

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

In the matter of The Empire District)
Electric Company of Joplin, Missouri)
for Authority to File Tariffs Increasing) **Case No. ER-2012-0345**
Rates for Electric Service Provided to)
Customers in the Missouri Service)
Area of the Company)

PUBLIC COUNSEL’S STATEMENT OF POSITIONS

COMES NOW the Office of the Public Counsel and for its Statement of Positions states as follows:

RATE BASE

Iatan Plant

1. Should the disallowances ordered by the Commission in Case Nos. ER-2010-0355 and ER-2010-0356 with regard to Kansas City Power & Light and KCPL – Greater Missouri Operations also be ordered against Empire’s Iatan plant balances? (Mertens; McMellen)
2. Should carrying costs be adjusted? (Mertens; McMellen)

Public Counsel supports the position of the Staff on this issue.

Depreciation Reserve – Iatan Adjustments

Should the disallowances ordered by the Commission in Case Nos. ER-2010-0355 and ER-2010-0356 be made against Empire’s Iatan plant balances? (Mertens; McMellen)

Public Counsel supports the position of the Staff on this issue.

Joplin Tornado O&M Asset

Should the Joplin tornado O&M asset be included in rate base? (Keith; Bolin; Robertson)

The unamortized balance of deferred costs should not receive rate base treatment.

Maintenance Normalization Adjustments at Empire generation units

What is the appropriate normalization period or method of normalization for Empire’s generation units? (Mertens; Foster)

Public Counsel supports the position of the Staff on this issue.

Cash Working Capital (CWC)

What Billing lag should be used to adjust the overall Revenue lag for purposes of CWC? (Land; Harrison; Rackers)

Should fuel purchased power and cash vouchers be treated as prepayments, or reflected in the CWC calculation, or both? (Land; Rackers)

Public Counsel supports the position of the Midwest Energy Users' Association (MEUA) on this issue.

STATEMENT OF OPERATING INCOME

Fuel and Purchased Power

Net Base Fuel and Purchased Power Costs

(a) What amount of off-system sales revenue should be included in Empire's net base fuel and purchase power costs included in the revenue requirement used to set rates in this case? (Keith, Green, Rackers)

(b) What amount of REC revenue and certain post process fuel run adjustments should be included in net base fuel and purchased power costs included in the revenue requirement used to set rates in this case? (Keith, Tarter, Green)

(c) What amount of Plum Point demand charges should be included in net base fuel and purchased power costs included in the revenue requirement used to set rates in this case? (Tarter, Barnes, Foster)

Public Counsel supports the position of the Staff on this issue.

Economic Development Rider

Should non-participating customers be held harmless of the revenues foregone by Empire for service under an EDR? (Baker, Imhoff)

Public Counsel supports the position of the Staff on this issue.

Pay Station Fees

Should pay station fees be paid directly by the user at the time of the transaction or included in Empire's revenue requirement? (Baker, McMellen, Meisenheimer)

Pay-station cost recovery should continue to be included in Empire's revenue requirement.

FAC Tariff

(a) Should Empire be permitted to flow any SPP transmission costs and revenues through its FAC? (Keith, Barnes, Oligschlaeger, Beck, Rackers)

No. These costs and revenues cannot lawfully be flowed through the FAC.

(b) If so, which SPP transmission costs and revenues should flow through Empire's FAC?

These costs and revenues cannot lawfully be flowed through the FAC.

(c) Should Empire be required to make changes to its FAC tariff sheets to make the provisions of Empire's FAC more consistent with the FACs currently in place for other Missouri investor-owned electric utilities? If so, what changes should be made to Empire's FAC tariff sheets? (Keith, Barnes)

Public Counsel takes no position on this issue.

SPP Transmission Tracker

(a) If the Commission determines that Empire should not be permitted to flow SPP transmission costs and revenues through its FAC, should those transmission costs and revenues be deferred in a transmission cost and revenue tracker using the true-up test year amounts of those charges and

revenues as the base against which changes will be tracked, with amounts above the base booked to a regulatory asset and amounts below the base booked to a regulatory liability? (Keith, Oligschlaeger, Beck, Rackers, Robertson)

No. These costs should not be the subject of a tracker.

(b) If the Commission determines that Empire should be permitted to defer changes in transmission costs and revenues through a tracker, should any conditions apply to that tracker? If so, what conditions should apply? (Keith, Oligschlaeger; Robertson)

Public Counsel supports the position of the Staff on this issue.

SPP Transmission Expense

What is the appropriate level of SPP Transmission Expense to include in Empire's revenue requirement? (Keith, Bolin, Robertson, Rackers)

Public Counsel supports the position of the MEUA on this issue.

SPP Integrated Market Costs

Should test year costs incurred by Empire to prepare for and participate in the SPP Integrated Marketplace be included in the revenue requirement used to set rates in this case, or should some or all of those costs be deferred for consideration in a future rate case? (Mertens, Rackers, McMellen)

Public Counsel supports the position of the MEUA on this issue.

Rate case expense

Were prior rate case expenses amortized or normalized; if they were amortized, should Empire be allowed to recover the unamortized portion of prior rate case expenses? (Keith; Bolin; Roth)

Only a normalized level of costs from the current case should be reflected in rates.

Advertising

Should the costs of certain radio and TV advertisements be categorized as "general?" (Green; Land)

Public Counsel takes no position on this issue.

Outside services

What is the appropriate level of outside services expense? (Keith; Green; Rackers)

Public Counsel supports the position of the MEUA on this issue.

Property Insurance expense

What insurance policy should be used in the calculation of property insurance expense? (Keith; Bolin)

Public Counsel supports the position of the Staff on this issue.

Banking Fees

Should fees to secure short-term debt be expensed or capitalized? (Sager; McMellen; Rackers)

Public Counsel supports the position of the MEUA on this issue.

Payroll and Benefits - Incentive Compensation

1. What level of cash incentives based on performance goals should be included in the cost of service? (Walters; McMellen; Rackers)
2. Should executive stock awards included? (Walters; McMellen; Rackers)
3. Should lightning bolts be included? (Walters; McMellen; Rackers)

Public Counsel supports the position of the MEUA on this issue.

Dues and Donation – Including EEI Dues

What amount of test year dues and donations, including EEI dues, should be included in the revenue requirement used to set rates in this case? (Green; Keith; Addo)

Empire should be authorized to include an annualized balance of \$45,990.16 (total Company basis) in its rates for dues.

Depreciation and Amortization

What are the appropriate depreciation rates? (Sullivan; Robinett)

Public Counsel supports the position of the Staff on this issue.

Riverton Amortization

Should the Commission order an amortization associated with the projected retirements of Riverton 7 and 8? (Sullivan; Robinett; Robertson)

No, there should not be such an amortization.

Taxes

1. Property tax

What amount of property tax expense should be included in the revenue requirement used to set rates in this case? (McMellen; Rackers; Williams)

Public Counsel supports the position of the MEUA on this issue.

2. Current & Deferred income taxes

(a) Should an adjustment be made related to state income tax flow through for prior years? (Sager; Oligschlaeger)

(b) Should an adjustment be made for cost of removal tax issues related to prior years? (J. Warren; Sager; Oligschlaeger)

Public Counsel supports the position of the Staff on this issue.

Iatan/Plum Point Trackers

1. What is the appropriate base cost to be built into rates? (Keith; Foster)

2. What FERC accounts should be included in the tracker? (Keith; Foster)

Public Counsel supports the position of the Staff on this issue.

Bad Debt Expense

1. What level of bad debt expense should be included? (Keith, Green, Rackers, Robertson)

2. Should the revenue requirement be factored up for bad debts? (Keith, Green, Rackers, Robertson)

Vegetation Management Tracker

1. What is the proper level of expense? (Harrison; Walters)
2. What is the proper base level to be used in the tracker? (Harrison; Walters)

Public Counsel supports the position of the Staff on this issue.

Corporate franchise tax

Should the lower rate for 2013 corporate franchise taxes be included in Empire's revenue requirement? (Rackers; Williams)

Public Counsel supports the position of the MEUA on this issue.

Rate Design Issue - LED Street and Area Lighting

Within twelve months of the effective date of rates authorized by the Commission in this case, should Empire be required to complete its own evaluation of LED SAL systems and either (i) file proposed LED lighting tariff sheet(s), or (ii) update the Commission regarding when the Company intends to file such tariff sheet(s)? (Penning, Kang)

Public Counsel takes no position on this issue.

RATE DESIGN

Rate Design & Class Cost of Service

1. Does Staff's revenue proof contain Staff normalized billing units? If not, what adjustment should be made? (Keith; Scheperle)

2. What is the appropriate customer charge for the Residential class? (Scheperle; Meisenheimer)

The residential service (RG) and commercial service (CB) customer charges should not be changed.

3. What is appropriate per-class rate increase for this case? (Scheperle; Meisenheimer; Brubaker)
Class revenue increases should be allocated in the two step process. The first step should assign the revenue requirement associated with energy efficiency (EE) programs to rate schedules in proportion to "non-opt out" kWhs. The second step should spread any additional revenue increase to classes based on an equal percentage of current base rate revenue. Any required increase in the RG and CB revenues should be recovered through an equal percentage increase in volumetric rates.

DSM Cost Recovery

1. Should pre-MEEIA DSM programs be set forth on a separate tariff? (Keith; Scheperle; Meisenheimer; Brubaker)

2. Should pre-MEEIA DSM program costs be shown on a separate line item on customer bills? (Keith; Scheperle; Meisenheimer; Brubaker)

3. How should the pre-MEEIA DSM revenue requirement be grossed up? (Scheperle; Meisenheimer; Brubaker)

4. How should the pre-MEEIA DSM revenue requirement be allocated among Empire's customer classes? (Scheperle; Meisenheimer; Brubaker)

For purposes of resolving this case the pre-MEEIA DSM revenue requirement should be allocated to customer classes in proportion to "non-opt out" kWhs as proposed in the rebuttal testimony of Maurice Brubaker filed on behalf of the MEUA.

Low Income Weatherization

- (a) Should the maximum and average per-unit amount be eliminated? (Keith; Warren; Bickford)
- (b) Should Staff’s recommended tariff language revision be implemented? (Keith; Warren; Bickford)

Public Counsel takes no position on this issue.

RATE OF RETURN

- A. What value for the return on equity should the Commission use to determine Empire’s rate of return in the revenue requirement used to set rates in this case? (Vander Weide; Gorman; Atkinson)
- B. What capital structure should the Commission use to determine the rate of return included in the revenue requirement used to set rates in this case? (Vander Weide; Sager; Gorman; Atkinson)
- C. What is the appropriate cost of debt? (Sager; Atkinson)

Public Counsel supports the position of the Staff on this issue.

Asbury Unit Train

- 1. Was Empire’s sale of the Asbury unit train properly booked by Empire? (Sager; Robinett)
- 2. Were the lease proceeds associated with the Asbury unit train properly booked? (Sager; Robinett)
- 3. Did Empire properly book depreciation expense in the eight months immediately prior to the retirement of the Asbury unit train? (Sager; Robinett)

Public Counsel supports the position of the Staff on this issue.

WHEREFORE, Public Counsel respectfully submits this Statement of Positions.

Respectfully submitted,

OFFICE OF THE Public Counsel

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By: _____

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been emailed to parties of record this 13th day of February 2013.

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