

Exhibit No.
Issue: Asbury SCR In-Service
Other Project Costs
Witness: Blake A. Mertens
Type of Exhibit: Rebuttal Testimony
Sponsoring Party: Empire District Electric
Case No. ER-2008-0093
Date Testimony Prepared: April 2008

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

Rebuttal Testimony

of

Blake A. Mertens

April 2008

REBUTTAL TESTIMONY
OF
BLAKE A. MERTENS
THE EMPIRE DISTRICT ELECTRIC COMPANY
BEFORE THE
MISSOURI PUBLIC SERVICE COMMISSION
CASE NO. ER-2008-0093

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A. Blake A. Mertens. My business address is 602 Joplin Street, Joplin, Missouri.

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

4 A. The Empire District Electric Company (“Empire” or “Company”), as Manager of Strategic
5 Projects.

6 **Q. ARE YOU THE SAME BLAKE A. MERTENS WHO PREVIOUSLY FILED**
7 **DIRECT TESTIMONY IN THIS CASE ON BEHALF OF THE COMPANY?**

8 A. Yes.

9 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY IN**
10 **THIS CASE BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION**
11 **(“COMMISSION”)?**

12 A. In this testimony I will rebut the direct testimony of Staff witness Mark L. Oligschlaeger.
13 Specifically, I will address Staff’s position to NOT include the Asbury Selective Catalytic
14 Reduction (“SCR”) project in its revenue requirement calculation. I will also rebut the
15 direct testimony of Office of Public Counsel (“OPC”) witness Ted Robertson concerning
16 Sand Sage and Asbury project costs.

17 **Asbury SCR In-Service**

18 **Q. PLEASE DESCRIBE THE ASBURY SCR PROJECT.**

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1 A. As described in my direct testimony, to help meet Clean Air Interstate Rule (“CAIR”) NO_x
2 requirements, Empire constructed a SCR at its Asbury Power Station. The SCR was tied
3 into the existing unit during the scheduled 2007 major outage of Asbury. Our current cost
4 estimate for the SCR at Asbury is \$31 million (excluding AFUDC). This project was also
5 contemplated as part of our Experimental Regulatory Plan approved by the Commission in
6 Case No. EO-2005-0263.

7 **Q. WHY HAS STAFF ASSERTED THAT THE COST OF THE ASBURY SCR**
8 **PROJECT NOT BE INCLUDED IN THE REVENUE REQUIREMENT**
9 **CALCULATION IN THIS CASE?**

10 A. On page 13, line 23 of Mr. Oligschlaeger’s direct testimony he states “the Staff has not
11 included this project in its case, as the SCR addition was not in-service as of December 31,
12 2007.”

13 **Q. WHY DOES STAFF CONTEND DECEMBER 31, 2007 WAS THE CUT-OFF DATE**
14 **FOR THE SCR TO BE IN-SERVICE?**

15 A. Staff has asserted that the parties agreed that the date of December 31, 2007 would serve as
16 the end of test-year update period; therefore, Staff contends that the SCR had to be in-
17 service by that date for its related costs to be considered for rate recovery in this case.

18 **Q. DOES EMPIRE AGREE WITH THIS RATIONALE?**

19 A. No.

20 **Q. PLEASE EXPLAIN.**

21 A. There are several reasons why Empire does not agree with Staff’s position. First, as stated
22 earlier, the Asbury SCR was part of Empire’s Experimental Regulatory Plan approved by
23 the Commission in Case No. EO-2005-0263. In Section 8, “IN-SERVICE CRITERIA”

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(page 6), of the Stipulation and Agreement concerning the Experimental Regulatory Plan the following is stated:

“Empire, Staff, Praxair, Explorer and Public Counsel agree that, before the equipment is installed, they will develop and agree to in-service criteria for the emissions equipment that is to be installed on Iatan 1 and Asbury SCR and that that equipment will meet the in-service criteria before the costs for the equipment will be included in Empire’s rate base.” (Underline emphasis added.)

As stated in my direct testimony, Empire worked with the Staff to develop in-service criteria for the Asbury SCR and these criteria were presented to the other parties during Empire’s Integrated Resource Plan meeting that took place on March 30, 2007. No objections were raised and the criteria were adopted.

Q. HAS THE ASBURY SCR MET THE AGREED UPON IN-SERVICE CRITERIA?

A. Yes. As of February 29th, 2008, the Asbury SCR met the in-service criteria. Empire has provided data and information to support this fact, and Staff has verbally agreed that the in-service criteria were met. Staff has indicated that it would like to make a trip to the Asbury plant to view the SCR before giving final concurrence.

Q. WAS FEBRUARY 29TH, 2008, THE ORIGINALLY TARGETED IN-SERVICE DATE FOR THE SCR?

A. No. Empire had originally targeted the SCR to be in-service late in the 4th quarter of 2007.

Q. WHY WAS THIS ORIGINAL IN-SERVICE TARGET NOT MET?

A. The SCR construction and “tie-in” was completed in November 2007 during Asbury’s major outage. The Asbury outage was originally scheduled to start on September 22, 2007 and be completed by November 18, 2007; however, during the outage it was determined that

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the generator for Asbury Unit 1 required “re-winding”, an event unrelated to the completion of the SCR project. Circumstances surrounding this rewind pushed the Asbury outage completion date to February 10th, 2008. As a consequence, performance testing and other in-service criteria for the SCR, including a 120-hour continuous run, could not be fully completed until February 29th, 2008.

Q. IF STAFF ULTIMATELY CONCURS THAT THE IN-SERVICE CRITERIA WERE MET AS OF FEBRUARY 29TH, 2008, DOES THIS MEET THE REQUIREMENTS OF THE EXPERIMENTAL REGULATORY PLAN STIPULATION AND AGREEMENT?

A. Yes. As indicated above, the Stipulation and Agreement states that the “equipment will meet the in-service criteria before the costs for the equipment will be included in Empire’s rate base.” The SCR construction was completed in November 2007; due to an event unrelated to the SCR project, the in-service criteria were met at a later date, but before the effective date of any new rates that might result in this case. Thus, Empire is requesting the plant be included in rate base as part of this ongoing rate proceeding. Rates reflecting costs of the Asbury SCR, if included in this case, will not be effective until a date after which the in-service criteria were met.

Q. WHAT IS EMPIRE’S POSITION AS IT RELATES TO THE TEST-YEAR UPDATE PERIOD ENDING DECEMBER 31, 2007?

A. Empire is only requesting that the Asbury project costs incurred through December 31, 2007 be included in the revenue requirement calculation in this case. As previously stated, the total estimated cost of the Asbury SCR project is \$31,000,000 (excluding AFUDC). As of December 31, 2007 Empire’s records show that \$28,096,697 excluding AFUDC

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1 (\$29,829,616 including AFUDC) had been expended on the project. Some payments to
2 contractors and other miscellaneous expenses related to the projected were still outstanding
3 at that time. By only including costs through end-of-year 2007, Empire is adhering to the
4 December 31, 2007 agreed upon test-year update in this case.

5 **Q. YOU STATED THAT THERE ARE SEVERAL REASONS WHY EMPIRE DOES**
6 **NOT AGREE WITH STAFF'S POSITION. WHAT ARE THE OTHER REASONS?**

7 A. Another reason why Empire believes the Asbury SCR should be included in rates in this
8 case is based on a condition within the in-service criteria itself. The agreed upon in-service
9 criteria was presented in my direct testimony. Of particular interest is the statement in
10 Criterion #3 "The operational contract guarantees that have been satisfied by the time of
11 Staff's direct, rebuttal, or surrebuttal testimony filing in the current rate case will be
12 evaluated by Staff." Staff had not filed any rebuttal or surrebuttal testimony in this case at
13 the time the in-service criteria were met.

14 **Q. ARE THERE ANY OTHER FACTORS THAT SHOULD BE CONSIDERED**
15 **RELATING TO THIS MATTER?**

16 A. Yes, I believe there are a couple items that merit consideration as they relate to this matter.

17 First, Empire was proactive during the planning phases of the Asbury SCR project.
18 Instead of waiting until the last minute to install the Asbury SCR (i.e. CAIR requirements do
19 not start until January 1, 2009), Empire management decided to get ahead of the currently
20 ongoing utility plant construction boom, a result of new coal-fired unit and air quality
21 control system retrofits construction, and install the SCR unit during the year of 2007. Due
22 to this proactive planning, Empire was able to install the SCR at a very low cost when
23 compared to other currently ongoing SCR projects at other utilities coal-fired plants,

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1 especially when one considers the relatively small size of the Asbury unit. Throughout the
2 utility industry we hear of escalating costs and inability to get contractors to even bid SCR
3 projects due to lack of manpower and other risks. Empire does not believe it to be equitable
4 that its customers benefit from these cost savings and Empire management's proactive
5 planning, but not be required to pay for the investment on a timely basis.

6 Second, if the Asbury SCR is not included in the revenue requirement calculation, not
7 only will Empire not be allowed to earn a return on its investment in a timely manner, it will
8 also not be able to pass on the expenses associated with the SCR to its customers. These
9 expenses include annual property taxes (approximately \$222,000 Missouri jurisdictional),
10 annual depreciation expenses (approximately \$510,000 Missouri jurisdictional), and
11 probably most importantly the ongoing operating and maintenance expenses related to the
12 SCR (estimated to be \$1,292,500 total company annually as detailed in my direct testimony
13 or \$1,070,000 Missouri jurisdictional). If Empire is required to meet Environmental
14 Protection Agency ("EPA") mandated CAIR regulations, it is only fair that Empire's
15 customers should pay for said adherence when producing economic and reliable electricity
16 to meet their needs.

17 **Other Project Costs**

18 **Q. PLEASE DESCRIBE THE OTHER PROJECT COSTS AT ISSUE.**

19 A. In Mr. Robertson's direct testimony (page 3) he refers to expenses that the Company "wrote
20 off to an expense account totaling \$531,467.10 which pertain to the Sand Sage project and
21 the Asbury feasibility/cost estimation study". These costs are related to investigation and
22 due diligence costs for base-load, coal fired generation projects that Empire did not

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1 ultimately proceed with at this time because of our participation in the Iatan 2 and Plum
2 Point coal-fired generation projects.

3 **Q. WHAT IS OPC'S RECOMMENDATION AS IT PERTAINS TO THESE COSTS?**

4 A. On page 7 of Mr. Robertson's testimony, he states "Public Counsel believes that the costs
5 associated with the cancelled projects should not be recovered from ratepayers as proposed
6 by the utility. These costs are not representative of normal ongoing operating expenses.
7 They are costs associated with the development of potential future investment and had the
8 projects been pursued most likely would have been capitalized as part of the investment's
9 total costs. However, since the projects were cancelled, and no used and useful investment
10 to rate base actually occurred, the costs should be disallowed."

11 **Q. HOW DO YOU RESPOND?**

12 A. Empire agrees that these are costs associated with the development of potential future
13 investment. However, the Company does not agree that these costs should not be recovered
14 from ratepayers. These project costs were necessary and required as part of the Company's
15 prudent and thorough investigation into possible base-load generation resource alternatives.
16 Empire has a duty to its customers to make sure it is serving them in the most economical
17 and reliable manner. In order to meet this obligation from time to time Empire must expend
18 money to develop or research projects that may ultimately not move forward to completion.

19 **Q WHAT IS EMPIRE'S RECOMMENDATION AS IT RELATES TO THESE**
20 **PROJECT COSTS?**

21 A. Empire requests that these charges be capitalized as part of its Iatan 2 and/or Plum Point
22 base-load, coal-fired generation construction projects. These "other project costs" were part
23 of Empire's overall resource planning decision process which ultimately led to the decision

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1 to participate in the Iatan 2 and Plum Point projects. In Case No. ER-2006-0314 Kansas
2 City Power & Light was allowed to capitalize “Certain Costs” that were required in the due
3 diligence process related to Iatan 2 (see page 57 of Rate Order dated December 21, 2006
4 pertaining to Case No. ER-2006-0314). Empire requests similar treatment of these charges
5 instead of including them as normal ongoing operating expenses.

6 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

7 A. Yes, it does.