

**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. )

Case No. ER-2008-0093

**LIST OF ISSUES AND WITNESSES  
AND ORDER OF CROSS-EXAMINATION**

Comes now the Staff of the Commission and the parties to this case and jointly submit the following list of issues, witnesses, and order of cross-examination. The Staff has assembled the following list of issues for this case with the assistance of the other parties. The Staff believes the list includes all contested issues and properly identifies them as they have been identified by the Staff and the other parties. The Staff has distributed, by electronic means, to the other parties various iterations of the list and schedule of issues and witnesses set out below. The other parties have had an opportunity to review the list and the schedule set out below.

The parties agree the listing of issues below is not an agreement by any party that any particular listed issue is, in fact, a valid or relevant issue, or is properly characterized. Indeed, in their prehearing briefs, some parties may state that they consider a particular listed issue to not be a valid issue. This “non-binding” listing of issues is not to be construed as impairing any party’s ability to argue about any of these issues or related matters, or to restrict the scope of its response to arguments made by other parties.

The parties will supplement this filing with a schedule of witnesses for the hearing.

## REVENUE REQUIREMENT

### Rate of Return Issues

1. Return on Common Equity: What return on common equity should be used for determining Empire's rate of return?
  - a. In the event the Commission grants Empire a fuel adjustment clause, what, if any, is the appropriate adjustment to the authorized return on equity?

Empire: Vander Weide, Overcast  
Staff: Barnes, Oligschlaeger  
Industrials: Gorman

### Rate Base Issues

1. Asbury SCR: Should Empire's Asbury SCR equipment plant addition be included in Empire's rate base in this case? If yes, should it be included through an adjustment to Empire's revenue requirement or through a true-up procedure? If the Asbury SCR equipment is not included in Empire's rate base in this case, should any future emission revenue associated with that equipment flow through the FAC?

Empire: Mertens  
Staff: Oligschlaeger, Taylor

### Expense Issues

1. Off-System Sales Margins: What amount of off-system sales margins, if any, should be included as an offset to Empire's cost of service?

Empire: Keith  
Staff: Eaves  
OPC: Kind

2. Incentive Compensation: Are all costs of Empire's incentive compensation plan an expense Empire should recover from Empire's ratepayers? If not, what costs should be recovered?

Empire: Harrington  
Staff: Mapeka

3. Bad Debt Expense: Should Staff's bad debt factor be applied to any revenue increase authorized by the Commission to determine the level of bad debt expense to be included in cost of service?

Empire: Keith  
Staff: McMellen

4. Asbury SCR O&M Expenses: Should Empire's projected operating and maintenance expenses associated with the Asbury SCR equipment be included in Empire's cost of service?

Empire: Mertens  
Staff: Oligschlaeger

5. Asbury SCR Property Taxes: Should property taxes associated with the Asbury SCR equipment be included in Empire's cost of service?

Empire: Mertens  
Staff: Mapeka

6. Asbury SCR Depreciation Expense: Should Empire's depreciation expense associated with the Asbury SCR equipment be included in Empire's cost of service?

Empire: Mertens  
Staff: Oligschlaeger

7. Commission Rules/Tracker: Should Empire's projected costs of compliance with the Commission's rules concerning vegetation management and infrastructure inspections be included in Empire's cost of service? If yes, should such costs be recovered using a "tracker mechanism" similar to that currently in place for Ameren UE? Should Empire be allowed deferral treatment of any incremental expenses it incurs above the amount reflected in its rates to comply with these rules?

Empire: Keith, Palmer  
Staff: Oligschlaeger  
OPC: Robertson

8. Depreciation Rates: Should Empire's depreciation rates be subject to change during the duration of its Regulatory Plan? If yes, should Empire's proposed changes to its depreciation rates be adopted in this proceeding? Are Empire's record keeping practices regarding its plant assets and depreciation accounting adequate?

Empire: Roff, Keith  
Staff: Schad, Oligschlaeger  
OPC: Dunkel

9. Other Project Costs: How should other project costs identified by OPC be accounted for in Empire's cost of service?

Empire: Mertens  
OPC: Robertson

## **REGULATORY PLAN AMORTIZATION**

1. Ice Storm Costs: Should the expense amortization of the January 2007 and December 2007 ice storm costs be reflected in the regulatory plan amortization calculation? Has Empire raised this issue out of time?

Empire: Sager  
Staff: Oligschlaeger  
Industrials: Gorman

2. Purchased Power Agreement: Using a spreadsheet format agreed to by the Company, Staff and OPC, should the regulatory plan amortization be calculated using 2007 purchased power agreement (PPA) debt equivalent or 2008 PPA debt equivalent? Should the depreciation factor on purchased power agreements be reflected in the regulatory plan amortization calculation?

Empire: Sager  
Staff: Oligschlaeger  
Industrials: Gorman

## **FUEL COST RECOVERY**

1. Fuel Adjustment Clause: Should the Commission authorize Empire to use a fuel and purchased power recovery mechanism as authorized by law?

A. Is Empire barred by the terms of the Stipulation and Agreement in Case No. ER-2004-0570 from requesting a fuel adjustment clause while an interim energy charge is pending?

B. If the Commission authorizes Empire to use a fuel adjustment clause (FAC), how should it be structured?

- a. What proportion of future increases and decreases in fuel and purchased power costs (increases and decreases) from base rates should be assigned to Empire and what proportion to its customers?
- b. What components of fixed and variable fuel and purchased power costs should be recovered through a FAC?
- c. What heat rate testing of generation plants should be conducted?
- d. What rate design should be applied to FAC charges?
  - 1. Should the base cost of fuel be determined by season?
  - 2. How should the actual \$/kWh cost of fuel and purchased power energy be determined?
  - 3. How should the Cost Adjustment Factor be determined?
- e. What incentive mechanisms, if any, should be included in the FAC?
- f. Should off-system sales be included in the FAC?
- g. Should the net cost of emissions (Account 509) costs be recovered through the FAC?

Empire: Keith, Mertens, Overcast  
 Staff: Mantle, Watkins, Taylor, Oligschlaeger  
 OPC: Kind  
 Industrials: Brubaker

- 2. Fuel and Purchased Power Expense: Should Empire's recovery of fuel and purchased power expense be based upon its current adjusted expense levels, or on the rate allowance for this item ordered by the Commission in Case No. ER-2004-0570?

OPC: Meisenheimer  
 Empire: Keith

## NON-REVENUE REQUIREMENT

1. Pensions/OPEBs Special Events: Should Empire's prior stipulations concerning its pension and OPEB expenses be modified to reflect Empire's proposed language regarding the possible occurrence of certain "special events" in the future?

Empire: Delano, Vogl  
Staff: Eaves  
OPC: Robertson

2. Energy Efficiency Programs: Should the Missouri Department of Natural Resources' recommendations concerning Empire's interaction and involvement with the Customer Program Collaborative be adopted?

DNR: Wilbers  
Empire: McCormack

3. Low Income Assistance Program: Should Empire's Experimental Low-Income Program (ELIP) be continued with changes? If so, what should those changes be? What should be done with unspent ELIP funds? Should interest be paid to customers on the unspent funds? If yes, how should the interest be calculated?

Empire: McCormack  
Staff: Mantle, McMellen  
OPC: Meisenheimer  
DNR: Wilbers

4. Distribution Facilities Demand Charge: How should the facilities demand charge be calculated during the initial period of its implementation?

Empire: Overcast  
Staff: Wells

5. Should the employee purchase plan be terminated?

Empire: McCormack

6. Should the changes to wording of the GP tariff be allowed to reference the rider XC verbiage?

Empire: Long

7. Should a change in the rules and regulations be amended to remove liability associated with loss of phase on Empire's transmission and distribution facilities that is related to factors beyond the Company's control?

Empire: Long

8. Should a late payment fee be added to tariff SC-P?

Empire: Long

9. Should the method used to calculate late fees for LP, GP & TEB be changed?

Empire: Long

**Order Of Cross-Examination - Generally (except for Return on Equity, Off-System Sales Margin, Commission Rules/Tracker, and FAC):**

For Empire witnesses, cross will be by DNR, Staff, Public Counsel, then Praxair/Explorer Pipeline/Gen. Mills.

For Staff witnesses, cross will be by DNR, Praxair/Explorer Pipeline/Gen. Mills, Public Counsel, then Empire.

For Public Counsel witnesses, cross will be by DNR, Staff, Praxair/Explorer Pipeline/Gen. Mills, then Empire.

For Praxair/Explorer Pipeline/Gen. Mills witnesses, cross will be by DNR, Public Counsel, Staff, then Empire.

**Order of Cross-Examination - Return on Equity:**

For Empire witness, cross will be by DNR, Public Counsel, Staff, then Praxair/Explorer Pipeline/Gen. Mills.

For Staff witness, cross will be by Public Counsel, DNR, Praxair/Explorer Pipeline/Gen. Mills, then Empire.

For Praxair/Explorer Pipeline/Gen. Mills witness, cross will be by DNR, Public Counsel, Staff, then Empire.

**Order of Cross-Examination Off-System Sales Margin, Commission Rules/Tracker, and FAC:**

For Empire witnesses, cross will be by DNR, Staff, Public Counsel, then Praxair/Explorer Pipeline/Gen. Mills.

For Staff witnesses, cross will be by DNR, Praxair/Explorer Pipeline/Gen. Mills, Public Counsel, then Empire.

For Public Counsel witnesses, cross will be by DNR, Praxair/Explorer Pipeline/Gen. Mills, Staff, then Empire.

For Praxair/Explorer Pipeline/Gen. Mills witness, cross will be by DNR, Public Counsel, Staff, then Empire.

Respectfully submitted,

/s/ Steven C. Reed

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### **Certificate of Service**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to all counsel of record this 5th day of May, 2008.

/s/ Steven C. Reed