

STEWART & KEEVIL, L.L.C.
ATTORNEYS AT LAW

ORIGINAL

CHARLES BRENT STEWART
JEFFREY A. KEEVIL

1001 CHERRY STREET
SUITE 302
COLUMBIA, MISSOURI 65201-7931

AREA CODE 573
TELEPHONE 499-0635
FACSIMILE 499-0638

WILLIAM M. SHANSEY
OF COUNSEL

May 3, 1999

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P.O. Box 360
Jefferson City, Missouri 65102

FILED

MAY 3 1999

Missouri Public
Service Commission

RE: Case No. EA-99-172

Dear Mr. Roberts:

Enclosed for filing in the above-referenced case pursuant to the procedural schedule are an original and fourteen (14) copies of the Rebuttal Testimony of William F. Burks on behalf of the City of Springfield, Missouri, through the Board of Public Utilities ("City Utilities of Springfield").

Copies of this filing have on this date been mailed or hand-delivered to counsel for parties of record. Thank you for your attention to this matter.

Sincerely,



Jeffrey A. Keevil

JAK/er
Enclosures

cc: counsel for parties of record

Exhibit No.:
Witness: William F. Burks
Type of Exhibit: Rebuttal
Sponsoring party: City Utilities of Springfield
Case No.: EA-99-172

MISSOURI PUBLIC SERVICE COMMISSION

REBUTTAL TESTIMONY OF

WILLIAM F. BURKS

on behalf of

CITY UTILITIES OF SPRINGFIELD

CASE NO. EA-99-172

JEFFERSON CITY, MISSOURI

MAY 3, 1999

Exhibit No. 5
Date 8-2-99 Case No. EA 99-172
Reporter KF

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI
CASE NO. EA-99-172
REBUTTAL TESTIMONY OF WILLIAM F. BURKS

1 Q. Please state your name and business address

2 A. My name is William F. Burks and my business address is 301 East Central Street,
3 Springfield, MO 65801.

4 Q. By whom are you employed and in what capacity?

5 A. I am the Executive Senior Manager – Electric Systems for City Utilities of Springfield in
6 Springfield, Missouri.

7 Q. Have you been authorized to appear in this proceeding on behalf of City Utilities of
8 Springfield?

9 A. Yes, I have been authorized to do so by Robert E. Roundtree, General Manager of City
10 Utilities of Springfield.

11 Q. Please outline your educational background and professional experience.

12 A. I hold a Bachelor of Science degree from Southwest Missouri State University and a
13 Masters of Business Administration degree from Drury College, both located in
14 Springfield, Missouri. I began my employment with City Utilities of Springfield in
15 March 1978 at the James River Power Station. I have held various management positions
16 in the electric area since that time including Manager – Electric Transmission and
17 Distribution, Senior Manager – Operations, and Senior Manager – Electric Systems.

18 Q. Please describe your duties as Executive Senior Manager, Electric Systems.

1 A. I have executive management level responsibility for all of City Utilities of Springfield's
2 electric operations including power production, transmission and distribution, customer
3 field services, power quality, tree management engineering, coal procurement, and
4 telecommunications.

5 Q. Please briefly describe City Utilities of Springfield ("CUS") and where it operates.

6 A. City Utilities of Springfield is a municipal utility that is responsible for the generation,
7 transmission, and distribution of electric power; the acquisition, transportation, and
8 distribution of natural gas; and the acquisition, treatment, and distribution of water; plus
9 the operation of the bus transportation system. City Utilities of Springfield's service
10 territory covers approximately 320 square miles, which includes all of the City of
11 Springfield, portions of Greene County, and a part of northern Christian County. It is a
12 publicly-owned utility that is governed by an eleven-member Board of Public Utilities,
13 nine of which are customers inside the City limits and two outside, who are appointed by
14 the City Council for three-year terms. At the end of December 1998, the utility had
15 approximately 100,000 retail customers.

16 Q. What is the purpose of your rebuttal testimony in this proceeding?

17 A. To respond to Mr. Palmer's testimony on behalf of The Empire District Electric
18 Company ("Empire") and to address Empire's request to expand its certificated service
19 area. My testimony will show that the Commission should not grant Empire's request.

20 Q. Could you please summarize your rebuttal testimony?

21 A. Yes, it is requested that the Commission deny Empire's request for the expanded service
22 territory. The area surrounding Springfield is already being adequately served by several
23 utilities. In many areas of Empire's request there are two sets of facilities (pole lines)

1 already in existence to serve the customers and to provide any new customer with more
2 than one provider from which they can choose. Safety of utility workers is an extremely
3 important issue in this case and where there is duplication of facilities, the possibility of a
4 lineworker being injured increases tremendously. Aesthetics is another factor that must
5 be considered in this case. The public as a whole simply does not like to see power lines,
6 and in areas where there are numerous sets of power lines, this issue is even more
7 pronounced. Costs are also an important issue in this case. First, from the standpoint of
8 rates to the customer, City Utilities of Springfield's rates compare very favorably to
9 Empire's, as do the rates of other service providers in the requested area. There is not a
10 rate disparity issue in the requested area. Second, any time services are duplicated to
11 serve a given area it means additional costs are incurred to serve that area. These
12 additional costs must be passed on to the customers in one form or another. Deregulation
13 of the electric industry is also a factor that must be considered in Empire's request. Many
14 states already have moved to provide customers' choice through legislative action and
15 Missouri is working to provide choice as well. When this happens in the very near
16 future, all customers will be provided the freedom of choice through only one set of
17 facilities, not two or more. Given the numerous issues that clearly show there will be
18 absolutely no benefit to the customer and, in fact, there will be costs to the customer in
19 the form of aesthetics degradation, safety concerns, and future rate increases, we see no
20 need for Empire to build more facilities to serve an area that is already being served by
21 more than one supplier. We once again request the Commission deny Empire's request
22 for the expanded service territory.

23 Q. You stated that duplication of facilities could create a safety problem; what do you mean?

1 A. Any time there are more than one supplier's facilities in a given area there is the
2 possibility for a lineworker to make a simple mistake and come in contact with the wrong
3 set of lines. This is especially a possibility during storm restoration or when a lineworker
4 believes a line is de-energized and then goes to work (makes contact) with another
5 electric company's energized line. This could result in a worker being killed or seriously
6 injured. There is also the chance of a lineworker checking the wrong line and believing
7 the line he/she is patrolling is in good working condition, then re-energizing the wrong
8 line. This could result in the line the lineworkers were supposed to be patrolling laying
9 on the ground or on someone's house or vehicle and being re-energized. This could
10 result in someone from the general public being killed or seriously injured.

11 Q. You stated that in Empire's requested area there already exist several utilities serving the
12 customers; please explain that statement in greater detail.

13 A. In all of the requested area there already exists at least one supplier meeting the needs of
14 the customers, either a municipal (CUS) or a co-op (Ozark, Southwest, or Webster). In
15 several locations there are already two suppliers in the same area. An example of this is
16 along state road FF and Republic road where CUS has a pole line on one side of the road
17 and Ozark has a pole line on the other side of the same road. There are numerous
18 locations in the requested area where this identical situation exists with CUS being on
19 one side of the road and either Ozark, Southwest, or Webster on the other. In many of
20 these areas there simply is not room for a third set of poles along the roadway.

21 Q. You stated that costs are an issue in this case; please explain in greater detail the two
22 costs to which you referred.

1 A. The cost to a customer for a commodity, in this case electrical energy, should always be
2 an issue and I am certain it is in this case as well. In this case there currently is very little
3 difference in the price of electrical energy to the customer by any of the providers in the
4 requested area. The new customers within the requested area will not be severely
5 impacted from a cost standpoint if they choose the existing supplier that is serving the
6 area or if they choose Empire (under Empire's existing rates). The other area where cost
7 is an issue is the cost for Empire to build duplicate facilities in the requested area. The
8 costs of those new facilities or of the existing facilities will ultimately be borne by the
9 end consumer. When there already exists one or more sets of facilities to serve the
10 customer and to give the customer a choice of supplier it appears unfair to those future
11 customers to unfairly burden them with the cost of new facilities.

12 Q. Does CUS believe in freedom of choice for the customer and in competition?

13 A. Absolutely. Other than in areas where there is an exclusive franchise granted to one
14 supplier for the purpose of eliminating the duplication of facilities, CUS is a strong
15 supporter of freedom of choice for the customer and of a competitive environment as
16 well. However, in this case the freedom of choice and a competitive environment already
17 exist to the extent that it can safely. When freedom of choice and competition already
18 exist and it is clear there is no cost advantage to the customer, and that the safety of
19 lineworkers and the public will clearly be compromised by the entrance of an additional
20 supplier, then CUS is and will continue to be opposed to allowing the new supplier into
21 that area.

22 Q. You stated that deregulation of the electric industry will provide customers choice
23 through only one set of facilities. Please explain that statement in more detail.

1 A. As stated in my summary, many states already have enacted legislation to deregulate the
2 electric industry, thus, providing the customer with choice. In the majority of the states
3 that have passed this legislation, it has been done in a manner that provides the customer
4 with choice of their energy provider through the existing set of poles and wires that serve
5 their premises. Numerous components make up the service of providing electrical power
6 to a customer. The typical breakdown of those components is the generation or energy
7 component; the transmission and distribution, or poles and wires component; and the
8 customer service or meter reading and billing component. Typically the most costly
9 component of the three pieces is the generation or energy. This energy component is
10 what most states have made competitive and have allowed choice of suppliers for their
11 customers. This energy can be delivered from any source to any customer through any
12 supplier's poles and wires. As an example, suppose a customer is presently served by
13 CUS and that customer wants to become an energy customer of Empire. In a deregulated
14 environment, all the customer has to do is notify both parties of their desire and complete
15 a contract with Empire. The same set of poles and wires that was delivering CUS energy
16 today will deliver Empire's energy tomorrow. No new poles and wires are required to
17 provide the customer choice.

18 Q. Empire has provided estimates of their new construction costs and new projected
19 revenues for the requested area; do these estimates look in line with what you would
20 expect?

21 A. I do not know exactly what Empire's construction costs per foot are or how much line
22 they plan to build. However, in general the numbers that are presented appear to be low
23 for the amount of new facilities that would have to be built to get Empire's facilities in

1 the areas requested. Also, the revenue numbers they presented are far greater than any
2 numbers CUS would expect for the total growth of all new customers in the requested
3 area. It appears the construction cost estimates are low and the respective revenue stream
4 is greatly overstated.

5 Q. Does the attached map showing the requested area provide information on the duplication
6 of services you mentioned earlier?

7 A. Yes it does. The map (Schedule 1) shows, by means of different colored areas, where the
8 existing suppliers have facilities and are presently serving customers. It also shows, by
9 means of the dark outlined area, where Empire has requested the Commission grant them
10 additional service territory. This clearly shows specific areas where duplication of
11 facilities presently exists.

12 Q. The map you provided shows, by means of a dark dashed line, the original Springfield
13 Gas and Electric (SG&E) service territory of 1942. This original SG&E territory is the
14 present day service territory of CUS. There are several locations where it appears CUS
15 has facilities outside of their assigned service territory. Would you please address this
16 and explain.

17 A. Actually there are four areas where CUS has facilities outside the assigned territory. I
18 will address each one separately. The area along State Highway 00 to State Road 125,
19 just east of the Strafford city limits, has approximately four spans of line outside the
20 assigned territory. This is a tie point for our existing line along State Road 125; no
21 customer will be attached to the line outside the assigned territory. In the area along
22 State Road 197 and State Road 94, which is in the same general location as the above
23 mentioned line, there are approximately ten spans total of which most are original

1 facilities of the SG&E system. No new customers will be attached to this line outside the
2 assigned territory. In the area along State Road 44 west of State Highway 13, this line
3 serves a CUS owned booster pump station on our raw water line that runs from Stockton
4 Lake to Fellows Lake. No customers will be attached to the line outside the assigned
5 territory. The area at State Roads 134 and 85 is actually a map error. We do not have
6 any facilities, nor do we serve any customers, outside the assigned territory in this area.

7 Q. Does this conclude your rebuttal testimony at this time?

8 A. Yes it does.

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

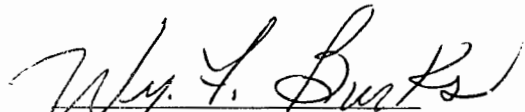
In the Matter of the Application of The)
Empire District Electric Company for a)
Certificate of Public Convenience and)
Necessity Authorizing it to Construct,)
Install, Own, Operate, Control, Manage,)
and Maintain an Electric Transmission)
and Distribution System to Provide Electric)
Service in an Area in Greene County,)
Missouri.)

Case No. EA-99-172

AFFIDAVIT OF WILLIAM F. BURKS

STATE OF MISSOURI)
) ss.
COUNTY OF GREENE)

William F. Burks, having been duly sworn, upon his oath, states that his is Executive Senior Manager, Electric Systems, of City Utilities of Springfield, Missouri, and as such, is duly authorized to make this affidavit on its behalf, that the matters and things stated in the foregoing Rebuttal Testimony are true and correct to the best of his knowledge, information and belief.



William F. Burks

SUBSCRIBED AND SWORN to before me this 26th day of April, 1999.



Notary Public

My Commission Expires:

March 15, 2002

(seal)