BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of The Empire District Electric Company for Authority to File Tariffs Increasing Rates for Electric Service Provided to Customers in the Company's Missouri Service Area	))))	Case No. ER-2014-0351

THE EMPIRE DISTRICT ELECTRIC COMPANY'S
POST-HEARING REPLY BRIEF

COMES NOW The Empire District Electric Company ("Empire" or "Company"), by and through counsel, and submits its Post-Hearing Reply Brief in response to the Initial Posthearing Brief of Midwest Energy Consumers Group ("MECG"). In this regard, Empire respectfully states as follows to the Missouri Public Service Commission ("Commission"):

Stipulations

All parties to this proceeding, with the exception of MECG,[1] reached a global settlement of all issues in this proceeding. This global settlement was executed in two parts. The first part of the global settlement, the Revised Stipulation and Agreement and List of Issues filed herein on April 8, 2015 (the "Revised Stipulation"), may be treated as unanimous by the Commission pursuant to 4 CSR 240-2.115(2)(C), as MECG stated its non-objection to this document. The Revised Stipulation contains an agreed-to revenue requirement number and addresses the majority of issues in this case, including all true-up issues. The pre-filed testimony of the parties, which has been admitted into evidence herein, provides competent and substantial evidentiary support for the Commission's approval and adoption of the Revised Stipulation.

The second part of the global settlement of all parties except MECG is the Non-Unanimous Stipulation and Agreement on Certain Issues filed herein on April 8, 2015 (the

[1] The Revised Stipulation was signed by Empire, the Staff of the Commission ("Staff"), the Office of the Public Counsel ("OPC"), the City of Joplin ("Joplin"), the Missouri Department of Resources – Division of Energy ("DE"), and the Midwest Energy Users' Association ("MEUA").

"Non-Unanimous Agreement"). MECG objected to the Non-Unanimous Agreement and requested a hearing. As such, although part of the global settlement, the Non-Unanimous Agreement became the joint position statement of the signatories on the issues addressed therein (the "Joint Recommendation"). The Commission must make specific findings of fact as to the issues addressed in the Non-Unanimous Agreement, but may then, based on the record evidence, make the additional finding that acceptance of the Joint Recommendation is a fair and reasonable resolution of those issues.[2]

Discussion and Argument Regarding Contested Issues

The Joint Recommendation is a fair and reasonable resolution of the contested issues in this proceeding. The pre-filed testimony of the parties, which has been admitted into evidence, provides competent and substantial evidentiary support for this Joint Recommendation. MECG's positions to the contrary are not supported by the record, and acceptance of the same by the Commission would be unjust and unreasonable.

FAC: Should SPP transmission costs and revenues be included? If so, what transmission costs and revenues should be included?

Southwest Power Pool ("SPP") transmission costs and off-setting revenues should be included in Empire's fuel adjustment clause ("FAC"), as detailed in Exhibit 3 to the Non-Unanimous Agreement.[3] As set forth in the Non-Unanimous Agreement, it is the Joint Recommendation of all parties to this proceeding, with the exception of MECG, that total fuel and purchased power for Empire's FAC base shall include net transmission (costs minus revenues) of $4,894,040. Pursuant to the Joint Recommendation, the FAC should exclude SPP

[2] This is similar to the procedural setting in Missouri-American Water Company's rate case proceeding, Commission Case No. WR-2007-0216, et al.

[3] Non-Unanimous Agreement Exhibit 3, showing the subaccounts to be included in Empire's FAC at this time, is also attached to Empire's Initial Post-Hearing Brief.

Schedule 1A and 12 charges and should exclude Empire's labor, administrative, and convention costs from Account 501.

On page 19 of its Initial Posthearing Brief, MECG states that "Missouri law authorizing fuel adjustment clauses only allows for the inclusion of transmission costs to the extent that those costs are related to the transmission of purchased power to Empire's load or the sale of excess energy." This assertion is based solely on the recent Commission decision in Case No. ER-2014-0258.[4] This Commission, however, is not obligated to reach the same conclusions in this case as it did in Case No. ER-2014-0258, involving Union Electric Company d/b/a Ameren Missouri ("Ameren").

In footnote 10 of MECG's Initial Posthearing Brief, MECG sates that it "originally" recommended that the Commission disallow *all* transmission costs, but that MECG has now "reduced its recommendation" to be consistent with the recent Ameren decision. As discussed in detail in Empire's Initial Post-Hearing Brief, there are significant differences between the Ameren case and the instant Empire proceeding. In this Empire proceeding, no party raised the legal issue of whether transmission costs for purchased power should or should not include transmission costs related to self-generated power, and no evidence was introduced by the parties to allow the Commission to make findings of fact in this regard.

Until the Commission indicated how it would be deciding this issue in the Ameren rate case, MECG's only position on this issue in this Empire proceeding was that *all* SPP transmission costs should be included in base rates – and should not flow through the FAC. In line with the parties' positions in this Empire proceeding, MECG argued that the benefits of the

[4] In Ameren's prior rate case, Commission Case No. ER-2012-0166, the Commission authorized Ameren to include all MISO transmission expense in its FAC. That decision was affirmed on appeal. *In the Matter of Union Electric Company*, 422 S.W.3d 358 (Mo.App. W.D. 2013).

SPP integrated marketplace should be "more quantifiable" before the costs flow through the FAC, and Empire and the Staff of the Commission presented competent and substantial evidence to support their position that SPP transmission costs and offsetting revenues should flow through the FAC as set forth in the Joint Recommendation.

Based on the evidence and arguments which were presented to the Commission in this Empire proceeding, it would be unlawful and unreasonable for the Commission to decide this issue as it did in the Ameren rate case.

Misc. Tariffs: Should Empire be required to submit a Large Power rate schedule in its next case that recognizes a time differentiated facilities demand charge?

Empire should not be required to submit, in its next rate case, a LP rate schedule that recognizes a time differentiated facilities demand charge. As explained in the Surrebuttal Testimony of Empire witness Scott Keith, Exhibit No. 108, at page 13, Empire's billing system does not accommodate the requested use of a time-of-use rate. This type of billing would necessitate an unreasonable level of manual intervention in the billing process. The only evidence presented by MECG to support its argument to the contrary is a statement from MECG witness Maini that Empire currently has two rate schedules (SC-P and SC-t) which provide for a time-differentiated billing charge.

This MECG testimony, however, does not refute Empire's argument that this type of billing would necessitate an unreasonable level of manual intervention in the billing process. Schedule SC-P is for only one customer – Praxair, Inc., and Empire does not have any customers taking service under schedule SC-t. It would be an undue burden on Empire – and an unreasonable cost causer for Empire's other customers – for Empire to be required to provide a time-differentiated billing charge for all of its large power customers.

Class Cost of Service and Rate Design:

On pages 4-6 and 9-12 of MECG's Initial Posthearing Brief, MECG presents arguments regarding Empire's industrial rates relative to the rest of the country, pointing to the Commission's "unprecedented step of setting rates for Noranda based upon incremental cost rather than fully embedded cost" in the recent Ameren rate case. Again, there are significant differences between the recent Ameren rate case and this Empire proceeding. Nothing was presented in this Empire proceeding with regard to any customer – or any class of customers – needing a reduced rate or revised rate structure in order to remain on Empire's system.

Empire's industrial rates relative to the rest of the country are not relevant to the setting of just and reasonable rates based on the record evidence in this proceeding. If the Commission finds these rate comparisons useful or informative, Empire encourages the Commission to also review the rate comparison chart compiled by the Office of the Public Counsel, Exhibit 285.

Pursuant to the Joint Recommendation, Staff's proposed rate design and revenue allocation methodology should be used in this case, with one modification: there shall be no increase in the residential customer charge at this time. Staff's testimony supports a revenue neutral shift – or increase – to the residential class of .75% and a .85% *decrease* for Large Power, Total Electric Billing Service, and General Power Service rate classes. MECG, on the other hand, would like larger shifts, favoring those particular Large Power customers.

MECG's own witness on this topic admits that the Joint Recommendation on rate design and revenue allocation methodology is a step toward moving the residential class to true cost of service and is a step toward moving the Large Power, Total Electric Billing Service, and General

Power Service rate classes to true cost of service.[5] The pre-filed testimony of Staff, which has been admitted into evidence herein, provides competent and substantial evidentiary support for the Joint Recommendation on these issues.

WHEREFORE, Empire respectfully submits its Post-Hearing Reply Brief and requests such relief as is just and proper under the circumstances.

Respectfully submitted,

BRYDON, SWEARENGEN & ENGLAND P.C.

By:

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ATTORNEYS FOR THE EMPIRE
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CERTIFICATE OF SERVICE

I hereby certify that the above and foregoing document was filed in EFIS and that a copy of the same was sent via electronic mail on this 29th day of May, 2015, to all counsel of record.

/s/ Diana C. Carter_____

[5] Hearing Volume 7, pp. 165-166.