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Sponsoring Party:	ER-2012-0345
Case No.:	August 20, 2012
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Missouri Public  
Service Commission

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

\_\_\_\_\_ )  
 In the Matter of The Empire District )  
 Electric Company of Joplin, )  
 Missouri Tariffs Increasing Rates )  
 for Electric Service Provided to )  
 Customers in the Missouri Service )  
 Area of the Company )  
 \_\_\_\_\_ )

Case No. ER-2012-0345

Rebuttal Testimony of

**Stephen M. Rackers**

On behalf of

**Midwest Energy Users' Association**

August 20, 2012



MEUA Exhibit No. 1  
 Date 9-10-12 Reporter XF  
 File No. ER-2012-0345



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**Case No. ER-2012-0345**

**Rebuttal Testimony of Stephen M. Rackers**

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

2   A     Stephen M. Rackers. My business address is 16690 Swingley Ridge Road,  
3     Suite 140, Chesterfield, MO 63017.

4   **Q     WHAT IS YOUR OCCUPATION?**

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

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

8   A     This information is included in Appendix A to my testimony.

9   **Q     ON WHOSE BEHALF ARE YOU APPEARING IN THIS PROCEEDING?**

10  A     This testimony is presented on behalf of the Midwest Energy Users' Association.  
11     These companies purchase substantial amounts of electricity from Empire District  
12     Electric Company ("Empire" or "Company") and the outcome of this proceeding will  
13     have an impact on their cost of electricity.

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1 Q WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

2 A My rebuttal testimony will address Empire's request for interim rates in this  
3 proceeding.

4 Q PLEASE DESCRIBE EMPIRE'S INTERIM RATE REQUEST.

5 A Empire is requesting interim rates associated with two components, the plant  
6 investment and the loss of customers, as a result of the May 2011 tornado.

7 Q HOW HAS EMPIRE DETERMINED THE AMOUNT OF THE INTERIM RATE  
8 INCREASE ASSOCIATED WITH THE FIRST COMPONENT?

9 A Empire witness Kelly S. Walters has calculated a revenue requirement associated  
10 with the plant additions to replace the electric infrastructure destroyed by the tornado,  
11 as the basis for \$4.7 million of the interim rate request. The revenue requirement  
12 calculation associated with this portion of the interim rate request includes return on  
13 investment, depreciation expense, income taxes and the annual amortization of  
14 previously deferred investment costs as a result of the Accounting Authority Order  
15 ("AAO") granted in Case No. EU-2011-0387.

16 Q IS THE RECOVERY OF PLANT ADDITIONS AN APPROPRIATE BASIS FOR  
17 RECEIVING INTERIM RATES?

18 A No. In Case No. ER-2010-0036, Ameren Missouri requested interim rate relief  
19 associated with return, depreciation expense and income taxes for plant investments  
20 already placed in service. In that case, the Commission applied what it referred to as  
21 a "good cause shown" standard. However, in its Report and Order ("R&O") it stated:

22 "Although the Commission has claimed authority to grant interim rate  
23 increases on something less than an emergency basis, in practice, the

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1 "good cause shown" standard looks a lot like the "emergency"  
2 standard."

3 **Q HAS EMPIRE CLAIMED THAT IT NEEDS INTERIM RATE RELIEF TO MEET AN**  
4 **EMERGENCY?**

5 A No. Company witness Brad P. Beecher has only stated that it is time for Empire to  
6 begin to recover financially from the tornado and that the interim rate increase will  
7 start that recovery sooner. The Company has not claimed and has not shown that its  
8 financial integrity will be threatened, or that its ability to render safe and adequate  
9 service will be jeopardized if the interim relief is not granted.

10 **Q ARE EMPIRE'S EARNINGS ALREADY PROTECTED FROM THE EFFECTS OF**  
11 **THE PLANT ADDITIONS RESULTING FROM THE TORNADO?**

12 A Yes. In Case No. EU-2011-0387, Empire applied for and, following negotiations,  
13 agreed to accept an AAO, which allowed it to defer depreciation expense and  
14 carrying charges through the effective date of rates in the Company's next rate case,  
15 which is this case. Consistent with regulatory practice, this deferral will be amortized  
16 over a five year period beginning at the conclusion of this case. Therefore, Empire  
17 has already received (and has agreed to accept) special regulatory treatment to  
18 address tornado-related plant additions. Empire does not need additional regulatory  
19 consideration through interim rates.

20 **Q DO YOU HAVE ANY OTHER COMMENTS ON EMPIRE'S CALCULATION OF THIS**  
21 **COMPONENT OF ITS REQUESTED RELIEF?**

22 A Yes. Even if Empire's claim had merit, its calculation is in error.

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1 **Q PLEASE EXPLAIN.**

2 A Empire has failed to recognize the plant-related depreciation reserve ("DR") and  
3 accumulated deferred income tax ("ADIT") balances as offsets to the plant  
4 investment. Therefore, the investment on which Ms. Walters bases her calculation is  
5 overstated. The change in both the DR and ADIT balances associated with new plant  
6 would significantly reduce the investment, which is the basis for the return and related  
7 income tax expense for this component of Empire's interim revenue requirement  
8 calculation.

9 **Q WHY WOULD IT BE APPROPRIATE TO INCLUDE THE CHANGE IN THE DR AND**  
10 **ADIT BALANCES?**

11 A Inclusion of the DR and ADIT balances as a reduction to plant is an accepted  
12 regulatory practice in determining the revenue requirement associated with return on  
13 investment. This regulatory practice of reducing plant for the DR and ADIT balances  
14 has been previously accepted by the Commission. Indeed, Empire employs this  
15 practice in its calculation of the revenue requirement in the permanent rate case.

16 **Q ARE THERE OTHER REDUCTIONS TO REVENUE REQUIREMENT ASSOCIATED**  
17 **WITH THE CHANGE IN NET PLANT THAT SHOULD BE CONSIDERED?**

18 A Yes. All of the plant additions are replacing older facilities and there are likely  
19 improvements in efficiency. As a result, there should be cost savings related  
20 maintenance and efficiency improvements associated with the new plant. Therefore,  
21 Empire's calculation of the revenue requirement is overstated due to the fact that cost  
22 savings associated with the change in net plant have not been included. This

1 highlights the problem with focusing on only a few components of the cost of service  
2 in an interim rate proceeding rather than considering all relevant items.

3 **Q HOW WAS THE INTERIM RATE COMPONENT ASSOCIATED WITH LOST**  
4 **REVENUES CALCULATED?**

5 A Empire has compared the number of customers served in April 2011 with the  
6 customers served as of April 2012 and calculated the annual "net margin" associated  
7 with this reduction in customers.

8 **Q ARE REVENUE LOSSES AN APPROPRIATE BASIS FOR INTERIM RATE**  
9 **RELIEF?**

10 A No. As the Commission stated in the Conclusions of Law, Section IV, B of its R&O in  
11 Case Number GU-2011-0392 for Missouri Gas Energy, "Ungenerated revenue never  
12 has existed, never does exist, and never will exist. Revenue not generated, from  
13 service not provided, represents no exchange of value. There is neither revenue nor  
14 cost to record, in the current period nor in any other." Moreover, as I understand  
15 principles of regulation, there is no "guarantee" of a stream of income from operation  
16 of a utility. There is only an apparent entitlement to an **opportunity**, through prudent  
17 management, to make a positive rate of return.

18 **Q ARE THERE ANY OTHER SPECIAL REGULATORY MECHANISMS WHICH HAVE**  
19 **BEEN PUT IN PLACE TO PROTECT EMPIRE'S EARNINGS?**

20 A Yes. In addition to the AAO for deferral of depreciation and carrying cost on tornado  
21 related investments, Empire also received an AAO in Case No. EU-2011-0387

1 allowing it to defer the operation and maintenance ("O&M") expenses associated with  
2 the tornado.

3 **Q HAVE YOU EXAMINED THE STAFF'S RESPONSE IN OPPOSITION TO EMPIRE'S**  
4 **INTERIM RATE REQUEST ("RESPONSE")?**

5 A Yes. In its Response the Staff has also advanced several of the arguments I have  
6 presented in my testimony. In addition, the Staff performed analyses, both technical  
7 and legal, which demonstrate why the Commission should not grant the interim rate  
8 relief sought by Empire.

9 **Q WHAT DID STAFF'S ANALYSIS REVEAL ABOUT EMPIRE'S FINANCIAL**  
10 **CONDITION?**

11 A Staff's analysis revealed that in May of 2011 Empire's financial outlook was lowered  
12 by the rating agencies from positive to stable due to the uncertainty of the impact of  
13 the tornado on the Company's cash flows. However, as reported by  
14 Standard & Poor's ("S&P"), Empire's financial metrics actually strengthened in 2011.  
15 Staff's analysis also revealed that some of Empire's financial ratios, typically used by  
16 rating agencies, improved during 2011 compared to 2010 and 2009.

17 **Q WHAT DID STAFF CONCLUDE BASED ON THIS ANALYSIS?**

18 A Staff concluded that tornado damages and lost revenues did not cause a decline in  
19 the Company's financial ratios and that Empire is financially sound. Certainly, based  
20 on these indicia, Empire is well able to provide to its customers the safe and  
21 adequate service that is expected from a Missouri regulated utility.



1    **Q     DO YOU AGREE WITH STAFF'S CONCLUSIONS?**

2    A     Yes. In addition, Empire issued \$38 million of an \$88 million total placement of first  
3       mortgage bonds on April 2, 2012 and the remaining \$50 million on June 1, 2012, at  
4       an interest rate of 3.58%. This placement shows that Empire continues to have  
5       access to the capital markets to obtain financing at reasonable rates.

6    **Q     PLEASE SUMMARIZE YOUR TESTIMONY?**

7    A     Based on my analysis of Empire's request and my review of Staff's Response, the  
8       Company has not met the Commission's standard for granting interim rate relief.  
9       Also, Empire has already received significant protection from the tornado's effects on  
10      earnings through the granting of AAOs in case No. EU-2011-0387. Furthermore, not  
11      only is the cost of the plant component of the interim rate request incorrectly  
12      calculated, the Commission has previously ruled that the recovery of plant additions  
13      is not an appropriate basis for granting interim rate relief. Finally, with regard to lost  
14      revenues, the Commission has previously ruled that such ungenerated revenue never  
15      will exist and is not revenue or a cost in any period.

16                 Based on my analysis, I recommend that the Commission deny Empire's  
17      request for interim rate relief.

18   **Q     DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

19   A     Yes, it does.

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**Qualifications of Stephen M. Rackers**

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

2   A   Stephen M. Rackers. My business address is 16690 Swingley Ridge Road,  
3   Suite 140, Chesterfield, MO 63017.

4   **Q   PLEASE STATE YOUR OCCUPATION.**

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

7   **Q   PLEASE STATE YOUR EDUCATIONAL BACKGROUND AND PROFESSIONAL  
8   EMPLOYMENT EXPERIENCE.**

9   A   I graduated from the University of Missouri in 1978 with a Bachelor of Science Degree  
10   in Business Administration, with a major in Accounting. Subsequent to graduation I  
11   was employed by the Missouri Public Service Commission. I was employed with the  
12   Commission from June 1, 1978 until February 29, 2012.

13           I began my employment at the Missouri Public Service Commission as a  
14   Junior Auditor. During my employment at the Commission, I was promoted to higher  
15   auditing classifications. My final position at the Commission was an Auditor V, which I  
16   held for approximately 15 years.

17           As an Auditor V, I conducted audits and examinations of the accounts, books,  
18   records and reports of jurisdictional utilities. I also aided in the planning of audits and  
19   investigations, including staffing decisions, and in the development of staff positions in  
20   which the Auditing Department was assigned. I served as Lead Auditor and/or Case  
21   Supervisor as assigned. I assisted in the technical training of other auditors, which

1 included the preparation of auditors' workpapers, oral and written testimony.

2 During my career at the Missouri Public Service Commission, I presented  
3 testimony in numerous electric, gas, telephone and water and sewer rate cases. In  
4 addition, I was involved in cases regarding service territory transfers. In the context of  
5 those cases listed above, I presented testimony on all conventional ratemaking  
6 principles related to a utility's revenue requirement.

7 In March of 2012, I joined the firm of Brubaker & Associates, Inc. as a  
8 Consultant. The firm Brubaker & Associates, Inc. provides consulting services in the  
9 field of energy procurement and public utility regulation to many clients including  
10 industrial and institutional customers, some utilities and, on occasion, state regulatory  
11 agencies.

12 More specifically, we provide analysis of energy procurement options based  
13 on consideration of prices and reliability as related to the needs of the client; prepare  
14 rate, feasibility, economic, and cost of service studies relating to energy and utility  
15 services; prepare depreciation and feasibility studies relating to utility service; assist  
16 in contract negotiations for utility services, and provide technical support to legislative  
17 activities.

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

20 **Q PLEASE DESCRIBE ANY PROFESSIONAL REGISTRATIONS OR**  
21 **ORGANIZATIONS TO WHICH YOU BELONG.**

22 **A** I am a licensed Certified Public Accountant ("CPA") in the state of Missouri.

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