

Exhibit No.:  
Issue: Rules & Regulations-Revisions  
Witness: Martin O. Penning  
Type of Exhibit: Direct Testimony  
Sponsoring Party: Empire District Electric  
Case No. ER-2011-0004  
Date Testimony Prepared: September 2010

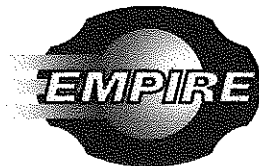
**Before the Public Service Commission  
of the State of Missouri**

**Direct Testimony**

**of**

**Martin O. Penning**

**September 2010**



**SERVICES YOU COUNT ON**

DIRECT TESTIMONY  
OF  
MARTIN O. PENNING  
THE EMPIRE DISTRICT ELECTRIC COMPANY  
BEFORE THE  
MISSOURI PUBLIC SERVICE COMMISSION  
CASE NO. ER-2011-0004

1 **INTRODUCTION**

2 **Q. PLEASE STATE YOUR NAME AND ADDRESS.**

3 A. My name is Martin O. Penning and my business address is 602 South Joplin Avenue,  
4 Joplin, Missouri.

5 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

6 A. I am presently employed by The Empire District Electric Company (“Empire” or  
7 “Company”) as Director of Commercial Operations – Western Division. I have held  
8 this position since June 2008.

9 **Q. PLEASE STATE YOUR EDUCATIONAL BACKGROUND AND**  
10 **PROFESSIONAL EXPERIENCE.**

11 A. I graduated from Missouri University of Science & Technology (formerly University  
12 of Missouri – Rolla) in 1980 with a Bachelor of Science degree in Electrical  
13 Engineering. I began employment with Empire in May 1980. I have held numerous  
14 engineering positions with Empire, including Director of Engineering. I have also  
15 held the positions of Director of Strategic Planning, Director of Planning &  
16 Regulatory and Director of Commercial Operations – Eastern Division prior to my  
17 present position.

18 **PURPOSE**

19 **Q. WHAT IS THE PURPOSE OF YOUR DIRECT TESTIMONY IN THIS**

1       **PROCEEDING BEFORE THE MISSOURI PUBLIC SERVICE**  
2       **COMMISSION (“COMMISSION”)?**

3       A. My testimony will support the proposed revisions to Rules and Regulations in  
4       Empire’s tariff.

5       **Q. WHY ARE THE PROPOSED REVISIONS TO EMPIRE’S RULES AND**  
6       **REGULATIONS NECESSARY?**

7       A. It has been several years since a comprehensive review of the existing rules and  
8       regulations was performed by Empire, and over the years grammatical errors had  
9       entered the document. In addition, the phrasing of some of the sentences was  
10      awkward making the rules and regulations difficult to understand. However, more  
11      importantly, our review also identified a number of more significant items that  
12      warranted an update or revision to the rules and regulations, such as the need to  
13      change certain terms to reflect updated operating practices.

14      **Q. PLEASE PROVIDE EXAMPLES OF THE GRAMMATICAL ERRORS**  
15      **EMPIRE IS PROPOSING TO CORRECT IN THIS CASE.**

16      A. The definition of “Central Service Pole” found on Sheet 1, second sentence, the  
17      word “is” needed to be inserted and the word “attach” should have been “attached.”

18      **Q. PLEASE PROVIDE EXAMPLES OF THE TERMS CHANGED TO**  
19      **REFLECT UPDATED OPERATING PRACTICES.**

20      A. Our review found that the rules and regulations did not reference some of the newer  
21      technologies and practices used by the industry and that some of the existing terms  
22      used in the rules and regulations needed to be “modernized.” Examples include:  
23      “electronic” communication (Sheet 1 in the definition of “Bill”), the term “call

1 center” (Sheet 11, G.), the term “cellular communications” (Sheet 23.D.3.b.), etc.  
2 There were also some industry terms that have changed through the years, including:  
3 the term meter “socket” rather than meter “base” and the word “antenna” is more  
4 often used than the word “aerial”, etc. These types of changes or improvements  
5 were made throughout the proposed rules and regulations.

6 **Q. PLEASE PROVIDE EXAMPLES OF SOME OF THE MORE SIGNIFICANT**  
7 **CHANGES AND EXPLAIN WHY THE CHANGES WERE MADE.**

8 A. Sheet 6, A.4.a., Service Established to Premises, specifies the minimum number of  
9 days in advance that customers who are applying for service at an established  
10 location must make application and contract with Empire. Our proposed revision  
11 reduces the number of days from five days to three days. The change was made  
12 because three days still provides the customer with adequate time to establish a  
13 contract with Empire.

14  
15 Another proposed change is the addition of language that enables Empire to refuse  
16 service to customers that have constructed or moved structures onto the Company’s  
17 rights-of-way or easements (Sheet 7, B.1.j.). This language was added because of  
18 safety concerns and the code violations that can occur when customers build on  
19 Empire’s rights-of-way or easements. In addition to the safety concerns, these  
20 customer structures can inhibit or block Empire’s ability to maintain its facilities and  
21 perform required vegetation management. Unfortunately, many customers are more  
22 inclined to correct these problems prior to receiving service rather than afterward.

23

1 On Sheet 9.D.6., Mobile Home Park, language was added to the rules and  
2 regulations concerning underground service and to recognize Empire's long-standing  
3 requirement that mobile home park owners utilize, for a fee, Empire owned, installed  
4 and maintained meter pedestals. Empire has encountered problems in this area in the  
5 past, when mobile home park owners installed inferior quality equipment for which  
6 repair parts could not be obtained and which many times created safety concerns.  
7 As a result of these problems, Empire chose to provide equipment and service,  
8 which alleviates these problems both for the park owner and Empire. The proposed  
9 language documents this long-standing practice.

10 **Q. ARE THERE OTHER PROPOSED CHANGES TO THE RULES AND**  
11 **REGULATIONS YOU HAVE NOT SPECIFICALLY MENTIONED IN**  
12 **YOUR TESTIMONY?**

13 A. Yes. The proposed rules and regulations include numerous other changes not  
14 specifically mentioned in this testimony. However, these changes are easily  
15 identified in the marked up version of the proposed rules and regulations which are  
16 attached to my testimony as Schedule MOP-1.

17 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

18 A. Yes.

**AFFIDAVIT OF MARTIN O. PENNING**

STATE OF MISSOURI )  
                              ) ss  
COUNTY OF JASPER )

On the 21st day of September, 2010, before me appeared Martin O. Penning, to me personally known, who, being by me first duly sworn, states that he is the Director of Commercial Operations – Western Division of The Empire District Electric Company and acknowledges that he has read the above and foregoing document and believes that the statements therein are true and correct to the best of his information, knowledge and belief.

*Martin O. Penning*  
\_\_\_\_\_  
Martin O. Penning

Subscribed and sworn to before me this 21st day of September, 2010.

*Vicki L. Kramer-Gibson*  
\_\_\_\_\_  
Notary Public

My commission expires: 10-30-10.

