

Yes, of $25,000, but only after a process and impact evaluation.

B. Should there be an evaluation of Empire's weatherization program, and if so what should be the scope of the evaluation?

Yes, a process and impact evaluation.

9. Incentive Compensation Expense:

A. What level of cash incentives based on performance goals should be included in the cost of service?

The appropriate level of cash incentives based on performance goals to include in the cost of service is $1,851,836. Staff determined this level by reviewing all incentive goals and disallowing all actual payouts to Empire employees associated with achievement of goals that benefit Empire's shareholders and not Empire's ratepayers.

B. Should executive stock awards be included?

No. The executive stock awards should not be included in the cost of service because these awards are based on measures that primarily benefit shareholders, such as shareholder return (maximizing the dividends paid to shareholders) and stock price goals (the value of the stock increasing over time). There is no direct benefit to the ratepayers associated with these awards, therefore, Staff disallowed all of the stock awards for this case.

C. Should "Lightning Bolts" be included?

No. The lightning bolts awards should not be included in the cost of service because they are not necessary to the provision of electric service and there were no performance criteria for receipt of these awards.

10. Merger Payroll Adjustment

Should there be a disallowance of payroll expense related to the pending merger with Algonquin utilities?

Yes. Staff made an adjustment to disallow payroll related to the merger with Algonquin utilities. Such costs should be assigned to Empire's shareholders, not its customers. Further, it is reasonable to assume that payroll and hours directly assigned to Empire electric activities will decrease on an ongoing basis due to the planned nature of the post-acquisition Empire and Algonquin corporate structure.

11. Depreciation:

A. What depreciation rates should be approved in this case?

Staff's and Company's depreciation rates are produced using the same methodology of Remaining Life; however, it is inappropriate to increase the depreciation rate to reflect future unknown and unmeasurable plant additions and retirements as requested by Empire. The Commission should order the depreciation rates recommended by Staff in Schedule JAR(DEP) –d1.

B. Are Staff's adjustments with respect to Empire's "stopped depreciation" accounts appropriate?

Yes. Empire improperly stopped depreciation on certain accounts. Empire should adjust its books to reflect recommended adjustments proposed by Staff in its *Cost of Service Revenue Requirement Report* and in Mr. Robinett's Rebuttal Testimony to reflect the stopped depreciation expense since 2005.

C. Are Staff's adjustments with respect to Empire's Riverton Reserve Deficiency appropriate?

Yes. Do not amortize the unrecovered reserves, instead, approve the adjustments of reserves recommended by Staff in its *Cost of Service Revenue Requirement Report* and Mr. Robinett's Rebuttal Testimony. These adjustments are from reserve accounts that Empire recommends stopping depreciation expense on. Both Empire and Staff recommend that depreciation expense continue for common plant, but their depreciation rate recommendations differ.

D. Should the Commission allow rate recovery of Empire's Loss on Retirement of Riverton Plant Assets (reserve deficiency)?

Staff recommended transfers of reserves previously collected from ratepayers to cover the negative reserves that exist after the retirement of the Riverton Units 7 and 8 assets; remaining life depreciation rates were calculated on the accounts reflecting the reduced reserve values. However, a reserve deficiency does not exist related to this retirement of assets when reserves are analyzed at the group level. Transfer of depreciation reserves from accounts with excessive reserve balances should be exhausted before rate recovery is used to address any specific reserve deficiency situation. (Staff Witness: John Robinett).

12. Riverton 12:

A. What is the appropriate Riverton 12 O&M Tracker base level?

The appropriate Riverton 12 O&M Tracker base level is $2.7 million.

B. What accounts should be included in the tracker?

All non-labor accounts to which Riverton 12 O&M is charged should be included in the tracker.

C. What level of O&M expense should be included in the cost of service for Riverton 12?

The level of O&M expense for Riverton 12 that should be included in the cost of service is $1,204,722. Staff may make an additional adjustment to increase O&M expense for Riverton 12 by $823,269 due to the conversion of the Riverton 12 from a single cycle unit to a combined cycle unit.

13. Cost of Removal and State Flow-Through

A. Should an adjustment be made for cost of removal issues related to prior years?

No. To date, Empire has provided no credible evidence to substantiate the claim that the alleged double-reflection of the cost of removal tax deduction ever actually occurred.

B. Should an adjustment be made related to state income tax flow through for prior years?

No. To date, Empire has provided no credible evidence to substantiate the claim that Empire's ratepayers have received the benefit in rates of the state accelerated depreciation tax deduction in Missouri rate cases prior to 1994.

14. Cost of Capital

A. What is the appropriate value for Return on Equity ("ROE") that the Commission should use in setting Empire's Rate of Return?

Staff recommends, based upon its expert analysis, a return on common equity ("ROE") range of 9.50% to 10.00%, mid-point 9.75%, resulting in an overall Rate of Return ("ROR") of 7.37% to 7.62%, mid-point 7.49%. Staff recommends that the Commission authorize a ROE of 9.75% based on a consideration of all relevant factors.

B. What capital structure should the Commission use to determine the rate of return?

The appropriate capital structure for determining the allowed rate of return is Empire's consolidated capital structure, exclusive of short-term debt and the remaining unamortized balance of debt expenses as of March 31, 2016, which were incurred to amend Empire's mortgage bond indenture in order to maintain the dividend. Staff's resulting ratemaking capital structure recommendation consists of 48.90% common equity and 51.10% long-term debt.

C. What is the appropriate value for embedded cost of debt?

Staff proposes to disallow the remaining unamortized balance of debt expenses as of March 31, 2016, which was incurred to amend Empire's mortgage bond indenture in order to maintain the dividend. Staff subtracted this amount from Empire's cost of debt calculation for the period ending March 31, 2016. Staff recommends an embedded cost of long-term debt of 5.33%.

15. Production Cost Model:

What is the appropriate base amount of fuel expense to include in rates?

The results of Staff's production cost model are the appropriate base amount of fuel expense to include in rates. Staff filed model results that reflect Riverton 12 as a combustion turbine unit. If the conversion of Riverton 12 to a combined cycle unit meets the in-service criteria that have been agreed to, Staff will update its production cost model in its true-up filings.

16. Special Contract Revenues

Should Empire's other Missouri retail customers be held harmless of the revenue impact of the interruptible bill credits Empire offers to its Special Contract customer?

Yes. Empire's other Missouri retail customers should be held harmless of the revenue impact of the interruptible bill credits that Empire offers to its Special Contract customers.

17. Class Cost of Service and Rate Design:

A. What, if any, revenue neutral interclass shifts are supported by Class Cost of Service studies?

Staff's CCoS results indicate the following percentage adjustments to each class's current revenues would exactly equalize the rates of return of the classes at the studied revenue requirement:

Residential	11.71%
Commercial Service	0.23%
Small Heating	7.98%
Electric Building	5.14%
General Power	-5.66%
Large Power	5.37%
Special Contract	5.97%
Feed Mill	-20.75%
Lighting	-32.11%

B. What, if any, revenue neutral interclass shifts should be made in designing the rates resulting from this case?

Based on CCOS results, the reasonable precision of CCOS results, and rate design considerations as described in testimony, Staff recommends the Residential class receive revenue-neutral increase of $4,000,000 from the General Power class. Staff further recommends that the Feed Mill and Lighting classes not receive any increase in this case.

C. What, if any, changes to the residential customer charge are supported by Class Cost of Service studies?

Based on Staff's latest CCOS run, the CCOS supports a Residential customer charge of $18.61, if the Residential class recovered its full cost of service.

D. What, if any, changes to the residential customer charge should be made in designing the rates resulting from this case?

Staff's recommended rate design will move the Residential class closer to providing the same rate of return as other classes but because Staff does not recommend moving all the way to the fully calculated Residential class cost of service, Staff recommends limiting the residential customer charge to $15.00.

E. How should revenue requirement related to energy efficiency programs be allocated to the customer classes?

Unless program costs are assigned to the classes or class types benefiting from those programs as recommended by Dr. Marke, allocate the portion of the revenue increase/decrease that is attributable to energy efficiency programs to applicable classes based on that class's level of kWh less opt-out customers.

F. How should any revenue requirement increase be implemented in this case?

After the revenue-neutral shift, energy efficiency allocation, and residential customer charge increase described above, Staff recommends that each rate component of each class excluding Feed Mill and Lighting increase across-the-board for each class on an equal percentage basis to retain the existing relationship between rate elements, with two exceptions. Staff recommends the realignment of Small Heating Rate charges with the corresponding Commercial Building rate charges. Specifically Staff recommends the following Small Heating Rate charges be matched to their Commercial Building counterparts:

a. Customer Charge,
b. Summer First Block Charge,
c. Summer Second Block Charge, and
d. Winter First Block Charge.

Staff also recommends realignment of the Total Electric Building customer charge with the corresponding General Power rate charge.

Staff specifically recommends that the Large Power tail block energy charge receive the same percentage increase as other charges in that class, pending the study of time-of-use rate structures for that class as was ordered by the Commission in Case No. ER-2014-0351.

G. Should the Commission open a working docket so the parties to this case can discuss the implementation of revised block rate designs for Empire's residential customers?

Staff does not oppose this idea.

H. What, if any, changes to the General Power, SC-P and Large Power customer, demand and energy rate elements should be made in designing the rates resulting from this case?

Rate components should increase by the same percentage as the overall increase to the rate class.

18. Trackers

A. Should the Vegetation Management Tracker balance be included in rate base?

Yes.

B. Should the May 2011 Tornado Deferrals Tracker balance be included in rate base?

No. By including the unamortized balance of the May 2011 Tornado Deferral in rate base, Empire is attempting to shield the shareholders from sharing any risk of the natural disaster while entirely imposing such a risk on ratepayers.

C. Should the Carrying Costs Tracker balance for Iatan 1, Iatan 2 and Plum Point be included in rate base?

Yes.

D. Should the O&M Tracker balance for Iatan 1, Iatan 2 and Plum Point Tracker balance be included in rate base?

Yes.

E. Should the Pension Tracker balance be included in rate base?

Yes.

F. Should the OPEBs Tracker balance be included in rate base?

Yes.

G. Should the SWPA Capacity Loss Reimbursement Tracker balance be included in rate base?

Yes.

H. Should the PeopleSoft software deferred balance be included in rate base?

Yes.

19. Allocations

A. Should there be an adjustment to allocate corporate costs to Empire's affiliate EDI?

Yes. Staff made an adjustment to allocate additional corporate costs to Empire's affiliate EDI. Empire is in violation of the Affiliate Transaction Rule by not providing values to the Commission for fully distributed costs for services it provides to EDI. Staff's allocation of corporate costs to EDI is based on the best estimate at the time of its direct filing.

B. Should there be an adjustment to allocate corporate costs to Empire's water department?

Yes.

C. What is the appropriate way to calculate A&G expenses for Empire's water department?

Staff's adjustment to calculate A&G expenses for Empire's water department was the best estimate at the time of its direct filing in the absence of an appropriate quantification of this from Empire.

D. Should the Commission approve the Cost Allocation Manual ("CAM") submitted by Empire for Commission approval on August 23, 2011, or otherwise take action on Empire's CAM in Case No. AO-2012-0062*, or should the Commission direct Empire to adopt the CAM proposed by Office of Public Counsel in this case?*

Further proceedings on the CAM should occur in Case No. AO-2012-0062. The Commission should not direct Empire to adopt the CAM proposed by OPC in this case.

20. Accumulated Deferred Income Tax

A. Should the FAS123 deferred tax asset for stock based compensation be included in rate base?

No. The FAS123 deferred tax for stock-based compensation should not be included in rate base since Staff is not including any stock-based compensation in normalized payroll levels.

B. Should the deferred tax asset for alternative minimum tax be included in rate base?

No. Empire has not demonstrated that it is appropriate to include the deferred tax asset for alternative minimum tax in rate base.

21. Natural Gas Hedging Policy

Should Empire continue hedging for natural gas?

Staff is not opposed to reasonable hedging activities by utilities relating to natural gas purchases. Staff has not proposed an adjustment in this case regarding Empire's test year natural gas hedging expenses.

22. Vegetation Management Tracker Amortization

What is the updated balance of the vegetation management tracker amortization that should be included in Empire's cost of service?

The updated vegetation tracker amortization amount to be included in Empire's cost of service is $574,139, which is the amortization based on the unamortized balance as of July 31, 2015, when the tracker ended. The amortization will be updated in the true-up through March 31, 2016. (Staff Witness: Jermaine Green).

23. Iatan 2, Iatan Common, and Plum Point O&M Tracker Amortization

What is the updated balance of the Iatan 2, Iatan Common, and Plum Point O&M tracker amortization that should be included in Empire's cost of service?

The updated Iatan 2, Iatan Common and Plum Point O&M tracker amortization amount to be included in Empire's cost of service is $98,535, which is the amortization based on the unamortized balance as of July 31, 2015, when the tracker ended. The amortization will be updated in the true-up through March 31, 2016. (Staff Witness: Jermaine Green).

24. Rate Case Expense

What is the amount of Rate Case Expense that should be included in Empire's cost of service?

As of April 30, 2016, $31,609 of Rate Case Expense should be included in Empire's cost of service. (Staff Witnesses: Ashley Sarver and Amanda McMellen).

25. Potential Pilot Low Income Rate

Should Empire implement a pilot low income rate? If so, where? If so, what should it look like?

Commission Staff is aware that this issue has been examined in prior Empire cases. An electric Low-Income Residential Pilot was addressed in EW-2013-0045 (EFIS # 18). Staff is of the opinion that prior pilots were ineffective. Given the stage of the case and the breadth of rate design issues existing in this case, with the residential class is being considered for rate increase changes greater than the overall percentage increase, Staff proposes the matter be addressed in Empire's next electric rate case, The Staff proposes that the Commission order the Empire, Staff, and other interested parties to collect the necessary information and propose pilot low income rate or explain why such a rate is not just and reasonable in their direct testimony in Empire's next electric rate case. To facilitate the development of a pilot low-income rate, Staff is also of the opinion that the direct testimony in the next electric rate should specifically address implementing a low income rate that establishes (1) the criteria for eligibility, including whether eligibility is by household or by the customer on the account; (2) a process to verify and document eligibility and ongoing eligibility that complies with applicable state and federal privacy law, and a reasonable level of administrative burden, (the problem is with retaining HIPPA-protected information for review and audit), and (3) the billing determinants associated with qualifying and participating households to set the low income rate and to adjust the residual rates.

An additional matter that should be address in this direct testimony is whether the costs of the program should be borne by only residential ratepayers, or by all classes, The direct testimony shall also compare the offered proposal to the low income rate programs already in effect by Missouri electric utilities at this time with an explanation as to why existing features were adopted or omitted. .

Finally the direct testimony should address the parties' opinion regarding any legal issue raised by a pilot low income rate; whether or not such a program would be unduly discriminatory, and whether or not it's good public policy to implement the low income rate.

An Empire pilot low-income rate should be addressed in Empire's next electric rate case. The pilot low-income rate tariff should contain (1) the criteria for eligibility, including whether eligibility is by household or by the customer on the account; (2) a process to verify and document eligibility and ongoing eligibility, and (3) the low income rates. (Staff Witness: Sarah Kliethermes).

WHEREFORE, Staff prays that the Commission will accept this *Statement of Positions*.

Respectfully submitted,

/s/ Kevin A. Thompson
Kevin A. Thompson
Chief Staff Counsel
Missouri Bar Number 36288
Attorney for the Staff of the
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102
573-751-6514 (Voice)
573-526-6969 (Fax)
kevin.thompson@psc.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served, either electronically or by hand delivery or by First Class United States Mail, postage prepaid, on this 27th day of May, 2016**,** on the parties of record as set out on the official Service List maintained by the Data Center of the Missouri Public Service Commission for this case.

s/ Kevin A. Thompson