Exhibit No.:
Issue: Fuel Adjustment, SO_2 Revenue, True-up and Rate Design
Witness: W. Scott Keith
Type of Exhibit: Rebuttal Testimony
Sponsoring Party: Empire District Electric
Case No. ER-2011-0004
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Before the Public Service Commission

of the State of Missouri

Rebuttal Testimony

of

W. Scott Keith

April 2011

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THE EMPIRE DISTRICT ELECTRIC COMPANY
BEFORE THE
MISSOURI PUBLIC SERVICE COMMISSION
CASE NO. ER-2011-0004

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OF
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INTRODUCTION

Q. STATE YOUR NAME AND ADDRESS PLEASE.

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

POSITION

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

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

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

A. Yes.

PURPOSE

Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

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

Adjustment Clause ("FAC") that have been raised by the Missouri Public Service Commission Staff ("Staff") in their direct filing in this rate case. My rebuttal testimony will also comment on an adjustment made by Staff to sulfur dioxide ("SO_2") revenue. In addition, my rebuttal testimony will address the general rate design proposals made by the Staff and the Office of the Public Counsel ("OPC"). Specifically, I will address the following:

- FAC changes proposed by the Staff, and more specifically how the Staff has proposed to change the 95/5 percent energy cost sharing mechanism to an 85/15 percent sharing mechanism;
- The Staff's recommended changes to Empire's existing FAC base cost;
- Several typographical errors that exist in the Staff's proposed FAC tariff;
- The Staff's proposed customer charges for the residential and commercial rate classification;
- The Staff's proposal to narrow the winter and summer price differentials in the residential rate by increasing the winter tail-block charge by $0.01 per kilowatt-hour; and
- The OPC's position that Empire's current monthly customer charges for residential and small commercial customers are adequate.

Q. HAVE THE STAFF'S AND COMPANY'S POSITIONS ON REVENUE REQUIREMENT EVOLVED SINCE THE FILING OF THE STAFF'S DIRECT CASE?

A. Yes. Empire has updated its case through November 30, 2010, has held ongoing discussions with Staff and both parties have made corrections so that many of the differences the Staff and the Company had on items in Staff's initial Accounting Statements, and reconciliation have been eliminated.

Q. WHAT REVENUE REQUIREMENT DIFFERENCES REMAIN BETWEEN EMPIRE AND THE STAFF AFTER THIS UPDATE AND CORRECTION PROCESS?

A. In terms of Empire's rate base investment, the following items from the Staff's Accounting Schedules produced on 4/7/2011 remain as differences between Empire and Staff:

- Iatan Plant in Service;
- Management Incentive related to Plant in Service;
- Regulatory Carrying Costs as it relates to Iatan Plant in Service;
- Accumulated Deferred Taxes; and
- Demand Side Management Regulatory Asset.

With respect to Empire's statement of net operating income, the following items remain as differences between Empire and Staff:

- SO2 Revenue Allowances;
- Fuel and Purchased Power Expense;
- Infrastructure Remediation Expense;
- Compensation;
- Depreciation Expense;
- Bad Debt Expense;
- Demand-side Management Asset Amortization;
- Iatan Carrying Costs;

- Capital Structure; and
- Return on Equity.

As I mentioned earlier, Empire also disagrees with several of the Staff's FAC and rate design recommendations.

FUEL ADJUSTMENT MECHANISM

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

A. Yes. I reviewed pages 89 through 101 of the Staff Report as well as Staff's accounting schedules to determine how the various adjustments to fuel and energy costs, off-systems sales, and REC revenue have been handled, and I also reviewed an example of the wording changes the Staff is recommending be made to the existing FAC tariff contained in the Staff's Class Cost of Service and the Staff's Rate Design Report ("Rate Design Report").

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

A. Yes.

Q. PLEASE DESCRIBE THEM.

A. Empire's primary concerns are related to the Staff recommended change in the existing FAC sharing mechanism of 95/5 percent to 85/15 percent and the FAC base being proposed by the Staff. Empire is opposed to both of these recommendations.

Q. WHY IS EMPIRE OPPOSED TO THE STAFF RECOMMENDED CHANGE IN THE SHARING MECHANISM?

A. This Staff recommendation is counter to the intent of Missouri statute that is the basis of the Commission's FAC rule, and is directly at odds with 4 CSR 240-20.090(2)(A) because Staff's proposal, in effect, denies Empire a sufficient opportunity to earn a fair return on equity.

Q. HAVE ANY OF THE THREE COST FACTORS CITED BY THE COMMISSION IN CONNECTION WITH THE APPROVAL OF EMPIRE'S FAC IN THE REPORT AND ORDER IN CASE NO. ER-2008-0093 CHANGED?

A. No. Fuel and energy costs still represent the single largest component of Empire's cost to serve its customers (48 percent); fuel and energy costs are still beyond the control of management; and energy costs are still volatile and can cause significant swings in cash flow and income if not tracked. In addition, even with the addition of the Plum Point and Iatan 2 coal generating units, the capacity of which replaced a long-term coal fired purchased power contract, Empire still has a substantial exposure to swings in the price of natural gas because many of its generating units are gas fired. The price of natural gas is still the subject of price swings that can be driven by a variety of factors including weather, regulatory decisions, and political issues that are beyond the control of management.

Q. HOW DOES THE STAFF'S PROPOSED CHANGE IN THE FAC SHARING MECHANISM DENY EMPIRE A SUFFICIENT OPPORTUNITY TO EARN A FAIR RETURN ON EQUITY?

A. Staff's proposal to change the sharing mechanism denies Empire a sufficient opportunity to earn a fair return on equity because the additional amount of fuel and purchased power cost the Company is required to absorb under Staff's recommendation results in a dollar for dollar reduction in Empire's actual earnings. When Staff's proposed sharing mechanism is coupled with Staff's recommendation to set the base level of fuel and purchased power costs at $27.31 per megawatt-hour (MWH"), which represents a lower average cost than Empire expects to experience in 2011 and that Empire has experienced during the entire thirty-month period that the Company's FAC has been in place, the negative effect of Staff's proposal in Empire's return on equity is increased even more.

Q. DOES THE STAFF'S PROPOSED FAC BASE OF $27.31 INCLUDE A NUMBER OF KNOWN AND MEASURABLE CHANGES IN FUEL AND ENRGY COSTS THAT EMPIRE WILL SEE IN 2011?

A. No. The Staff's proposed FAC base actually ignores known and measurable changes in the cost of coal, rail transportation, wind farm energy, and natural gas storage costs, among others. These omissions will directly and negatively impact Empire's opportunity to earn the return on equity authorized in this case especially when coupled with Staff's proposal to automatically disallow 15 percent of any prudently incurred increases in the Company's fuel and purchased power costs. Empire witness Todd Tarter will address the specific energy cost/price changes that the Staff has omitted from its estimate of Empire's ongoing energy costs in Staff's direct case in his rebuttal testimony, and prepare Empire's analysis of the average cost of energy that Empire expects to see in 2011, the time frame in which the rates coming out of this case will be in effect.

Q. HOW DO THE STAFF'S PROPOSED FUEL COST BASE OF $27.31 PER

MWH AND THE STAFF PROPOSED CHANGE TO THE FAC SHARING MECHANISM COMBINE TO DENY EMPIRE A SUFFICENT OPPORTUNITY TO EARN A FAIR RETURN ON EQUITY?

A. By proposing an FAC base that is very low compared to Empire's actual and expected average cost of power, the Staff's FAC proposal will deny Empire an opportunity to recover the first 15 percent of prudently incurred energy costs in excess of the Staff's proposed FAC base. This automatic disallowance, or penalty, will deny Empire the opportunity to earn the return on equity authorized by the Commission in this case since the Commission's authorized return on equity assumes that there is no under/over recovery of fuel and energy costs.

Q. HOW SIGNIFICANT IS THIS POTENTIAL DISALLOWANCE OR PENALTY?

A. It is very significant. For example, based upon the average cost of energy during the first 30 months of the FAC's operation, the Staff's recommendations on the FAC base and FAC sharing mechanism would result in Empire absorbing $3.78 million in fuel and energy costs. Under the FAC in effect during the last 30 months, Empire absorbed $593 thousand in power costs. The Staff's FAC proposals, when coupled together (base and sharing), potentially represent a 600 percent increase in the amount of prudently incurred fuel and energy costs that would automatically be disallowed for recovery from Empire's Missouri customers. This higher energy cost disallowance would result in a lower realized return on equity.

Q. PLEASE DESCRIBE THE AVERAGE FAC COSTS EMPIRE HAS

INCURRED SINCE THE FAC WENT INTO EFFECT.

A. The following table displays Empire's average cost of energy for the first five (5) FAC accumulation periods and compares Empire's actual energy costs with the level proposed by Staff.

FAC Accumulation. Period	**2/28/09**	**8/31/09**	**2/28/10**	**8/31/10**	**2/28/11**	**Average**
Average Cost per Megawatt-hour	$28.71	$28.46	$29.23	$31.42	$29.71	$29.53
Proposed Staff Base	$27.31	$27.31	$27.31	$27.31	$27.31	$27.31
Difference	$1.40	$1.15	$1.92	$4.11	$2.40	$2.22

As shown, the Staff's proposed FAC base of $27.31 is well below the average cost of energy that Empire has experienced during the first thirty months of the FAC, $29.53, and is also below what Empire expects in average energy costs for 2011, which is $29.95 per MWH.

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

A. No, not at the level of $27.31 per MWH proposed by the Staff in its direct case, which is substantially below the average cost of energy Empire expects to pay when the new rates authorized in this case are in effect. Todd Tarter of Empire will address the concerns Empire has with this Staff proposed FAC base, the associated Staff forecast of Empire's ongoing average energy cost levels, and an updated FAC base.

Q. WHAT HAS BEEN THE TREND IN EMPIRE'S AVERAGE ENERGY COSTS SINCE THE INCEPTION OF THE FAC?

A. Average energy costs have been increasing, not decreasing as the Staff proposed

FAC base would indicate. Empire's actual energy costs are displayed in the table at page 6 of my rebuttal testimony. This upward trend in energy costs can also be seen by examining the Staff's chart at page 92 of the Staff Report-Cost of Service. The charts at page 93 of the Staff Report-Cost of Service also display the increases in Empire's ongoing average energy costs.

Q. DO YOU AGREE WITH THE STAFF'S STATEMENT AT PAGE 89 OF THE STAFF REPORT-COST OF SERVICE THAT THE 85/15 PERCENT SHARING MECHANISM PROVIDES EMPIRE WITH A MORE APPROPRIATE INCENTIVE TO MINIMIZE FUEL AND ENERGY COSTS?

A. No. Staff's proposal is, quite simply, a penalty, not an incentive. The Staff proposal will result in an automatic disallowance of fifteen percent of Empire's prudently incurred energy costs which will directly impact the Company's earned return on equity. It also has the potential to be detrimental to Empire's credit quality given the positive statements made by S&P concerning the existing FAC and the 95/5 percent sharing mechanism. The following is an excerpt from the S&P credit report referenced by the Staff at page 15 of the Staff Report-Cost of Service:

> These characteristics are tempered by a historically challenging regulatory environment in Missouri, which we view as "less credit supportive." However, the Missouri Public Service Commission (MPSC) appears to be becoming more responsive to the company's rate needs, as evidenced by approval of settlement agreements and *implementation of fuel adjustment clause (FAC) that enables the company to recover 95% of changes in fuel and purchased power costs in a timely manner*(emphasis added)

Q. HAVE YOU REVIEWED THE SECTION OF THE STAFF REPORT-COST OF SERVICE THAT BEGINS AT PAGE 93 AND COMPARES EMPIRE'S

ENERGY COST UNDER-COLLECTIONS TO NET OPERATING INCOME BEFORE TAXES?

A. Yes.

Q. DO YOU AGREE WITH THIS STAFF COMPARISON?

A. No. The comparison selected by the Staff is irrelevant. Net operating income before taxes includes revenue that is used for the recovery of a number of other costs that the Company will pay regardless of the energy costs that Empire actually incurs. These include items such as the interest on the debt used to finance the investment in electric plant in service. A more relevant comparison of energy cost under-collections compares the energy cost under-collections to the actual return on equity, because the Company's earnings are the ultimate source of the funds used to cover any disallowed energy costs.

Q. WHAT DID EMPIRE ACTUALLY EARN IN TERMS OF RETURN ON EQUITY IN CALENDAR YEARS 2009 AND 2010?

A. Empire's actual return on equity for calendar years 2009 and 2010 has averaged around 7.05 percent on a total Company basis. This well below the returns that have been authorized in Empire's most recent rate cases, including those in Missouri.

Q. IS IT PROBABLE THAT THE STAFF'S FAC RECOMMENDATIONS WILL RESULT IN A FURTHER EROSION OF THE COMPANY'S RETURN ON EQUITY?

A. Yes. As I indicated earlier, the potential automatic disallowance under Staff's FAC proposal is over $3 million greater than under the existing tariff. This is significant and will most likely result in a lower earned return on equity.

Q. DOES EMPIRE HAVE CONTROL OVER THE QUANTITY OF ENERGY PURCHASED OR ENERGY PRICES?

A. No. The quantity of fuel and energy Empire purchases is driven by the requirements of the customers Empire serves, and the energy markets in which Empire operates set the prices for the components of fuel and energy that Empire purchases on behalf of its customers. Empire does employ a systematic approach to the timing of its fuel and energy purchases, to mitigate price volatility, and uses a competitive bidding process whenever possible to acquire fuel and energy products, but the ultimate price of the fuel and energy products it selects is set by the market, not by Empire.

Q. DOES THE STAFF'S RECOMMENDED SHARING MECHANISM HAVE ANY IMPACT ON THE ULTIMATE COST OF FUEL AND ENERGY THAT EMPIRE MUST PURCHASE ON BEHALF OF ITS CUSTOMERS?

A. No. As I mentioned earlier, Empire's customers dictate the quantities to be produced, or purchased and the fuel and energy markets set the price. The Staff's proposed sharing mechanism will have no affect on either.

Q. DO ANY OF THE OTHER REGULATORY BODIES WITH JURISDICTION OVER EMPIRE USE FUEL ADJUSTMENT MECHANISMS THAT AUTOMATICALLY PROHIBIT THE RECOVERY OR REFUND OF A FIXED PERCENTAGE OF PRUDENTLY INCURRED FUEL OR ENERGY COSTS?

A. No. Empire operates in four other jurisdictions - Kansas, Oklahoma, Arkansas and the Federal Energy Regulatory Commission ("FERC") - and none of these jurisdictions automatically prohibits the pass through of a fixed percentage of prudently incurred energy costs. All of these jurisdictions allow the recovery of 100 percent of prudently incurred fuel and energy costs, and as is the case in Missouri, all of these jurisdictions employ a fuel/energy review or audit process to determine whether the fuel/energy costs that passed through the various fuel adjustment mechanisms were prudently incurred. The potential for the automatic disallowance of prudently incurred fuel and energy costs as fuel and energy costs are driven higher by market forces is unique to Empire's Missouri regulatory environment.

Q. PRIOR TO THE IMPLEMENTATION OF THE FAC IN MISSOURI, HOW DID EMPIRE RECOVER ITS FUEL AND ENERGY COSTS FROM MISSOURI CUSTOMERS?

A. The cost of fuel and energy was recovered as a component of base rates, and this component was only subject to change during a general rate case. Thus, Empire's electric rates did not move up or down as a result of changing fuel and energy costs, but remained fixed.

Q. HOW DID THIS METHOD OF FUEL AND ENERGY COST RECOVERY WORK FOR EMPIRE?

A. I did not work very well. Empire absorbed over $85 million in fuel and energy cost increases during the years 2003 through 2006, which in turn adversely affected Empire's return on equity and weakened its overall financial profile. Since fuel and energy cost were fixed as components of base electric rates and it took a general rate case to reflect the fuel and energy cost increases Empire was experiencing, the regulatory lag associated with such filings resulted in a significant deterioration in Empire's financial position as it attempted to raise its base rates to reflect the increases in fuel and energy prices.

Q. DOES THE STAFF PROPOSAL TO INCREASE THE AUTOMATIC DISALLOWANCE OF ENERGY COST INCREASES TO 15 PERCENT IN THE FAC ENHANCE THE CHANCES OF EMPIRE HAVING A REASONABLE OPPORTUNITY TO EARN THE RETURN ON EQUITY AUTHORIZED BY THE COMMISSION?

A. No. The Staff proposal will have the opposite effect; it will increase the likelihood that Empire will not earn the return on equity granted by the Commission in this proceeding.

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

A. No. The Staff has proposed a wording change on Staff proposed tariff sheet 17h that is not required. At the paragraph entitled COSTS, the Staff has stricken the existing definition of eligible FAC costs and chosen instead to insert a definition of FAC base costs. The definition of FAC base costs is not needed in the FAC tariff and it is more appropriate to define the energy costs that are eligible for recovery in the FAC tariff than the costs used to establish the FAC base.

Q. WHY?

A. The FAC does not pass on to customers the FAC base costs. It passes on to customers the average change in eligible FAC energy costs. Therefore, it is more appropriate to define the costs eligible for recovery in the tariff, not the FAC base costs, which are not passed on to customers through the operation of Empire's FAC.

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

A. Yes. In Staff proposed tariff sheet 17i, the definition of P (purchased power energy) cost should be clarified. The Staff has recommended the following definition:

"P = Actual total net system input cost of purchased energy-FERC Account 555 (excluding purchase power demand changes)."

Q. WHAT ARE EMPIRE'S CONCERNS WITH THIS DEFINITION?

A. The Staff definition of P is inconsistent with the other definitions proposed in the Staff FAC tariff. For example, the Staff definition of fuel is as follows:

F = Actual total cost of fuel – FERC Accounts 501 & 547, and AQCS consumables – FERC Account 506.2.

The FAC tariff proposed by the Staff includes gross system fuel and energy costs, not just the average cost of energy used to serve native load. The gross fuel and energy costs are used because the FAC uses gross off-system revenues as an offset to the cost of energy flowing through the FAC, not off-system sales profit margins.

Q. HOW SHOULD THE STAFF'S PROPOSED DEFINITION OF PURCHASED POWER COST IN THE FAC BE CLARIFIED?

A. The definition should be changed as follows:

P = Actual total system cost of purchased energy – FERC Account 555 (excluding purchase power demand charges).

Q. ARE THERE ANY OTHER PROVISIONS OF THE STAFF'S PROPOSED FAC TARIFF THAT NEED TO BE CLARIFIED?

A. Yes. The first line of FAC tariff sheet labeled as sheet 17k includes a reference to the FAC equation that is incompatible with the overall FAC equation setout in the first four pages of the FAC tariff. Specifically, line 1 of sheet 17k should reflect Empire's overall cost of energy, not just the net jurisdictional variation from the FAC base as the equation listed on line 1 indicates. To make this clear the equation reference on line 1 should be corrected to reflect the following equation: $(F + P + E - O - R)$.

<u>TRUE-UP</u>

Q. HAS THE STAFF OMITTED OR EXCLUDED KNOWN AND MEASUREABLE CHANGES IN ENERGY COSTS IN THE DEVELOPMENT OF ITS BASE REVENUE REQUIREMENT AND PROPOSED FAC BASE?

A. Yes. I mentioned this earlier in my rebuttal testimony in connection with the Staff's proposed FAC base.

Q. PLEASE DESCRIBE THE COST CHANGES THAT STAFF HAS EXCLUDED THAT ARE ISSUES THAT SHOULD BE ADDRESSED IN THE "TRUE-UP" PROCESS IN THIS CASE.

A. The Staff has excluded the impact of known changes in the cost of coal, both commodity contract changes and new rail transportation rates that became effective on January 1, 2011. Based upon conversations I have had with the Staff, the Staff was aware of these changes, but chose to omit them when it put together its revenue requirement and FAC base recommendations. In addition to coal cost changes, the Staff did not take into account changes in the price of wind energy at the Elk River wind farm that took place on January 1, 2011. Finally, the Staff did not account for a new gas storage contract that Empire has on the Southern Star Central system. By ignoring these changes Staff has understated Empire's ongoing cost of service and FAC base, and essentially made it impossible for Empire to have a sufficient opportunity to earn a fair return on equity coming out of this case. These fuel and energy cost price changes need be addressed in the "true-up" phase of this case if Empire is to have a reasonable chance to earn its authorized return on equity. The energy cost components that need to be "trued-up" are as follows:

- Coal transportation costs
- Coal costs
- Southern Star Central storage costs
- Elk River wind farm energy costs
- Plum Point Purchase Power Demand charges

<u>SO_2 REVENUE</u>

Q. HAVE YOU REVIEWED STAFF'S ADJUSTMENT TO SO_2 REVENUE, WHICH IS DESCRIBED AT PAGE 49 OF THE STAFF REPORT-COST OF SERVICE?

A. Yes.

Q. DO YOU HAVE ANY COMMENTS WITH REGARD TO THIS ADJUSTMENT?

A. My only comment is related to the deferred SO_2 revenue balance at December 31, 2009 and a recommendation concerning the period of time over which this balance should be amortized. The amount of Staff's proposed SO_2 revenue adjustment is not an issue.

Q. PLEASE CONTINUE.

A. Empire's deferred SO_2 revenue balance at December 31, 2009 is $87,956. This revenue is related to SO_2 revenue that was earned prior to the implementation of the FAC. Empire recommends that this deferred revenue balance be amortized over 4-years. This should eliminate the balance by the time of Empire's next rate case.

Q. HOW HAS EMPIRE RECORDED SO_2 REVENUE SINCE THE FAC WENT INTO EFFECT?

A. SO_2 revenue earned since the implementation of the FAC flows through the FAC to Empire's customers as a credit against energy costs. It is no longer deferred.

STAFF RATE DESIGN

Q. HAVE YOU REVIEWED THE STAFF RATE DESIGN REPORT AND THE DIRECT TESTIMONY FILED BY STAFF WITNESS MICHAEL S. SCHEPERLE?

A. Yes.

Q. DOES EMPIRE AGREE WITH THE STAFF'S ALLOCATION OF THE OVERALL CHANGE IN EMPIRE'S REVENUE REQUIREMENT BETWEEN RATE CLASSES IN THIS CASE?

A. Empire agrees with the Staff's overall allocation of the change in Empire's overall revenue requirement in this case.

Q. DOES EMPIRE AGREE WITH THE STAFF'S PROPOSED MONTHLY CUSTOMER CHARGES FOR RESIDENTIAL OF $13 AND LEAVING THE COMMERCIAL CUSTOMER CHARGE AT $17.67?

A. No. Both Empire and Staff presented cost of service studies that supported raising the customer charges to higher levels. For example, the Staff's cost of service estimated Empire's current residential customer cost at $17.43 per month. This is substantially higher than Empire's existing monthly customer charge of $12.52. Yet, the Staff only recommended a $0.48 increase in the residential customer, despite this cost support. Empire recommends that the residential customer charge be increased to $15 per month, and that the monthly customer charge for commercial customers be increased from $17.67 to $24 per month. The added revenue due to the customer charge increases can be taken into account in the development of the energy charges for each of the rates.

Q. DOES EMPIRE AGREE WITH THE STAFF'S RECOMMENDATION THAT EMPIRE'S SUMMER/WINTER RATE DIFFERENTIALS BE REDUCED?

A. Yes. Empire agrees that the differential should be reduced. However, instead of increasing the winter charge by $0.01 per kilowatt-hour to lower the differential, Empire recommends that the increase in the winter energy charge for the purpose of lowering the summer/winter rate differentials be limited to $0.005 per kilowatt-hour.

Q. DOES EMPIRE'S CURRENT PRIVATE LIGHTING TARIFF INCLUDE A SAMPLE LIGHITNG CONTRACT, AS POINTED OUT BY STAFF IN ITS

RATE DESIGN REPORT AT PAGE 25?

A. No. Empire's current private lighting tariff does not include a sample lighting contract because Empire does not use written contracts for private lighting.

Q. IS EMPIRE OPPOSED TO INCLUDING A SAMPLE CONTRACT AS PART OF ITS PRIVATE LIGHING TARIFF IF A WRITTEN LIGHTING CONTRACT IS DEVELOPED IN THE FUTURE?

A. No.

<u>OPC RATE DESIGN</u>

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

A. Yes. Ms. Meisenheimer, at page 20 of her direct testimony, indicates that Empire's current residential and small commercial monthly customer charges are adequate when compared to one way of looking at customer related costs in a cost of service study. This OPC position would also require that only the volumetric charges in these Empire rate classes be increased in this rate case.

Q. DO YOU AGREE WITH THE OPC'S POSITION?

A. No. Empire's monthly customer costs are higher than the existing residential and small commercial customer charges and the monthly customer charges to residential and small commercial customers should be raised to reflect these costs. It is unclear from the documents attached to the Meisenheimer direct testimony if there is any cost support for her position. Both the Empire and Staff cost of service studies support an increase in the residential customer charge.

Q. DO YOU AGREE WITH WITNESS MEISENHEIMER'S CONTENTION

THAT A HIGHER CUSTOMER CHARGE REDUCES THE ABILITY OF A CUSTOMER TO CONTROL BILLS BY REDUCING USAGE?

A. It is true that if a customer reduces usage, that customer's bill will be lower. However, a higher than cost-justified volumetric charge, which is the result of the OPC's position, will also raise a customer's bill during periods of hotter and/or colder than normal weather when consumption of electricity tends to increase. The OPC's position to maintain the current customer charges in the residential and small commercial rates also involves a further mismatch of fixed and variable cost recovery, with the majority of the cost recovery taking place as though it were variable, when in reality the majority of costs are fixed. Electric utilities, such as Empire, have a cost structure that is heavily weighted toward fixed costs that do not vary with consumption. The OPC's position only serves to widen the disparity between the types of costs incurred and their recovery from the customer via charges for the volume of electricity used.

Q. HOW DOES THE OPC'S VARIABLE COST RECOVERY POSITION RELATE TO THE MOVEMENT TOWARDS A DECOUPLING OF REVENUE FROM THE VOLUME OF ENERGY SOLD?

A. It does not mesh well with revenue decoupling.

Q. PLEASE EXPLAIN.

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

Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?

A. Yes.

AFFIDAVIT OF W. SCOTT KEITH

STATE OF MISSOURI)
) ss
COUNTY OF JASPER)

On the 12th day of April, 2011, 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

W. Scott Keith

Subscribed and sworn to before me this 12th day of April, 2011.

JULIA L BLACKBURN
Notary Public - Notary Seal
State of Missouri
Commissioned for Newton County
My Commission Expires: August 26, 2011
Commission Number: 07216221

Julia L Blackburn

Notary Public

My commission expires: Aug 26 2011.