

Exhibit No.: 500
Witness: Maurice Brubaker
Type of Exhibit: Direct Testimony
Issue: Fuel Adjustment Clause /
Revenue Requirement
Sponsoring Parties: Enbridge Energy, LP
Explorer Pipeline Company
General Mills
Praxair, Inc.
Wal-Mart Stores, Inc.
Case No.: ER-2008-0093

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of The Empire District)
Electric Company of Joplin, Missouri)
for Authority to File Tariffs Increasing) **Case No. ER-2008-0093**
Rates for Electric Service Provided to)
Customers in the Missouri Service)
Area of the Company)

Direct Testimony of

Maurice Brubaker
on Fuel Adjustment Clause / Revenue Requirement

On Behalf of

Enbridge Energy, LP
Explorer Pipeline Company
General Mills
Praxair, Inc.
Wal-Mart Stores, Inc.

February 22, 2008



BRUBAKER & ASSOCIATES, INC.
ST. LOUIS, MO 63141-2000

Project 8875

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OF THE STATE OF MISSOURI**

**In the Matter of The Empire District
Electric Company of Joplin, Missouri
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Rates for Electric Service Provided to
Customers in the Missouri Service
Area of the Company**

Case No. ER-2008-0093

**STATE OF MISSOURI)
)
COUNTY OF ST. LOUIS) SS**

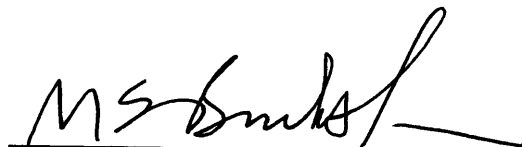
Affidavit of Maurice Brubaker

Maurice Brubaker, being first duly sworn, on his oath states:

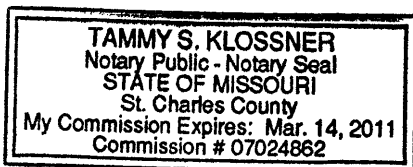
1. My name is Maurice Brubaker. I am a consultant with Brubaker & Associates, Inc., having its principal place of business at 1215 Fern Ridge Parkway, Suite 208, St. Louis, Missouri 63141-2000. We have been retained by Enbridge Energy, LP; Explorer Pipeline Company; General Mills; Praxair, Inc. and Wal-Mart Stores, Inc. in this proceeding on their behalf.

2. Attached hereto and made a part hereof for all purposes is my direct testimony on fuel adjustment clause / revenue requirement which was prepared in written form for introduction into evidence in Missouri Public Service Commission Case No. ER-2008-0093.

3. I hereby swear and affirm that the testimony is true and correct and that it shows the matters and things that it purports to show.


Maurice Brubaker

Subscribed and sworn to before this 21st day of February, 2008.




Notary Public

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In the Matter of The Empire District)	
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Customers in the Missouri Service)	
Area of the Company)	

Direct Testimony of Maurice Brubaker

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

2 A Maurice Brubaker. My business address is 1215 Fern Ridge Parkway, Suite 208,
3 St. Louis, Missouri 63141-2000.

4 **Q WHAT IS YOUR OCCUPATION?**

5 A I am a consultant in the field of public utility regulation and president of Brubaker &
6 Associates, Inc., energy, economic and regulatory consultants.

7 **Q PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND EXPERIENCE.**

8 A This information is in Appendix A to this testimony.

9 **Q ON WHOSE BEHALF ARE YOU SUBMITTING TESTIMONY IN THIS**
10 **PROCEEDING?**

11 A I am submitting testimony on behalf of Enbridge Energy, LP; Explorer Pipeline
12 Company; General Mills; Praxair, Inc. and Wal-Mart Stores, Inc. These companies
13 purchase substantial amounts of electric power from Empire District Electric
14 Company (Empire or Company) and are vitally concerned about the level and
15 structure of rates that will be determined as a result of this proceeding.

Maurice Brubaker
Page 1

1 These companies have experienced significant increases in their cost of
2 power purchased from Empire in the last several years. From October 2001 to
3 July 2007, Empire's rates have increased by over 40%. This increase has been
4 relatively level across all classes of customers. These intervenors are keenly aware
5 of the cost of power and its effect on their operations, and are concerned that the
6 increases which the Commission grant to Empire be no more than what is necessary
7 to cover prudently incurred costs, and to maintain investment grade credit quality.

8 **Q WHAT IS THE SUBJECT OF YOUR TESTIMONY?**

9 A I am briefly addressing Empire's proposed fuel adjustment clause (FAC).

10 **Q WHY ARE YOU SUBMITTING THIS TESTIMONY AT THIS TIME?**

11 A Consideration of the implementation of an FAC is somewhat new in Missouri. The
12 Procedural Order is not entirely clear as to whether proposed changes in the fuel
13 adjustment that would affect the level of revenues that a utility would collect should be
14 addressed in the revenue requirement testimony or in the rate design testimony when
15 structural issues concerning the FAC would be addressed. Because of this, I am
16 submitting in this revenue requirement filing a brief description of the concepts which I
17 will embody in my more detailed rate design testimony. This same procedure of filing
18 the substantive FAC testimony in the rate design phase was utilized in the Aquila rate
19 proceeding (Case No. ER-2007-0004) and accepted by the Commission.

20 **Q PLEASE GIVE AN OVERVIEW OF YOUR POSITION ON AN FAC FOR EMPIRE.**

21 A If Empire is granted an FAC, it is important that it not simply be a pass through of
22 increased costs. One of the dangers with an automatic adjustment clause is that the

1 utility becomes less attentive to managing its costs because of the reimbursable
2 nature of these costs under an FAC.

3 Of course, utilities are held to the prudence standard, but it is very difficult to
4 conduct a detailed audit of all of the decisions that go into a utility's procurement of
5 fuel and purchased power, the maintenance of its generating fleet, and other factors
6 that influence the level of these costs. The complexity of auditing the utility's
7 generation function is overwhelming in comparison to the more limited analysis
8 required for the Purchased Gas Adjustment (PGA) filings of the gas utilities. The
9 number of decisions required to be investigated in the case of a PGA is relatively
10 small. However, in the case of an electric utility, there are hourly transactions
11 involving purchases and sales, decisions respecting acquisition of various kinds of
12 fuel supplies in different markets, preventive maintenance practices, speed and cost
13 of recovering from forced outages and similar decisions and actions. Thus, a rigorous
14 audit of electric utility generation and purchased power costs is much more difficult to
15 accomplish than a PGA audit.

16 **Q WHAT MECHANISM CAN BE USED TO SHARPEN THE UTILITY'S INCENTIVE**
17 **TO MANAGE ITS COSTS?**

18 A If some form of FAC is permitted, then an appropriate way to provide the utility with a
19 greater incentive to manage its costs is to include a sharing mechanism of some type,
20 which requires the utility to retain some portion of any cost increases that may be
21 experienced relative to the base costs in the FAC. Similarly, the utility would be
22 permitted to retain a portion of any cost decrease that may be experienced.

23 By making the utility responsible for a share of increased costs, there is added
24 incentive (compared to 100% pass through) for the utility to focus on management of
25 these costs. Accordingly, the proposal I will make will include a sharing mechanism

1 that is more meaningful than the extremely limited "5% of difference" sharing clause
2 proposed by Empire. My sharing clause will be symmetrical, in that the utility may
3 benefit by retaining a portion of any decreases in costs from the base period. It also
4 will limit Empire's response to increased costs and in return will contain a symmetrical
5 limit on the amount of cost reduction benefit it may retain.

6 **Q WILL YOU PROPOSE ANY OTHER CHANGES TO EMPIRE'S PROPOSED FAC?**

7 A Yes. Empire has included in its FAC several fixed cost items that are not volatile and
8 certainly do not vary with kWh sold. I will exclude these costs from the FAC and
9 include them in base rates.

10 Also, Empire proposes to include SO₂ emission costs in its FAC. I will
11 propose that they not be included.

12 Empire's FAC tariff proposes that costs associated with off-system sales, as
13 well as the margins earned from off-system sales, be excluded from the FAC and
14 included in base rates. Because of the complexity of identifying and auditing the
15 costs associated with off-system sales, and the difficulty of predicting the level of
16 sales and margin, I oppose Empire's position. Empire's secondary position is that the
17 costs associated with off-system sales as well as the revenues from off-system sales
18 could flow through the FAC. I will support this second position, namely that all fuel
19 and purchased power costs that are eligible for tracking be included in the FAC, and
20 that 100% of the revenues from off-system sales flow through the FAC as a credit.

21 **Q DOES THIS CONCLUDE YOUR REVENUE REQUIREMENT DIRECT TESTIMONY**
22 **ON THE FAC?**

23 A Yes, it does.

Qualifications of Maurice Brubaker

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

2 A Maurice Brubaker. My business address is 1215 Fern Ridge Parkway, Suite 208,
3 St. Louis, Missouri 63141.

4 **Q PLEASE STATE YOUR OCCUPATION.**

5 A I am a consultant in the field of public utility regulation and President of the firm of
6 Brubaker & Associates, Inc. (BAI), energy, economic and regulatory consultants.

7 **Q PLEASE SUMMARIZE YOUR EDUCATIONAL BACKGROUND AND**
8 **EXPERIENCE.**

9 A I was graduated from the University of Missouri in 1965, with a Bachelor's Degree in
10 Electrical Engineering. Subsequent to graduation I was employed by the Utilities
11 Section of the Engineering and Technology Division of Esso Research and
12 Engineering Corporation of Morristown, New Jersey, a subsidiary of Standard Oil of
13 New Jersey.

14 In the Fall of 1965, I enrolled in the Graduate School of Business at
15 Washington University in St. Louis, Missouri. I was graduated in June of 1967 with
16 the Degree of Master of Business Administration. My major field was finance.

17 From March of 1966 until March of 1970, I was employed by Emerson Electric
18 Company in St. Louis. During this time I pursued the Degree of Master of Science in
19 Engineering at Washington University, which I received in June, 1970.

20 In March of 1970, I joined the firm of Drazen Associates, Inc., of St. Louis,
21 Missouri. Since that time I have been engaged in the preparation of numerous
22 studies relating to electric, gas, and water utilities. These studies have included

1 analyses of the cost to serve various types of customers, the design of rates for utility
2 services, cost forecasts, cogeneration rates and determinations of rate base and
3 operating income. I have also addressed utility resource planning principles and
4 plans, reviewed capacity additions to determine whether or not they were used and
5 useful, addressed demand-side management issues independently and as part of
6 least cost planning, and have reviewed utility determinations of the need for capacity
7 additions and/or purchased power to determine the consistency of such plans with
8 least cost planning principles. I have also testified about the prudence of the actions
9 undertaken by utilities to meet the needs of their customers in the wholesale power
10 markets and have recommended disallowances of costs where such actions were
11 deemed imprudent.

12 I have testified before the Federal Energy Regulatory Commission (FERC),
13 various courts and legislatures, and the state regulatory commissions of Alabama,
14 Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia,
15 Guam, Hawaii, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Missouri,
16 Nevada, New Jersey, New Mexico, New York, North Carolina, Ohio, Pennsylvania,
17 Rhode Island, South Carolina, South Dakota, Texas, Utah, Virginia, West Virginia,
18 Wisconsin and Wyoming.

19 The firm of Drazen-Brubaker & Associates, Inc. was incorporated in 1972 and
20 assumed the utility rate and economic consulting activities of Drazen Associates, Inc.,
21 founded in 1937. In April, 1995 the firm of Brubaker & Associates, Inc. was formed. It
22 includes most of the former DBA principals and staff. Our staff includes consultants
23 with backgrounds in accounting, engineering, economics, mathematics, computer
24 science and business.

1 During the past ten years, Brubaker & Associates, Inc. and its predecessor
2 firm has participated in over 700 major utility rate and other cases and statewide
3 generic investigations before utility regulatory commissions in 40 states, involving
4 electric, gas, water, and steam rates and other issues. Cases in which the firm has
5 been involved have included more than 80 of the 100 largest electric utilities and over
6 30 gas distribution companies and pipelines.

7 An increasing portion of the firm's activities is concentrated in the areas of
8 competitive procurement. While the firm has always assisted its clients in negotiating
9 contracts for utility services in the regulated environment, increasingly there are
10 opportunities for certain customers to acquire power on a competitive basis from a
11 supplier other than its traditional electric utility. The firm assists clients in identifying
12 and evaluating purchased power options, conducts RFPs and negotiates with
13 suppliers for the acquisition and delivery of supplies. We have prepared option
14 studies and/or conducted RFPs for competitive acquisition of power supply for
15 industrial and other end-use customers throughout the United States and in Canada,
16 involving total needs in excess of 3,000 megawatts. The firm is also an associate
17 member of the Electric Reliability Council of Texas and a licensed electricity
18 aggregator in the State of Texas.

19 In addition to our main office in St. Louis, the firm has branch offices in
20 Phoenix, Arizona and Corpus Christi, Texas.