

Exhibit No.:  
Issue: Fuel Adjustment, Renewable Energy  
Credits, True-up and Rate Design  
Witness: W. Scott Keith  
Type of Exhibit: Rebuttal Testimony  
Sponsoring Party: Empire District Electric  
Case No. ER-2010-0130  
Date Testimony Prepared: April 2010

**Before the Public Service Commission  
of the State of Missouri**

**Rebuttal Testimony**

**of**

**W. Scott Keith**

**April 2010**

REBUTTAL TESTIMONY  
OF  
W. SCOTT KEITH  
THE EMPIRE DISTRICT ELECTRIC COMPANY  
BEFORE THE  
MISSOURI PUBLIC SERVICE COMMISSION  
CASE NO. ER-2010-0130

1 **INTRODUCTION**

2 **Q. STATE YOUR NAME AND ADDRESS PLEASE.**

3 A. My name is W. Scott Keith and my business address is 602 Joplin Street, Joplin,  
4 Missouri.

5 **POSITION**

6 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

7 A. I am presently employed by The Empire District Electric Co. ("Empire" or "the  
8 Company") as the Director of Planning and Regulatory. I have held this position  
9 since August 1, 2005. Prior to joining Empire, from 1995 to July 2005, I was  
10 Director of Electric Regulatory Matters in Kansas and Colorado for Aquila, Inc.

11 **Q. ARE YOU THE SAME W. SCOTT KEITH THAT EARLIER PREPARED  
12 AND FILED DIRECT TESTIMONY IN THIS RATE CASE BEFORE THE  
13 MISSOURI PUBLIC SERVICE COMMISSION ("COMMISSION") ON  
14 BEHALF OF EMPIRE?**

15 A. Yes.

16 **PURPOSE**

17 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

18 A. My rebuttal testimony will discuss several tariff issues related to Empire's Fuel

1 Adjustment Clause (“FAC”) that have been raised by the Missouri Public Service  
2 Commission Staff (“Staff”) in their direct filing in this rate case. Specifically, I will  
3 address the following:

- 4 • Fuel Adjustment changes proposed by the Staff and more specifically how the Staff  
5 has proposed to handle the revenue earned by Empire when the Company sells  
6 Renewable Energy Credits (“REC”),
- 7 • The recommended wording changes to Empire’s existing FAC tariff,
- 8 • What are termed “Additional [FAC] Filing Requirements” listed at pages 104 and  
9 105 of the Staff Report-Cost of Service (“Staff Report”), and
- 10 • A number of issues related to the Plum Point generating unit that have been  
11 excluded from Staff’s case at this point, but will be the subject of a “true-up”  
12 process later on in this case.

13 In addition, I will address the Office of the Public Counsel’s (“OPC”) rate design  
14 proposal that excludes an increase in the monthly customer charge for Empire’s  
15 residential and small commercial customer classes and the OPC’s proposal that any  
16 increase granted for these classes be isolated to an increase in the volumetric charge.

17 (See B. Meisenheimer direct, page 8)

18 **FUEL ADJUSTMENT MECHANISM**

19 **Q. HAVE YOU REVIEWED THE FAC POSITIONS TAKEN BY THE STAFF**  
20 **IN THIS CASE?**

21 A. Yes. I reviewed pages 62 and pages 98 through 105 of the Staff Report as well as  
22 Staff’s accounting schedules to determine how the various adjustments to fuel and  
23 energy costs, off-systems sales, and REC revenue have been handled, and I also

1 reviewed an example of the wording changes the Staff is recommending be made to  
2 the existing FAC tariff. In addition, I reviewed what the Staff has indicated are  
3 additional FAC filing requirements at page 105 of the Staff Report.

4 **Q. DO YOU HAVE ANY CONCERNS WITH THE FAC POSITIONS OR**  
5 **RECOMMENDATIONS MADE BY STAFF IN THIS CASE.**

6 A. Yes.

7 **Q. PLEASE DESCRIBE THE CONCERNS.**

8 A. Empire is concerned about the Staff recommendation related to Empire's REC  
9 revenue and its future treatment in the FAC. More specifically, the Staff proposal  
10 recommends that REC revenue flow through the FAC and be used to reduce  
11 Empire's cost of energy in future FAC filings. Empire is not opposed to this  
12 recommendation, but the Staff has already used Empire's REC revenue to reduce  
13 Empire's base revenue requirement in this case, and the Staff proposal to use this  
14 revenue stream to further reduce future energy costs in the FAC would double-  
15 count the value of Empire's REC sales - once in base rates and again in the FAC as  
16 the REC sales actually occur in the future.

17 **Q. HOW HAS THE STAFF TREATED OFF-SYSTEM SALES IN THIS CASE?**

18 A. The Staff has eliminated 100 percent of Empire's off-system sales from the  
19 Company's base rate revenue requirement because 100 percent of Empire's off-  
20 system sales flow through the FAC. Empire agrees with this treatment and believes  
21 the same base rate accounting treatment should be applied to REC revenue to avoid  
22 a double-counting of the REC revenue in this case.

23 **Q. HOW MUCH DOES THE STAFF BASE REVENUE REQUIREMENT**

1           **INCREASE IF REC REVENUE IS ELIMINATED FROM THE BASE RATE**  
2           **REVENUE REQUIREMENT?**

3    A.    The Staff's base rate revenue requirement would increase by approximately \$1.5  
4           million, which is the Missouri jurisdictional portion of Empire's overall REC  
5           revenue for the 12-months ending December 31, 2009.

6    **Q.    UNDER EMPIRE'S PROPOSAL WILL THE MISSOURI RETAIL**  
7           **CUSTOMERS STILL RECEIVE CREDIT FOR THE FUTURE REC**  
8           **REVENUE REALIZED BY EMPIRE?**

9    A.    Yes. As Empire sells RECs, the revenue actually earned by Empire on the REC  
10           sales would be used to reduce fuel and energy costs through the FAC and the  
11           benefits of the REC sales would then flow through to Empire's Missouri customers  
12           in the form of lower FAC energy costs.

13   **Q.    DOES EMPIRE AGREE WITH THE STAFF'S PROPOSAL TO REBASE**  
14           **THE EXISTING FAC?**

15   A.    No. Todd Tarter of Empire will address the concerns Empire has with this Staff  
16           proposal. However, if the Commission agrees with the Staff position on off-system  
17           sales, the existing FAC base would need to be modified to reflect the change in the  
18           Staff's FAC off-system sales methodology. Likewise if the Commission agrees that  
19           REC revenue should flow through Empire's FAC, this flow-through of REC  
20           revenue would need to be taken into account in the calculation of the FAC base to  
21           avoid a double-counting of REC revenue benefits. In addition, if the Commission  
22           were to authorize the recovery of environmental related consumables at Empire's  
23           power plants through Empire's FAC, the base cost in the FAC would have to be

1 adjusted to reflect the inclusion of these types of costs.

2 **Q. DOES EMPIRE AGREE WITH THE FAC TARIFF WORDING CHANGES**  
3 **RECOMMENDED BY STAFF IN THIS CASE?**

4 A. Not entirely. More specifically, Empire does not agree with the REC related  
5 wording change in the FAC tariff unless the REC revenue credit that Staff has built  
6 into Empire's base revenue requirement is eliminated or is otherwise properly taken  
7 into account in the establishment of a new FAC base. In addition, Staff has added  
8 wording to the title box at each of the FAC tariff sheets as follows: "Applicable to  
9 Service Provided Prior to Month Day, 2010 and Thereafter". It is unclear what is  
10 intended by this wording. Empire's FAC tariff already includes issue dates and  
11 effective dates at the bottom of each tariff sheet. The wording suggested by the  
12 Staff appears to not only be redundant but confusing, and should be eliminated. In  
13 addition, the only FAC tariff sheet that changes during the normal periodic FAC  
14 factor filings is sheet 17c, so there is really no need for the wording recommended  
15 by Staff on each of the FAC tariff sheets.

16 **Q. ARE THERE OTHER FAC WORDING CHANGES RECOMMENDED BY**  
17 **STAFF THAT CONCERN EMPIRE?**

18 A. Yes. Staff has recommended that a paragraph be inserted under the box that  
19 appears at the top of Empire FAC tariff sheet 17. The Staff's inserted paragraph  
20 reads as follows:

21  
22 *"The Company will make a Cost Adjustment Factor ("CAF") filing by each*  
23 *Filing Date. The new CAF rates for which the filing is made will be*  
24 *applicable starting with the recovery period that begins following the Filing*  
25 *Date. All CAF filings shall be accompanied by detailed workpapers*

1 *supporting the filing in an electronic format with all formulas intact.”*

2 **Q. WHAT ARE EMPIRE’S CONCERNS WITH THIS PARAGRAPH?**

3 A. The paragraph is unnecessary and confusing. Empire’s FAC tariff has been in place  
4 for over one year, and it is clear from periodic filings made by Empire under the  
5 existing tariff that Empire will file for FAC factor changes on April 1 and October  
6 1 each year. It is also clear in the existing Empire FAC tariff that FAC factor  
7 changes are intended to take place by June 1 and December 1 each year, but only  
8 after the Commission has had time to consider the proposed FAC factor changes  
9 and authorizes the implementation of the new FAC factor. It is also clear in the  
10 existing tariff that the application of any FAC factor changes can only apply to the  
11 sales that take place after the Commission has approved the FAC factor. Finally,  
12 Staff’s proposed wording includes a sentence concerning workpaper support. This  
13 sentence is clearly unnecessary. The Commission has a rule in place that governs  
14 the support needed with each FAC filing. The insertion of this language into the  
15 FAC tariff itself only confuses the issue and, if allowed, could lead to workpaper  
16 support filed by each of the Missouri utilities using an FAC being different from the  
17 support required by the Commission’s rule. If the Staff believes the definition of  
18 the workpapers used to support an FAC filing needs further refinement, then the  
19 place to do it is the Commission’s FAC rule, not the individual utility FAC tariffs.  
20 Furthermore, if Staff needs certain of the workpapers provided in support of an  
21 Empire FAC filing in a spreadsheet format, then Staff could specify such in a data  
22 request at the time of an FAC filing. Finally, not all of the documents required to  
23 be filed in support of Empire’s FAC filings are produced in an electronic format

1 that includes formulas. In short, Empire believes Staff's proposed tariff language  
2 covering supporting workpapers is not necessary for the continued operation and  
3 application of the Company's FAC.

4 **Q. HAS STAFF INCLUDED A RECOMMENDATION THAT THE FAC**  
5 **WORDING THAT IS DISPLAYED ON A CUSTOMER BILL BE**  
6 **CHANGED?**

7 A. Yes. At page 99 of the Staff Report, Staff recommends that Empire be ordered to  
8 discontinue the use of "Fuel Charge" as a description of the FAC on a customer's  
9 bill, and instead use the phrase "Fuel and Purchased Power Adjustment" to  
10 describe the charge.

11 **Q. CAN EMPIRE'S BILLING SYSTEM ACCOMMODATE THIS CHANGE IN**  
12 **DESCRIPTION?**

13 A. Yes, but the description space available in the billing system will make it necessary  
14 to abbreviate the description language to "Fuel & Purchased Power Adj."

15 **Q. DOES EMPIRE AGREE WITH THE FAC BASE CALCULATION**  
16 **PROPOSED BY STAFF OF \$0.02948 IN THE SUMMER SEASON AND**  
17 **\$0.02675 IN THE WINTER SEASON?**

18 A. No. The Staff's FAC base calculation does not properly reflect the Staff's  
19 recommendation that all of the future REC revenue flow through the FAC in the  
20 form of lower energy costs. Empire witness Todd Tarter will also point out several  
21 additional concerns Empire has with the Staff forecast of energy cost that are used  
22 to establish the new base FAC cost.

23 **Q. HAVE YOU REVIEWED THE LIST OF ADDITIONAL FAC FILING**



1           **REQUIREMENTS THAT THE STAFF HAS INCLUDED ON PAGE 105 OF**  
2           **THE STAFF REPORT?**

3    A.    Yes.

4    **Q.    DO YOU AGREE WITH THE STAFF'S RECOMMENDED ADDITIONAL**  
5           **FAC FILING REQUIREMENTS?**

6    A.    Not entirely. Empire is willing to work with the Staff to develop what addition  
7           information Staff believes is required to process Empire's FAC, but the information  
8           listed at page 105 of the Staff report appears to go well beyond what is needed for  
9           the routine processing of Empire's FAC. In addition, it is not entirely clear from  
10          the Staff's list exactly what information is needed and in what form the information  
11          is to be provided. For example, the Staff appears to be unnecessarily expanding the  
12          power plant incident reporting requirements in its next to the last bullet, to mirror a  
13          reporting requirement in another of the Commission's rulemaking cases. If the new  
14          Commission rule on power plant incident reporting goes into effect, this additional  
15          FAC filing requirement proposed by the Staff is not needed. Finally, several of the  
16          Staff requests will require Empire to produce highly confidential business  
17          information. Staff currently has access to that information without the necessity of  
18          providing Staff with its own copy of the information. Empire has no issue with  
19          providing the Staff access to highly confidential information it needs, as listed on at  
20          page 105 of the Staff Report, but Empire questions the need for the Staff to  
21          maintain a separate, highly confidential file of Empire information for Staff's use at  
22          a site that Empire does not control. For example, Staff has requested permission to  
23          maintain a complete copy of Empire's internal policy for participating in the

1 Southwest Power Pool (“SPP”), including all revisions, and that the Staff be  
2 allowed to maintain a separate file of Empire’s revised SSP policy. There are  
3 several similar requests in the list at page 105 of the Staff Report. Empire does not  
4 believe the Staff’s request to maintain separate files of highly confidential Empire  
5 information on a routine basis is warranted or necessary for the proper operation of  
6 Empire’s FAC.

7 **Q. PLEASE DESCRIBE THE PLUM POINT RELATED ITEMS THAT STAFF**  
8 **HAS EXCLUDED FROM THE STAFF REPORT THAT MAY BECOME**  
9 **ISSUES IN THE “TRUE-UP” PROCESS IN THIS CASE.**

10 A. The Staff Report excluded the impact of the Plum Point unit on Empire’s overall  
11 revenue requirement. There are several cost components to this exclusion that need  
12 to be addressed in the “true-up” phase of this case. Those cost components are as  
13 follows:

- 14 • Capital Structure-Issuance of Common equity through March 31, 2010
- 15 • Common Equity Issuance Costs through March 31, 2010
- 16 • Plum Point investment
- 17 • Coal Inventory-Plum Point
- 18 • Materials and supplies-Plum Point
- 19 • Maintenance-Plum Point
- 20 • Entergy Transmission Charges
- 21 • Property Taxes-Plum Point
- 22 • Depreciation Expense-Plum Point

23 **Q. ARE THERE ANY ISSUES RELATED TO THE IATAN PROJECT THAT**

1           **SHOULD BE ADDRESSED IN THE “TRUE-UP” PHASE OF THIS CASE?**

2    A.    Yes.  There were Iatan 1 environmental and Iatan common costs included in  
3           Empire’s construction work in progress at December 31, 2009 and excluded from  
4           the initial Staff Report in this case.  The effect of these items on Empire’s overall  
5           revenue requirement should be addressed in the “true-up” phase of this case.  The  
6           following is a list of the items related to Iatan 1 and Iatan common costs:

- 7           • Iatan 1 environmental investment
- 8           • Iatan Common investment
- 9           • Maintenance-Iatan Common plant
- 10          • Property Taxes-Iatan Common plant
- 11          • Depreciation Expense-Iatan Common plant

12    **OPC RATE DESIGN**

13    **Q.    HAVE YOU READ THE DIRECT TESTIMONY OF BARBARA A.**  
14           **MEISENHEIMER THAT WAS FILED ON BEHALF OF THE OPC?**

15    A.    Yes.  Ms. Meisenheimer’s primary recommendation in this case is that any revenue  
16           increases in residential and small commercial rates granted by the Commission  
17           exclude an increase in the monthly customer charges.  In other words, the OPC is  
18           recommending that only the volumetric charges in these rate classes be increased in  
19           this rate case.

20    **Q.    DO YOU AGREE WITH THE OPC’S RECOMMENDATON?**

21    A.    No.  Empire has proposed that any increase be spread as an equal percentage  
22           increase to all rate classes and to each of the individual rate charges within a class.  
23           This will avoid increasing or decreasing any rate subsidies in this rate case and will

1 maintain the status quo until a class cost of service study is developed and filed as  
2 part of the Iatan 2 rate proceeding. The OPC recommendation is not based upon  
3 any cost of service evidence and will only serve to widen intra-class revenue  
4 disparity and make the adjustment toward cost of service in the Iatan 2 rate case  
5 more difficult for the customers currently being subsidized.

6 **Q. DO YOU AGREE WITH WITNESS MEISENHEIMER'S CONTENTION**  
7 **THAT A HIGHER VOLUMETRIC CHARGE INCREASES THE ABILITY**  
8 **OF A CUSTOMER TO REDUCE BILLS BY REDUCING USAGE?**

9 A. It is true that if a customer reduces usage, that customer's bill will be lower.  
10 However, a higher than cost-justified volumetric charge will also raise a customer's  
11 bill during periods of hotter and/or colder than normal weather when consumption  
12 of electricity tends to increase. The OPC's recommendation also involves a further  
13 mismatch of fixed and variable cost recovery, with the majority of the cost recovery  
14 taking place as though it were variable, when in reality the majority of costs are  
15 fixed. Electric utilities, such as Empire, have a cost structure that is heavily  
16 weighted toward fixed costs that do not vary with consumption. The OPC's  
17 recommendation only serves to widen the disparity between the types of costs  
18 incurred and their recovery from the customer via charges for the volume of  
19 electricity used. The weighting of Empire's overall cost structure toward fixed  
20 costs will become even more pronounced as the Plum Point and Iatan 2 units come  
21 online.

22 **Q. HOW DOES THE OPC'S VARIABLE COST RECOVERY**  
23 **RECOMMENDATION RELATE TO THE MOVEMENT TOWARDS A**

1           **DECOUPLING OF REVENUE FROM THE VOLUME OF ENERGY SOLD?**

2    A.    It does not mesh well with revenue decoupling.

3    **Q.    PLEASE EXPLAIN.**

4    A.    There is much discussion in the electric and gas industry, concerning the  
5    decoupling of revenue from volumetric sales so that the barriers to the  
6    implementation of energy efficiency programs are lowered and more accurate price  
7    signals are given to the customer. The OPC's recommendation in this case is at  
8    odds with this trend and raises one of the barriers to energy efficiency even higher.  
9    It also distorts price signals to customers, in that it overstates the cost savings that  
10   occur when a customer lowers his or her usage.

11   **Q.    DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

12   A.    Yes.

**AFFIDAVIT OF W. SCOTT KEITH**

STATE OF MISSOURI )  
                                  ) ss  
COUNTY OF JASPER )

On the 31 day of March, 2010, before me appeared W. Scott Keith, to me personally known, who, being by me first duly sworn, states that he is the Director of Planning and Regulatory of The Empire District Electric Company and acknowledges that he has read the above and foregoing document and believes that the statements therein are true and correct to the best of his information, knowledge and belief.

  
\_\_\_\_\_  
W. Scott Keith

Subscribed and sworn to before me this 31 day of March, 2010.

  
\_\_\_\_\_  
Notary Public

My commission expires: 10-30-10.

