

EXHIBIT

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OPC 018

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Witness/Type of Exhibit:

Mantle/Surrebuttal

Sponsoring Party:

Public Counsel

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ER-2016-0023

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SURREBUTTAL TESTIMONY

OF

LENA M. MANTLE

Submitted on Behalf of the Office of the Public Counsel

EMPIRE DISTRICT ELECTRIC COMPANY

CASE NO. ER-2016-0023

May 16, 2016

OPC Exhibit No. 18

Date 6-2-16 Reporter KRF

File No. ER-2016-0023

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI


In the Matter of The Empire District)
Electric Company's Request for)
Authority to Implement a General) Case No. ER-2016-0023
Rate Increase for Electric Service)

AFFIDAVIT OF LENA M. MANTLE

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

Lena M. Mantle, of lawful age and being first duly sworn, deposes and states:


1. My name is Lena M. Mantle. I am a Senior Analyst for the Office of the Public Counsel.
2. Attached hereto and made a part hereof for all purposes is my surrebuttal testimony.
3. I hereby swear and affirm that my statements contained in the attached testimony are true and correct to the best of my knowledge and belief.


Lena M. Mantle
Senior Analyst

Subscribed and sworn to me this 16th day of May 2016.



JERENE A. BUCKMAN
My Commission Expires
August 23, 2017
Cole County
Commission #13754037


Jerene A. Buckman
Notary Public

My Commission expires August 23, 2017.

SURREBUTTAL TESTIMONY

OF

LENA M. MANTLE

THE EMPIRE DISTRICT ELECTRIC COMPANY

CASE NO. ER-2016-0023

1 **Q. Please state your name and business address.**

2 A. My name is Lena M. Mantle and my business address is P.O. Box 2230, Jefferson
3 City, Missouri 65102.

4 **Q. Are you the same Lena M. Mantle that provided direct and rebuttal**
5 **testimony in this case?**

6 A. Yes.

7 **Q. Would you please summarize your surrebuttal testimony?**

8 A. In its direct testimony, the Office of the Public Counsel ("OPC") recommended
9 the Public Service Commission ("Commission") discontinue the Fuel Adjustment
10 Clause ("FAC") of the Empire District Electric Company ("Empire") because
11 Empire did not provide in its direct case Commission-mandated information to
12 justify continuation. Empire did not provide this information in its rebuttal filing,
13 either.

14 The Commission includes in its FAC rules certain customer protections
15 for electric utilities seeking an FAC including identification and complete
16 definitions of costs and revenues the utility is requesting. Commission rule 4

1 CSR 240-3.161(3)(H) requires “a complete explanation of all the costs that shall
2 be considered for recovery under the proposed [FAC]”. Likewise 4 CSR 240-
3 3.161(3)(I) requires “a complete explanation of all the revenues that shall be
4 considered in the determination of the amount eligible for recovery under the
5 proposed [FAC]”. Empire insists this is unnecessary, not because the rule has
6 changed, but because it was not provided in prior Commission decisions.

7 Commission rule also requires it to consider the magnitude and volatility
8 of any cost prior to the cost being included in an FAC.¹ Empire, in this case,
9 expects the Commission and parties to “deduce”² the magnitude of these costs and
10 go back to prior cases to determine their volatility. This is an improper shift of
11 the burden of proof by placing obligations on parties with an incomplete
12 knowledge base that will only result in the Commission having insufficient
13 evidence to make a decision. Therefore, it remains OPC’s recommendation that
14 the Commission discontinue Empire’s FAC. In the alternative, should the
15 Commission determine that Empire’s FAC should be allowed to continue, the
16 sharing mechanism should be changed to 90%/10% where Empire absorbs/retains
17 10 percent of any FAC costs and revenues above the FAC costs included in rates.
18 The customer is billed, positive or negative, 90 percent of the difference.

19

¹ 4 CSR 240-20.090(2)(C)

² Rebuttal testimony of Todd W. Tarter, page 10

1 **Q. Would you summarize your direct testimony?**

2 A. Yes. In my direct testimony,³ I recommended the Commission discontinue
3 Empire's FAC because Empire did not show the magnitude and volatility of the
4 costs and revenues it proposes to include in its FAC in order for the Commission
5 to make the appropriate, reasonable determination of the costs and revenues as
6 required by 4 CSR 240-20.090(2)(C).

7 **Q. Did Mr. Tarter provide the magnitude of the proposed FAC costs and**
8 **revenues in his rebuttal testimony?**

9 A. No. On page 10 of his rebuttal testimony, he asserts the magnitude of the costs
10 and revenues are filed "in this case" and "parties to the case can deduce the
11 magnitude of the costs and revenues."

12 **Q. Is this sufficient for the Commission to make its determination?**

13 A. No. Requiring other parties to search and find the magnitude of costs and
14 revenues is an unfair burden and places these parties in the impossible position of
15 seeking out information that they may not even know exists. Empire is in a better
16 position to provide the full scope of information the Commission is required to
17 have in order to make a proper determination.

18 **Q. Should the parties to the case provide this information to the Commission?**

19 A. No, they should not. Empire is requesting the continuation of its FAC and the
20

³ Page 3

1 burden is on it to provide the information necessary for the Commission to make
2 its determination regarding the continuation of an FAC. By expecting the parties
3 to the case to provide this information to the Commission, Empire is improperly
4 shifting its burden to these parties to prove the FAC should not be continued. The
5 fact is Empire is making this request and that alone shows they should be
6 obligated to show why its FAC should be continued.

7 **Q. You also mention Empire did not show in its direct testimony the volatility of**
8 **specific costs and revenues it proposes to include in its FAC. Did Mr. Tarter**
9 **provide information regarding the volatility of specific FAC costs and**
10 **revenues in his rebuttal testimony?**

11 A. No, he did not. Instead, he states the volatility was established in previous cases
12 including where the Commission first approved Empire's FAC. He then points to
13 recent FAC rate changes to show a pattern of volatility as opposed to showing
14 volatility under current circumstances.

15 **Q. Is this sufficient?**

16 A. No, it is not. Utility costs and revenues change over time as evidenced by
17 Empire's filings for rate increases. Mr. Tarter would have the Commission
18 believe volatility in FAC costs and revenue are the same in 2016 as was described
19 in Empire's FAC in 2008 as well as subsequent rate cases in which its FAC has
20 been continued. Yet, Mr. Tarter's direct testimony discusses how the Southwest

1 Power Pool Integrated Market (“SPP IM”) went live on March 1, 2014⁴ – almost 6
2 years after the Commission first approved Empire’s FAC. Mr. Tarter’s testimony
3 is inconsistent on this point: on one hand, Empire entered into a new realm with
4 the SPP IM that is expected to provide cost efficiencies. On the other hand, the
5 volatility of FAC costs and revenues has not changed since the Commission first
6 approved an FAC for Empire in 2008. Both of these cannot be true.

7 In addition, Mr. Tarter implies in prior rate cases Empire proved the
8 volatility of each cost and revenue it proposed to be included in this FAC when, in
9 fact, the volatility has changed from rate case to rate case. Now, there are costs
10 included in Empire’s current FAC that it did not even incur when its FAC was
11 first approved. It is unrealistic to assume the volatility of all the costs and
12 revenues Empire is requesting are included in its FAC are also detailed in
13 previous cases.

14 **Q. Is the change in the FAC rate described by Mr. Tarter in his rebuttal**
15 **testimony sufficient to determine volatility of the costs and revenues that**
16 **Empire is requesting be included in its FAC in this case?**

17 **A.** No, it is not. There are many costs and revenues included in Empire’s current
18 FAC. The change in the rate may be due to a large change in a few costs or
19 revenues. Or it could be due to smaller changes in many of the costs and

⁴ Page 19

1 revenues. If it is a few costs or revenues, then the rest are not volatile and should
2 not be included in Empire's FAC.

3 **Q. Did Mr. Tarter include in his rebuttal testimony descriptions of FAC costs**
4 **and revenues sufficient to meet the Commission's criteria of "complete"**
5 **explanations in response to your direct testimony?**

6 A. No, Mr. Tarter simply states the information currently filed contains "substantially
7 the same, if not more information as was contained in all [Empire's] prior filings."

8 **Q. If prior Commissions approved FAC's for Empire in previous cases with the**
9 **same or less information than was provided in this case, why should Empire**
10 **provide more information in this case?**

11 A. The Commission answered this question in its *Report and Order* in the recent
12 Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri") rate case
13 ER-2014-0258. In that case, OPC raised the same concern regarding Ameren
14 Missouri's failure to provide a complete explanation of all the costs and revenues
15 that Ameren Missouri wanted to be included in its FAC.⁵ Ameren Missouri
16 responded by testifying that the level of detail in Ameren Missouri's filing
17 matched what was offered in previous rate cases.⁶ In response, the Commission
18 stated on page 106:

19

⁵ Direct testimony of Lena M. Mantle, Ex. 400, pages 17-18

⁶ Rebuttal testimony of Lynn M. Barnes, Ex. 3, Page 7, lines 1-16

1 The minimum filings Ameren Missouri made in this case are
2 substantially similar to the filings it made in past rate cases and have
3 never been challenged in the past. That does not mean those minimum
4 filings cannot be improved in the future.
5

6 **Q. Why is it important to have better definitions?**

7 A. The Commission rule in 4 CSR 240-20.090(2)(C) requires that the Commission
8 determine the costs that are to be included in an FAC. The Commission
9 recognized this in its Report and Order in the in the recent Kansas City Power &
10 Light Company rate case, ER-2014-0370 when it stated “[We] should make the
11 determination as to what costs or revenues should flow through the FAC, not the
12 electric utilities.”⁷ Without complete explanations from Empire as required by the
13 Commission rule, there is no transparency regarding what Empire wants included
14 in the FAC. When asking for an FAC without detailed information, Empire is
15 asking the Commission to make decision regarding what costs and revenues
16 should flow through the FAC based on incomplete and inconclusive information.

17 **Q. Does this conclude your surrebuttal testimony?**

18 A. Yes.

⁷ EFIS item 592, page 39