Exhibit No.:	______________
Issue(s):	Fuel Clause Adjustment Energy Efficiency
Witness/Type of Exhibit:	Kind/Rebuttal
Sponsoring Party:	Public Counsel
Case No.:	ER-2011-0004

REBUTTAL TESTIMONY

OF

RYAN KIND

Submitted on Behalf of the Office of the Public Counsel

EMPIRE DISTRICT ELECTRIC COMPANY

CASE NO. ER-2011-0004

April 18, 2011

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 Rates for Electric Service Provided to Customers in the Missouri Service Area of the Company	)	**<u>File No. ER-2011-0004</u>**

AFFIDAVIT OF RYAN KIND

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

Ryan Kind, of lawful age and being first duly sworn, deposes and states:

1. My name is Ryan Kind. I am a Chief Utility Economist for the Office of the Public Counsel.

2. Attached hereto and made a part hereof for all purposes is my rebuttal testimony.

3. I hereby swear and affirm that my statements contained in the attached affidavit are true and correct to the best of my knowledge and belief.

Ryan Kind

Subscribed and sworn to me this 18th day of April 2011.

NOTARY PUBLIC
NOTARY SEAL
STATE OF MISSOURI

JERENE A BUCKMAN
My Commission Expires
August 23, 2013
Cole County
Commission 109754037

Jerene A. Buckman
Notary Public

My commission expires August 23,2013.

REBUTTAL TESTIMONY

OF

RYAN KIND

EMPIRE DISTRICT ELECTRIC COMPANY

CASE NO. ER-2011-0004

Q. PLEASE STATE YOUR NAME, TITLE, AND BUSINESS ADDRESS.

A. Ryan Kind, Chief Energy Economist, Office of the Public Counsel, P.O. Box 2230, Jefferson City, Missouri 65102.

Q. PLEASE SUMMARIZE YOUR EDUCATIONAL AND EMPLOYMENT BACKGROUND.

A. I have a B.S.B.A. in Economics and a M.A. in Economics from the University of Missouri-Columbia (UMC). While I was a graduate student at UMC, I was employed as a Teaching Assistant with the Department of Economics, and taught classes in Introductory Economics, and Money and Banking, in which I served as a Lab Instructor for Discussion Sections.

My previous work experience includes several years of employment with the Missouri Division of Transportation as a Financial Analyst. My responsibilities at the Division of Transportation included preparing transportation rate proposals and testimony for rate cases involving various segments of the trucking industry. I have been employed as an economist at the Office of the Public Counsel (Public Counsel or OPC) since 1991.

Q. HAVE YOU TESTIFIED PREVIOUSLY BEFORE THIS COMMISSION?

A. Yes, prior to this case I submitted written testimony in numerous gas rate cases, several electric rate design cases and rate cases, as well as other miscellaneous gas, water, electric, and telephone cases.

Q. HAVE YOU PROVIDED COMMENTS OR TESTIMONY TO OTHER REGULATORY OR LEGISLATIVE BODIES ON THE SUBJECT OF ELECTRIC UTILITY REGULATION AND RESTRUCTURING?

A. Yes, I have provided comments and testimony to the Federal Energy Regulatory Commission (FERC), the Missouri House of Representatives Utility Regulation Committee, the Missouri Senate's Commerce & Environment Committee and the Missouri Legislature's Joint Interim Committee on Telecommunications and Energy.

Q. HAVE YOU BEEN A MEMBER OF, OR PARTICIPANT IN, ANY WORK GROUPS, COMMITTEES, OR OTHER GROUPS THAT HAVE ADDRESSED ELECTRIC UTILITY REGULATION AND POLICY ISSUES?

A. Yes. I am currently a member of the National Association of State Consumer Advocates (NASUCA) Electric Committee, and the Stakeholder Steering Committee (SSC) of the Eastern Interconnection Planning Collaborative (EIPC). I have served as a member of the Missouri Department of Natural Resources Weatherization Policy Advisory Committee, the public consumer group representative to the Midwest ISO's (MISO's) Advisory Committee and as the small customer representative on both the NERC Operating Committee and the NERC Standards Authorization Committee. During the early 1990s, I served as a Staff Liaison to the Energy and Transportation Task Force of the President's Council on Sustainable Development.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of this testimony is to address the direct testimony of the Empire District Electric Company (Empire or the Company) and the Commission Staff (Staff) regarding the issues of the Fuel Adjustment Charge (FAC) and cost recovery for demand-side management (DSM) programs.

Q. PLEASE IDENTIFY THE DIRECT TESTIMONY OF THE EMPIRE WITNESS THAT YOU WILL ADDRESS REGARDING THE DSM COST RECOVERY ISSUE?

A. I will address the direct testimony of Empire witness Sherrill McCormack.

Q. WHAT IS EMPIRE WITNESS SHERRILL MCCORMACK'S RECOMMENDATION FOR DSM COST RECOVERY?

A. On page 14, Ms. McCormack recommends that "the amortization period for deferred DSM costs be reduced from the 10-years agreed to for purposes of the regulatory plan to a 3-year amortization period."

Q. DO YOU AGREE WITH THE DSM COST RECOVERY OF MS. MCCORMACK?

A. No, the amortization period for DSM investments made pursuant to the regulatory plan should continue to be amortized over the 10-year period that was agreed upon by signatories to the regulatory plan and approved by the Commission. The DSM investments made pursuant to the regulatory plan are those DSM expenditures that occur prior to the effective date of the new rates resulting from this case. Empire's DSM expenditures that occur on and after the effective date of the new rates resulting from this case should be amortized over a six-year period.

Q. WHY DO YOU RECOMMEND A SIX-YEAR AMORTIZATION PERIOD FOR DSM EXPENDITURES THAT OCCUR ON AND AFTER THE EFFECTIVE DATE OF THE NEW RATES RESULTING FROM THIS CASE?

A. Similar issues arose in the current KCPL rate case (Case No. ER-2110-0355) regarding DSM cost recovery and expenditure levels. The Commission issued its Report and Order in the KCPL rate case on April 12, 2011. The Commission's decision on Demand-Side Management issues included this general guidance on page 91 of the Order:

> The Commission concludes that the continuance of the DSM programs is in the public interest as shown by the customer participation and clear policies of this state to encourage DSM programs. In the absence of a clear proposal for a cost recovery mechanism and during the gap between the end of the true-up for this case and the implementation of a program under MEEIA, the Commission concludes that the Companies should continue to fund and promote or implement, the DSM programs in the 2005 Agreement (KCP&L only), and in its last adopted preferred resource plan (both KCP&L and GMO). In addition, the Commission directs that those costs be placed in a regulatory asset account and be given the treatment as further described below.

The above paragraph reflects the program selection and expenditure level decision made by the Commission. The Commission's decision on the DSM ratemaking treatment applicable to future DSM investments appears on page 93 of the Order where the Commission stated:

> The Commission…will direct that DSM program costs for investments made from December 31, 2010, until a future recovery mechanism is in place shall be placed in a regulatory asset account and amortized over six years with a carrying cost equal to the AFUDC rate applied to the unamortized balance.

The Commission also noted that:

> This would reduce the disincentive for the companies to have these programs and allow the companies to recover their DSM program costs in a timeframe closer to when they occurred. This also makes the treatment of these future costs similar to those of Ameren Missouri in ER-2010-0036.

Q. DO YOU BELIEVE THAT THE COMMISSION SHOULD DIRECT RATEMAKING TREATMENT OF FUTURE DSM PROGRAM COSTS IN THIS CASE IN A MANNER SIMILAR TO THE TREATMENT OF FUTURE DSM COSTS THAT THE COMMISSION DETERMINED WAS APPROPRIATE IN THE KCPL RATE CASE?

A. Yes, I believe that the current DSM ratemaking treatment for UE and the newly ordered ratemaking treatment for KCPL, including the six year amortization period should also be applied to Empire for its future DSM expenditures to maintain consistency between the ratemaking treatments for future DSM cost recovery that are applied to Empire, KCPL and UE.

Q. IS THERE A POSSIBILITY THAT EMPIRE WILL HAVE ITS PROGRAMS APPROVED PURSUANT TO MEEIA OR THE COMMISSION'S RULES PROMULGATED PURSUANT TO MEEIA PRIOR TO EMPIRE'S NEXT RATE CASE?

A. Yes, and this approval could affect the future DSM cost recovery parameters that are applicable to Empire. In the Commission's decision on DSM issues in the current KCPL rate case, the Commission anticipated that the six-year amortization ratemaking treatment for KCPL's future DSM investments could be impacted by MEEIA when it stated on page 91 of the Order that "future" DSM investments are "those DSM investments…through the next rate case or until a program is implemented under the MEEIA rules." [Footnote omitted.]

Q. EMPIRE WITNESS SHERRILL MCCORMACK MAKES A SECOND RECOMMENDATION IN THE DSM AREA ON PAGE 15 OF HER TESTIMONY WHERE SHE RECOMMENDS "A CHANGE IN THE STATUS OF THE CPC [CUSTOMER PROGRAMS COLLABORATIVE] TO A PURELY ADVISORY GROUP." DOES PUBLIC COUNSEL SUPPORT THIS RECOMMENDATION?

A. Yes, OPC supports this recommendation so long as it is recognized that parties will have an opportunity to challenge the prudency of future DSM expenditures for which Empire seeks cost recovery in subsequent rate cases. In addition, once the group is transformed from a collaborative that makes decisions by consensus to an advisory group that advises Empire, the name of the group should be changed to include the description "advisory group" instead of "collaborative" so there is no confusion about the role of this group.

Q. PLEASE IDENTIFY THE DIRECT TESTIMONY OF THE STAFF WITNESS THAT YOU WILL RESPOND TO REGARDING THE FAC SHARING ISSUE?

A. I will address the direct testimony of Staff witness Matt Barnes.

Q. ON PAGE 89 OF THE "STAFF REPORT, COST OF SERVICE" FILED IN THIS CASE ON FEBRUARY 23, 2011, MR. BARNES STATES "STAFF RECOMMENDS THAT THE COMPANY'S FAC TARIFF BE MODIFIED TO: 1) CHANGE THE SHARING MECHANISM FROM 95%/5% TO 85%/15% TO PROVIDE THE COMPANY WITH A MORE APPROPRIATE INCENTIVE TO MINIMIZE ITS FUEL AND PURCHASED POWER COSTS…" DOES PUBLIC COUNSEL SUPPORT THIS RECOMMENDATION?

A. Yes, Public Counsel also believes that a 95%/5% sharing ratio does not give Empire a sufficient incentive to minimize fuel costs and maximize its off-system sales (OSS) margins. OPC believes that, at a maximum, Empire should be able to recover 85% of its variations from the baseline level of fuel costs (net of OSS margins) that will be established in this rate case. Unless Empire has at least this much "skin in the game" (i.e. 15%), ratepayers cannot be assured that Empire is making its best efforts to minimize its fuel procurement costs and maximize its OSS margins. Ratepayer confidence that Empire is making its best efforts to minimize fuel costs is especially important under the current circumstances where Empire's customers are once again faced with the prospect of yet another major rate increase at the same time many of these same customers are experiencing the impact of a very sluggish economic recovery on their household budgets.

Q. ON PAGE 97 OF THE "STAFF REPORT, COST OF SERVICE", MR. BARNES STATES "IT IS STAFF'S POSITION THAT EMPIRE'S FAILURE TO REBASE ITS BASE COST FACTORS IS AN INDICATION OF THE INADEQUACY OF THE CURRENT SHARING MECHANISM." DOES PUBLIC COUNSEL AGREE WITH THIS OBSERVATION?

A. Yes. If the percentage of the variation from base fuel costs that Empire must absorb (currently 5%) is not large enough to motivate the Company to re-base its fuel costs as fuel costs are rising when it has an opportunity to do so in a rate case, then the sharing percentage is obviously not high enough to make Empire feel that it has substantial "skin in the game" that is at risk if it does not perform well in minimizing fuel costs and maximizing OSS margins.

Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?

A. Yes.