

Exhibit No.:
Issue: Response to Staff True-up Filing
Witness: W. Scott Keith
Type of Exhibit: True-up Rebuttal Testimony
Sponsoring Party: Empire District Electric
Case No. ER-2008-0093
Date Testimony Prepared: June 2008

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

**True-up Rebuttal Testimony
of
W. Scott Keith**

June 2008

TABLE OF CONTENTS
OF
W. SCOTT KEITH
THE EMPIRE DISTRICT ELECTRIC COMPANY
BEFORE THE
MISSOURI PUBLIC SERVICE COMMISSION

<u>SUBJECT</u>	<u>PAGE</u>
INTRODUCTION.....	1
POSITION.....	1
PURPOSE.....	1
REGULATORY PLAN AMORTIZATION.....	2
OUTSTANDING ISSUES.....	3
NATURAL GAS CONTRACT.....	6

TRUE-UP REBUTTAL TESTIMONY
OF
W. SCOTT KEITH
THE EMPIRE DISTRICT ELECTRIC COMPANY
BEFORE THE
MISSOURI PUBLIC SERVICE COMMISSION
CASE NO. ER-2008-0093

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 I was Director of Electric
10 Regulatory Matters in Kansas and Colorado for Aquila, Inc. from 1995 to July
11 2005.

12 **Q. ARE YOU THE SAME SCOTT KEITH THAT HAS PREVIOUSLY**
13 **TESTIFIED BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION**
14 **(“COMMISSION”) IN THIS CASE?**

15 A. Yes.

16 **PURPOSE**

17 **Q. WHAT IS THE PURPOSE OF YOUR TRUE-UP REBUTTAL**
18 **TESTIMONY?**

1 A. My true-up rebuttal testimony will address certain aspects of the true-up direct
2 testimony filed by Mark Oligschlaeger of the Missouri Public Service Commission
3 Staff (“Staff”). Specifically, I will explain Empire’s understanding of Staff witness
4 Oligschlaeger’s regulatory amortization recommendation, clarify the issues that
5 remain between Empire and the Staff in this case, and address Staff witness
6 Oligschlaeger’s comments on the unwinding of a natural gas contract that took
7 place during February 2008.

8 **REGULATORY PLAN AMORTIZATION**

9 **Q. HAVE YOU REVIEWED THE TRUE-UP DIRECT TESTIMONY FILED**
10 **BY STAFF WITNESS OLIGSCHLAEGER?**

11 A. Yes.

12 **Q. HOW DOES EMPIRE INTERPRET STAFF WITNESS**
13 **OLIGSCHLAEGER’S RECOMMENDATION CONCERNING THE**
14 **AMOUNT OF REGULATORY PLAN AMORTIZATION THAT SHOULD**
15 **RESULT FROM THIS CASE?**

16 A. For purposes of this case, Empire, Staff and the Office of Public Counsel (“OPC”)
17 have reached an agreement involving the calculation of regulatory amortization.
18 Mr. Oligschlaeger has correctly applied the terms of that agreement to the updated
19 or true-up numbers. As a result of applying the agreed to calculation procedures,
20 Staff has arrived at an ongoing level of annual Regulatory Plan Amortization
21 (“RPA”) of \$7.3 million. This \$7.3 million amount represents a \$2.8 million
22 reduction from the RPA level authorized by the Commission in Empire’s last
23 general rate case, Case No. ER-2006-0315. If the Staff positions on all of the

1 remaining issues were accepted by the Commission in this case, the rates resulting
2 from this case would include, on a going-forward basis, \$7.3 million in annual
3 RPA.

4 **Q. PLEASE QUANTIFY THE RESULTS OF THE STAFF'S TRUE-UP**
5 **RECOMMENDATION ON EMPIRE'S OVERALL REVENUE**
6 **REQUIREMENT, INCLUDING THE RPA.**

7 A. The Staff true-up recommendation in the current case would result in an overall
8 annual increase in rates of \$22.8 million. This \$22.8 million consists of a
9 traditional revenue requirement increase of \$25.6 million (See Staff EMS run) and
10 a reduction in ongoing RPA of \$2.8 million. Staff witness Oligschlaeger discusses
11 this issue at pages 11 through 13 of his true-up testimony. The following table
12 displays the overall change in revenue that results from the Staff's true-up
13 recommendation in this case.

Type of Revenue	Staff True-up ER-2008-0093
Traditional Revenue Deficiency	\$25,668,911
Regulatory Plan Amortization	(2,849,541)
Change in Overall Revenue	\$22,819,370

14 **OUTSTANDING ISSUES**

15 **Q. ARE THERE ISSUES THAT REMAIN OUTSTANDING BETWEEN**
16 **EMPIRE AND THE OTHER PARTIES TO THIS CASE?**

17 A. Yes, and depending upon the decisions the Commission makes on these issues the
18 level of RPA resulting from this case will change. Other than an issue related to

an apparent oversight in the application of the terms and conditions associated with an earlier agreement in this case between Empire, Staff and OPC, none of the remaining issues are directly related to Staff's true-up filing. These issues are simply a carry over from earlier in the case.

Q. PLEASE DESCRIBE THE ISSUES THAT REMAIN BETWEEN THE PARTIES IN THIS CASE.

A. There are three basic issues that remain between Empire and Staff that have a monetary impact on the overall revenue requirement and an additional issue related to the misapplication of the terms and conditions in an earlier agreement among Empire, the Staff and OPC. The issues are: the rate of return on equity, depreciation rates and the Commission Rule tracking mechanism. In addition to these monetary issues, the Commission must decide if Empire can implement a fuel adjustment mechanism, and if so, how the fuel adjustment is to be structured. All of the parties to this case have taken different positions with respect to the structure of the fuel adjustment. Empire has estimated the value of each of the outstanding monetary issues between it and the Staff, and yet to be decided by the Commission is as follows:

Description	Staff True-up
Millions of Dollars	
Return on Equity	\$7.700
Depreciation Rates	2.200
PSC Rule Tracker	.225
ADIT VEBA (S&A)	.498
Total	<u>\$10.623</u>

As indicated, the total difference between the Staff true-up revenue requirement

1 and Empire is approximately \$10.6 million. If the Commission were to accept
2 Empire's positions with respect to each of the outstanding issues, the overall
3 revenue deficiency would be \$33.4 million. Since the OPC and Industrial
4 Intervenors did not file any true-up direct testimony, I did not attempt to include
5 any monetary values for their positions as compared to the Staff's true-up position
6 for return on equity, Commission Rule tracking mechanism or depreciation rates.

7 **Q. PLEASE DESCRIBE THE ISSUE LABELED AS "ADIT VEBA" IN THE**
8 **ABOVE TABLE.**

9 A. The issue is related to the application of the terms and conditions in the first
10 stipulation and agreement reached between Empire, Staff and OPC in this case.
11 That agreement contained a component related to the accumulated deferred income
12 taxes associated with Empire's VEBA funding and the accumulated deferred
13 income taxes used as an offset to Empire's rate base in this case. When the Staff
14 compiled the results of its true-up audit, it failed to reflect this part of the
15 agreement. It is my understanding that Staff will acknowledge this oversight and
16 make corrections to the Staff true-up presentation later in this process or at the
17 upcoming hearing on June 19th.

18 **Q. IF THE COMMISSION WERE TO DECIDE IN FAVOR OF EMPIRE ON**
19 **THE REMAINING ISSUES, WOULD THIS REDUCE THE LEVEL OF**
20 **RPA?**

21 A. Yes. In fact, given the level of monetary differences between the Staff and Empire,
22 \$10.6 million, the need for RPA would be reduced.

1 **NATURAL GAS CONTRACT**

2 **Q. HAVE YOU REVIEWED STAFF WITNESS OLIGSCHLAEGER'S TRUE-**
3 **UP TESTIMONY CONCERNING THE DECISIONS EMPIRE MADE IN**
4 **FEBRUARY OF 2008 REGARDING A NATURAL GAS CONTRACT?**

5 A. Yes. Mr. Oligschlaeger, at pages 6 through 9 of his true-up testimony, describes
6 the financial affect of the transaction, sets forth the Staff position on how this
7 transaction should be handled in the true-up and discusses how the Staff is still
8 reviewing the transaction to see how it fits in with other Commission policies and
9 procedures.

10 **Q. WHAT IS EMPIRE'S RESPONSE TO THE STAFF TESTIMONY ON THIS**
11 **TRANSACTION?**

12 A. Mr. Oligschlaeger accurately describes the transaction and the reasons Empire
13 entered into the transaction at pages 6 and 7 of his testimony. Empire understands
14 that the Staff has decided to exclude the impact of this transaction from the Staff's
15 true-up evidence. As indicated by Mr. Oligschlaeger's testimony at page 7, this
16 transaction and the reasons it was undertaken are very similar to those that caused
17 Empire to unwind several natural gas contracts in the summer of 2005, namely to
18 offset unforeseen fuel cost increases. The Commission essentially found, in Case
19 No. ER-2006-0315, that these types of gains can be used by Empire to offset these
20 unforeseen increases in fuel costs. At page 8, line 2, Mr. Oligschlaeger begins to
21 discuss additional Staff concerns with respect to this transaction. None of these
22 concerns are relevant to this case and the true-up proceeding and as a consequence
23 Empire has no further response.

1 **Q. DOES THIS CONCLUDE YOUR TRUE-UP REBUTTAL TESTIMONY?**

2 **A. Yes.**

AFFIDAVIT OF W. SCOTT KEITH

STATE OF MISSOURI)
) ss
COUNTY OF JASPER)

On the 16th day of June, 2008, 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 16th day of June, 2008.



Notary Public

My commission expires: June 27, 2009.

