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**MISSOURI PUBLIC SERVICE COMMISSION**

**REGULATORY REVIEW DIVISION**

**UTILITY SERVICES - AUDITING**

**INTERIM REBUTTAL TESTIMONY**

**OF**

**MARK L. OLIGSCHLAEGER**

**THE EMPIRE DISTRICT ELECTRIC COMPANY**

**CASE NO. ER-2012-0345**

*Jefferson City, Missouri*

*August 2012*

*Staff* Exhibit No. 7  
Date 8-10-12 Reporter KF  
File No. ER-2012-0345

**STAFF EXHIBIT 7**

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**CASE NO. ER-2012-0345**

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1 Commission. I have also been responsible for the supervision of other Commission  
2 employees in rate cases and other regulatory proceedings many times. I have received  
3 continuous training at in-house and outside seminars on technical ratemaking matters since  
4 I began my employment at the Commission.

5 Q. Have you participated in the Commission Staff's ("Staff") review of  
6 The Empire District Electric Company's ("Empire" or "Company") July 6, 2012, request for  
7 interim electric rate relief that it filed contemporaneously with its general electric rate case  
8 where it is seeking to increase its permanent electric rates?

9 A. Yes, I have, with the assistance of other members of the Staff.

10 Q. What is the purpose of your rebuttal testimony?

11 A. The purpose of this testimony is to provide an overview of the Staff's position  
12 on Empire's request for interim rate relief which is described in the direct testimonies of  
13 Empire witnesses Kelly S. Walters, Robert W. Sager and Brad P. Beecher.

14 **EXECUTIVE SUMMARY**

15 Q. Why are you testifying?

16 A. I explain why the Commission should require utilities to show they face a true  
17 financial "emergency" or "near-emergency" before it allows them interim rate relief, and that  
18 the Commission should reject Empire's request to increase its rates on an interim basis  
19 because the testimonies of Empire witnesses Walters, Sager and Beecher do not make that  
20 showing.

21 Q. Are you the only Staff witness that is providing testimony on Empire's interim  
22 rate request?

1 A. No. The following witnesses are providing rebuttal testimony on the issues  
2 identified:

3 Shawn E. Lange – Empire’s Customer Numbers, Weather, and Rate Revenues

4 Shana Atkinson – Empire’s Financial Condition

5 Lena M. Mantle – Empire’s Fuel and Purchased Power Costs

6 **OVERVIEW OF INTERIM RATE RELIEF**

7 Q. What is Empire’s interim rate request?

8 A. Empire is requesting an increase of approximately \$6.2 million be allowed to  
9 go into effect immediately, without suspension. Empire characterizes the amount of its  
10 interim increase request to be based upon certain financial impacts it alleges were caused by  
11 the tornado which struck Empire’s service territory in the Joplin, Missouri, area on May 22,  
12 2011.

13 Q. How has the Commission responded to Empire’s request?

14 A. On July 23, 2012, the Commission ordered Empire’s interim tariff sheets to be  
15 suspended until December 3, 2012, to allow additional testimony to be filed and hearings  
16 held on its interim rate request.

17 Q. Is Empire also requesting permanent rate relief?

18 A. Yes. In this same case, Case No. ER-2012-0345, Empire is requesting  
19 Commission authorization to increase its Missouri jurisdictional electric rates by  
20 \$30.7 million.

21 Q. What are “interim” and “permanent” rates?

1           A.     Permanent rates are rates the Commission authorizes, when justified, after  
2 reviewing all relevant factors. By statute, the Commission must rule on requests for  
3 permanent rate relief within eleven months of the utility's tariff filing (the operation-of-law  
4 period). When the Commission grants permanent rate relief, the new rates are considered to  
5 be just and reasonable until such time that the Commission authorizes changed rate levels in  
6 response to a new rate increase request by the utility or a complaint case initiated by the  
7 Commission Staff or other parties.

8           It is my understanding that a utility may only request interim rate relief if the utility  
9 concurrently seeks permanent rate relief. Generally, the interim increases granted are made  
10 subject to refund. That refund is determined by comparing (on an annual basis) the amount  
11 of interim rate relief to the amount of the permanent rate relief. If the interim rate relief  
12 amount is greater than the permanent rate relief amount, then the difference, plus appropriate  
13 interest, is returned to the utility's customers.

14           Q.     Why aren't permanent rate requests processed as quickly as interim rate  
15 requests?

16           A.     The Commission considers all relevant factors when reviewing permanent rate  
17 requests, but less than all relevant factors when granting interim rate relief. The operation-  
18 of-law period of eleven months for a permanent rate relief request allows the Commission the  
19 opportunity to examine evidence concerning the justness and reasonableness of the utility's  
20 rate request before changing customers' rates. The Commission's deliberations are, in part,  
21 based on Staff's, and other rate case parties', audits of the utility's books and records. For  
22 larger Missouri utilities, such as Empire, these audits generally take 4-5 months of work  
23 before Staff files its direct testimony. Because interim increases are usually sought to be

1 made effective within a relatively short period of time after they are requested, there is not  
2 sufficient time for Staff, and other parties, to perform a comprehensive audit of the utility's  
3 books and records before the Commission makes its decision on the request. Also, utilities  
4 frequently advocate the use of update periods or true-up cases as part of their  
5 recommendation to increase rates, in order to include items like increases in rate base or  
6 changes in expense levels in the new rates. Implementation of rate increases are often timed  
7 to include these items which may not be completed or operational at the time of the utilities'  
8 direct filings.

9 Q. Is there a time within which the Commission is required to process an  
10 earnings reduction case?

11 A. No. There is no statutory operation-of-law period for rate complaints that  
12 allege overearnings by utilities. It has been my experience that significantly more than  
13 eleven months pass between the time a utility begins to over earn, and the time when the  
14 Commission orders a reduction in its rates.

15 Q. What standard does the Commission apply to determine whether requests for  
16 interim rate relief should be granted?

17 A. My understanding is that the Commission has "broad discretion to determine  
18 whether to grant an interim rate adjustment." (*Report and Order Regarding Interim Rates*,  
19 page 10, Case No. ER-2010-0036, Union Electric Company, d/b/a AmerenUE.) However, to  
20 my knowledge, when the Commission has granted interim rate relief requests in the past to  
21 investor-owned utility companies, it has been on the basis that the utility has demonstrated  
22 that it is experiencing a financial "emergency" or "near-emergency."

1 Q. Do you know what the Commission means by financial "emergency" or  
2 "near-emergency"?

3 A. I understand the Commission's reference to "emergency" to refer to a  
4 showing by the utility that its financial integrity is threatened or that its ability to render safe  
5 and adequate service is impaired (Case No. GR-83-207, Gas Service Company). I understand  
6 the term "near-emergency" to encompass the situation where a utility's financial integrity  
7 and ability to provide safe and adequate service is not currently threatened, but will be in the  
8 near future, if financial problems are not addressed.

9 Q. Has the Commission expressed, in past cases, any specific standards that it  
10 applied to aid it in the determining whether a financial "emergency" or "near-emergency"  
11 existed?

12 A. Yes. In Case No. 18,467, et.al, Missouri Public Service Company, the  
13 Commission stated the following in regard to that utility's interim rate request:

14 Therefore, it is incumbent upon the Company to demonstrate  
15 conclusively that an emergency does exist. The Company  
16 must show that (1) it needs additional funds immediately, (2)  
17 that the need cannot be postponed, and (3) that no other  
18 alternatives exist to meet the need but rate relief.

19 Q. Is Empire alleging in its request for interim rate relief that it is undergoing a  
20 financial "emergency" or "near-emergency"?

21 A. No.

22 Q. Is Empire alleging in its request for interim rate relief that it has an immediate  
23 need for the funds, that the need cannot be postponed, and that no alternatives exist to meet  
24 the need but rate relief?

25 A. No.



1 Q. Does Staff recommend that the Commission utilize the financial "emergency"  
2 or "near-emergency" standard it has applied before as the basis for considering the  
3 appropriateness of interim rate relief requests?

4 A. Yes. As previously explained, the Commission grants permanent rate  
5 increases only after it has had the opportunity to examine evidence on the justification for the  
6 rate increase request, based upon a thorough audit of the utility's books and records. Interim  
7 rate requests are usually sought in such an abbreviated time frame that any audit of the  
8 utility's books and records is very difficult or even impossible to perform before the  
9 Commission rules on the interim increase request. Staff recommends that rate increases  
10 should always be supported by thorough and comprehensive rate case audits, only except  
11 when the utility demonstrates that it faces a true financial "emergency" or "near-emergency,"  
12 if the interim relief is not granted.

13 Q. Should it be sufficient for the Commission grant interim rate relief to a utility  
14 if it finds that the utility is not earning its authorized rate of return or return on equity?

15 A. No. Presumably most utilities are under earning to some degree when they  
16 seek to increase their rates, or they would not do so. Allowing interim rates to go into effect  
17 upon an allegation that the utility's earnings are not adequate to earn its authorized rate of  
18 return would in essence mean that interim rate relief would be appropriate in the context of  
19 virtually every utility permanent increase request.

20 Q. Has the Commission ordered interim rate decreases or ordered that current  
21 rates be collected subject to refund during complaint cases where it is asserted the utility's  
22 rates are too high?

23 A. No.

1 Q. Is Staff's recommendation that the Commission deny Empire's interim rate  
2 request in accordance with how the Commission has addressed other interim rate increase  
3 requests?

4 A. Yes. Most recently, in Case No. ER-2010-0036, the Commission denied  
5 Union Electric Company, d/b/a AmerenUE's (n/k/a "Ameren Missouri") interim rate request  
6 that was based on Ameren Missouri's request to support its rate of return. The Commission  
7 has consistently denied requests for interim relief where the utility was not facing conditions  
8 that actually or potentially impaired its ability to provide safe and adequate service. In Case  
9 No. 18,021, Laclede Gas Company, the Commission stated the following:

10 The Commission is of the opinion that since there an absence  
11 of specific statutory authority it should cautiously exercise its  
12 power to grant interim, temporary, or emergency rates and  
13 that it should only exercise that authority where a showing  
14 has been made that the rate of return being earned is so  
15 unreasonably low as to show such a deteriorating financial  
16 condition that would impair a utility's ability to render  
17 adequate service or render it unable to maintain its financial  
18 integrity. These guidelines are necessary because cases of  
19 this nature contemplate a rather speedy action on the part of  
20 the Commission which is contrary to the long established  
21 principal [sic] that a thorough study should be made by all  
22 parties before rates are approved.

23 In addition, in 1980, in a previous request by Empire to receive interim rate relief in Case No.  
24 ER-81-29, the Commission stated:

25 For many years the Commission has granted interim rate  
26 relief in response to emergency or near emergency  
27 circumstances, since of necessity such relief requires the  
28 Commission to make a determination without the benefit of a  
29 thorough Staff audit. Accordingly, the Commission has  
30 exercised caution in the granting of this extraordinary  
31 remedy.

1 A mere showing that a company's return is below its previous  
2 authorized rate of return has never prompted the Commission  
3 to grant interim rate relief. Such a situation will almost  
4 always be the case where a company has pending a  
5 permanent request. The mere fact of regulatory lag also does  
6 not justify interim relief.

7 Staff continues to support the Commission's past reasoning, for the reasons given in this  
8 testimony.

9 Q. Has the Commission recently articulated the standards it applied to determine  
10 whether to grant interim rate relief?

11 A. Yes. In Case No. ER-2010-0036, Ameren Missouri, the Commission denied  
12 Ameren Missouri's request for interim rate relief. In doing so, the Commission stated:

13 A utility does not need to be facing a dire emergency to  
14 justify an interim rate increase. The Commission would want  
15 to act to remedy the problem long before such a situation  
16 would arise. However, the Commission will not act to short  
17 circuit the rate case review process by granting by granting an  
18 interim rate increase unless the utility is facing extraordinary  
19 circumstances and there is a compelling reason to implement  
20 an interim rate increase.

21 Q. Is Empire facing "extraordinary circumstances" at this time, and has it  
22 presented a "compelling reason" for its interim rate relief request?

23 A. In Staff's view, no. Empire's request does not rise to that level. Also, as  
24 discussed later in this testimony and that of other Staff witnesses, Empire's request ignores  
25 the protections of the accounting authority the Commission recently granted to it, relies on an  
26 inappropriate expectancy of ungenerated revenues and reflects poor ratemaking policy.  
27 Further, if it were appropriate, it is not accurately quantified.

1 Q. Has Staff attempted to conduct any type of audit to ascertain whether Empire  
2 is currently under earning in an amount of at least \$6.2 million, the amount of the Company's  
3 requested interim rate relief?

4 A. No. Because Empire has not alleged that it presently faces either a financial  
5 "emergency" or "near-emergency," Staff opposes Empire's interim rate request, even if it  
6 could be demonstrated through some sort of shortened audit process that Empire is currently  
7 under earning by at least \$6.2 million. However, Staff also notes that its current rate case  
8 workload has effectively precluded it from performing any "mini-audit" of Empire's current  
9 revenue requirement.

10 **Financial Protections of Empire's Accounting Authority Order**

11 Q. What is Empire's stated basis for seeking interim rate relief at this time?

12 A. Company witness Walters states at page 6 of her direct testimony in this  
13 proceeding that "Due to the major financial impact the May 22, 2011, tornado has had on  
14 Empire over the last year, Empire is requesting an immediate rate increase to begin  
15 recovering the ongoing costs associated with the tornado. It has been over a year since the  
16 event and it is reasonable for Empire to be able to begin to mitigate the financial costs related  
17 to the storm and begin the tornado recovery process." While the testimony of Ms. Walters  
18 and the other Empire witnesses is not very specific as to how the financial impact of the  
19 tornado purportedly justifies interim rate relief, Staff interprets this testimony as implicitly  
20 arguing that accelerated rate treatment is appropriate to allow utilities to recover the costs  
21 associated with so-call "Acts of God" or extraordinary events such as the May 2011 tornado.

1 Both Empire witness Beecher and Empire witness Sager also reference in  
2 their discussion of the Company's interim rate increase proposal that Empire is currently  
3 earning less than its authorized return on equity.

4 Q. Does Staff believe that the occurrence of an "Act of God" or natural disaster is  
5 sufficient reason to grant interim rate relief to an affected utility?

6 A. No. The Commission has historically approved special ratemaking measures,  
7 such as use of accounting authority orders (AAO), to allow utilities to mitigate the  
8 financial impact of natural disasters such as the Joplin tornado. In fact, Empire itself has  
9 received the benefit of an AAO the Commission approved related to tornado costs in Case  
10 No. EU-2011-0387. Staff believes that no additional extraordinary regulatory mechanism,  
11 such as interim rate relief, is necessary for Empire at this time.

12 Q. Do you disagree with Ms. Walters' assertion at page 12 of her direct  
13 testimony that the May 2011 tornado was an "extraordinary event?"

14 A. No. But interim rate relief is not an appropriate regulatory response to the  
15 occurrence of extraordinary events in general, or in this instance.

16 Q. Does Staff disagree with Empire's claim that the Joplin tornado had a  
17 financial impact on Empire?

18 A. No. The tornado clearly caused Empire to incur additional operation and  
19 maintenance (O&M) expenses and to incur additional capital expenditures. Further, the  
20 tornado caused Empire to lose a certain number of customers from its system for a period  
21 of time, in turn causing a reduction in its revenues (all other things being equal). However,  
22 the financial loss to Empire from the storm has been substantially mitigated by its AAO, as  
23 I will explain.

1 Q. Has anything else mitigated Empire's financial loss from the storm?

2 A. Yes. As discussed in the testimony of Staff witness Lange, in the summer  
3 after the tornado Empire's overall revenues increased. Also, it appears that the effects of the  
4 abnormally warm summer and the increased electric sales caused by the clean-up,  
5 restoration, and reconstruction activities that followed the tornado had a positive effect on  
6 Empire's revenues, offsetting at least in part any reduction in revenues due to the tornado.

7 Q. Does the AAO ordered by the Commission in Case No. EU-2011-0387 net the  
8 improved revenues that followed the tornado, that may have been in large part caused by the  
9 tornado or other weather events, against Empire's tornado-related financial losses?

10 A. No, at least not explicitly. The AAO provides Empire with protections against  
11 its losses, but allows Empire to retain tornado and weather-driven benefits.

12 Q. How does the Commission's AAO in Case No. EU-2011-0387 mitigate the  
13 financial impact of the tornado on Empire?

14 A. Regarding the costs of "Acts of God," such as tornadoes, AAOs typically  
15 authorize the utility to defer incremental O&M expenses associated with the natural disaster,  
16 as well as to defer depreciation expenses and to capitalize a "carrying charge" to the asset  
17 balance for any capital additions necessitated by the extraordinary event. These provisions  
18 were all included in the AAO the Commission granted Empire in Case No. EU-2011-0387.  
19 Accordingly, Empire was not required to charge to current expense any O&M expense or  
20 depreciation expense directly associated with the storm, and the AAO authorized Empire to  
21 accrue a carrying charge equal to its Allowance for Funds Used During Construction  
22 (AFUDC) rate on its tornado capital additions to offset the lack of a current return on its

1 | tornado-related capital additions. The AAO granted to Empire substantially mitigated many  
2 | of the negative financial impacts Empire suffered due to the tornado.

3 | Q. Does Staff consider use of AAOs and use of interim rate relief to be  
4 | complementary procedures for handling the costs of "Acts of God"?

5 | A. No. If an AAO along the lines of the one the Commission granted to Empire  
6 | in Case No. EU-2011-0387 is employed to allow deferral of the costs of a natural disaster,  
7 | the rationale for interim rate relief based on that extraordinary event largely disappears, as  
8 | long as the utility's ability to provide safe and adequate service is not impaired.

9 | Q. On page 7 of his direct testimony, Company witness Robert W. Sager states,  
10 | "The level of carrying costs included in the deferral was well below Empire's cost of  
11 | capital." Is this observation significant?

12 | A. Not really. It is customary that the carrying cost rate applied to capital  
13 | investments in AAOs will be at a lower level than the utilities' full rate of return. However,  
14 | the normal ongoing capital additions a utility makes do not receive any carrying charge  
15 | treatment in the duration between the in-service date of the assets and the date the assets are  
16 | included in utility rate base in a general rate proceeding. In that sense, there is even less  
17 | justification for recovery through interim rates of tornado-related capital additions covered in  
18 | Empire's AAO, than there would be for Empire's normal capital additions--additions such as  
19 | those Ameren Missouri requested in its most recent interim rate request, which the  
20 | Commission denied.

21 | **Quantification**

22 | Q. Is Empire's quantification of the revenue requirement impact of its tornado-  
23 | related capital additions accurate?

1           A.     No.  When a capital addition is placed in-service, the cost of the addition  
2 is placed into a plant-in-service account, depreciation accrued upon that asset is booked to  
3 the utility's depreciation reserve account, and deferred taxes (associated with the  
4 accelerated depreciation the utility is allowed to claim for tax purposes on the capital  
5 addition) are booked by the utility to the accumulated deferred income tax (ADIT) reserve.  
6 Plant-in-service is an increase to rate base, while the depreciation reserve and ADIT reserve  
7 are offsets (subtractions) to rate base.  Empire has omitted the reduction in revenue  
8 requirement associated with the deferred taxes that are directly related to its tornado-related  
9 capital additions from its quantification of the interim rate increase.  Therefore, Empire's  
10 quantification overstates the revenue requirement associated with the rate base impact of  
11 Empire's tornado-related capital additions and, hence, overstates its alleged need for interim  
12 rate relief.

13           Q.     Is Empire's quantification of the remainder of its interim request accurate?

14           A.     No, as discussed by Staff witness Lange, Empire's quantification of lost  
15 customers and lost customer load is overstated.

16           **Ungenerated Revenues**

17           Q.     Is Empire seeking to recover through interim rates an alleged loss of revenues  
18 associated with reductions in its number of customers?

19           A.     Yes.

20           Q.     What was Staff' position on that request?

21           A.     Staff opposed it.  Staff's position is consistent with the Commission's decision  
22 and discussion in a recent order regarding "ungenerated revenues" in the context of an AAO  
23 request made by Missouri Gas Energy (MGE), the natural gas local distribution company in



1 the Joplin area. MGE sought deferral treatment of alleged tornado-related ungenerated  
2 revenues in an AAO request docketed as Case No. GU-2011-0392, in which the Staff and  
3 other parties opposed deferral treatment of ungenerated revenues for MGE. The Commission  
4 ruled in favor of the Staff and other parties on this issue.<sup>1</sup>

5 Q. Why does the Staff generally oppose special ratemaking treatment for alleged  
6 lost revenues associated with “Acts of God”?

7 A. As generally set out in Staff’s testimony in Case No. GU-2011-0392, deferral  
8 of ungenerated revenues results in an improper guarantee to a utility of a certain level of  
9 profit. Allowing a utility to recover lost revenues through the mechanism of interim rate  
10 relief violates the same principle. Further, part of the risk that underlies the awarding of an  
11 opportunity to earn a particular return on equity allowance is the risk that the utility may face  
12 a decrease in sales below what it may expect to receive on an ongoing basis. It is not  
13 generally appropriate to give a utility extraordinary rate relief based upon a decline in sales,  
14 and ultimately its profitability.

15 Q. Do you know of anything else that may have offset any revenue losses Empire  
16 incurred since the May 2011 tornado?

17 A. Yes. Staff witness Lange addresses this matter in his rebuttal testimony.

18 Q. Will Staff review Empire’s customer numbers in the general rate case, and  
19 provide a recommendation concerning the inclusion of either customer growth, or customer  
20 losses, as appropriate, for reflection in the billing determinants used to set permanent rates?

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<sup>1</sup> Although Empire initially requested the inclusion of ungenerated revenues in its tornado AAO request, it ultimately withdrew that element of its request pursuant to the stipulation in that case.

1           A.     Yes, Staff expects it will perform a customer growth or customer loss  
2 adjustment, as appropriate, for reflection in its recommendations in the general rate case.

3           Q.     On page 10 of her direct testimony, Empire witness Walters states that the  
4 Company “lost the fixed cost portion of each dollar or [sic] rate revenue it was unable to  
5 collect from customers.” Should this statement be interpreted as meaning Empire’s customer  
6 loss associated with the tornado caused Empire to fail to recover all of its “fixed costs?”

7           A.     No. The income statements for the periods of January 2011 to June 2012,  
8 provided in response to Staff Data Request No. 113, clearly show that Empire had positive  
9 net income for that entire period of time. Accordingly, Empire recovered all of its costs  
10 during the periods affected by the tornado—both fixed and variable costs.

11     **Ratemaking Policy**

12           Q.     Does Empire’s request for interim rate relief take into account all relevant  
13 factors that the Commission would consider for considering permanent rates?

14           A.     No. Empire is requesting the Commission allow it to increase its customer  
15 rates on an interim basis based upon a consideration of only the following factors:  
16 (1) selective reflection of some net rate base additions, ignoring all other changes in rate base  
17 items experienced by Empire since its last rate case; (2) inclusion of an amortization to  
18 expense of certain tornado costs, deferred pursuant to Empire’s tornado AAO, and ignoring  
19 all other changes to expense Empire has experienced since its last rate case; and (3) including  
20 the revenue requirement associated with a lower number of residential and commercial  
21 customers on Empire’s system at April 2012, compared to the level at April 2011, while  
22 ignoring all other changes to Empire’s revenues since its last rate case.

1 Q. In Staff's opinion, does Empire's request for interim rate relief in this  
2 proceeding reflect inappropriate single-issue ratemaking?

3 A. Yes.

4 Q. Are there examples from Empire's interim rate relief request that demonstrate  
5 that the request constitutes inappropriate single-issue ratemaking?

6 A. Yes. As previously discussed, part of Empire's interim rate request is based  
7 upon the rate base impact of certain tornado-related capital additions. As I testified earlier,  
8 Empire neglected to include the impact on the ADIT reserve of its tornado-related capital  
9 additions when it quantified the revenue requirement associated with its tornado-related  
10 capital additions. I have also reviewed Empire's balance sheets by quarter from year-end  
11 2010 through June 2012 (Empire provided them to Staff in response to Staff Data Request  
12 No. 113), and pulled the amounts given for electric plant-in-service, depreciation reserve, and  
13 deferred tax reserve for each quarter. These three items are almost always the largest  
14 components of electric utility rate base. Netting Empire's ongoing balances for depreciation  
15 reserve and deferred tax reserve against the Company's plant-in-service balances serves as a  
16 reasonable surrogate for determining Empire's rate base growth trend. This measurement  
17 shows a slightly declining rate base for Empire from year-end 2010 to mid-year 2012, even  
18 after tornado-related capital additions are taken into account. In other words, although  
19 Empire's tornado-related capital additions increased rate base when considered in isolation,  
20 this increase was more than offset by changes in other rate base items, such as growth in the  
21 depreciation reserve and ADIT reserve. It would be inappropriate to award interim rate relief  
22 on the basis of capital additions if Empire experienced a net reduction of capital in rate base,  
23 which appears to be the case here.

1 **Other Interim Increase Considerations**

2 Q. Several Empire witnesses discuss in their direct testimony the fact that Empire  
3 suspended its dividend for approximately two quarters following the Joplin tornado. Does  
4 the fact that Empire suspended its dividend support its request for interim rate relief?

5 A. No. As Mr. Sager mentions on page 6 of his direct testimony, a contributing  
6 factor to Empire's decision to suspend its dividend after the tornado was its low retained-  
7 earnings balance. The ability of a company to pay dividends while maintaining its financial  
8 integrity is directly associated with its retained earnings on hand when it is paying dividends.  
9 Empire has had a long history of tending to pay out more annually in dividends than its  
10 annual earnings. Therefore, the fact that Empire's retained earnings balance was so minimal  
11 in May 2011 cannot be attributed to the tornado. This matter is addressed in more detail in  
12 the rebuttal testimony of Staff witness Atkinson.

13 Q. Did Empire begin operating under a formal "austerity plan" following the  
14 tornado?

15 A. No, not according to the Company's response to Staff Data Request No. 120.  
16 If a company was truly facing a financial emergency or near-emergency it is very likely it  
17 would implement an "austerity plan," that includes actions such as freezing salaries and  
18 delaying or canceling construction projects to conserve its financial resources during the  
19 period of crisis.

20 Q. In Staff's opinion, is Empire currently facing "extraordinary circumstances"  
21 due to the tornado or otherwise?

1           A.     No. Empire has taken reasonable actions to deal with the aftermath of the  
2 tornado and to mitigate the financial impact of the tornado on it. Certainly, the tornado has  
3 not resulted in materially abnormal financial results for Empire.

4     **Conclusion**

5           Q.     In Staff's opinion, has Empire presented a "compelling reason" for interim  
6 rate relief?

7           A.     No, for all of the reasons discussed in Staff's rebuttal testimony, Empire does  
8 not currently face a true financial emergency or near-emergency.

9           Q.     Does this conclude your rebuttal testimony?

10          A.     Yes, it does.

**BEFORE THE PUBLIC SERVICE COMMISSION**

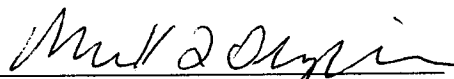
**OF THE STATE OF MISSOURI**

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

AFFIDAVIT OF MARK L. OLIGSCHLAEGER

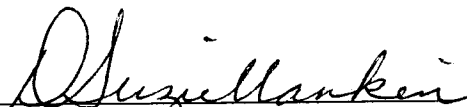
STATE OF MISSOURI )  
 ) ss.  
COUNTY OF COLE )

Mark L. Oligschlaeger, of lawful age, on his oath states: that he has participated in the preparation of the foregoing Rebuttal Testimony on Interim Rates in question and answer form, consisting of 19 pages to be presented in the above case; that the answers in the foregoing Rebuttal Testimony on Interim Rates were given by him; that he has knowledge of the matters set forth in such answers; and that such matters are true and correct to the best of his knowledge and belief.

  
Mark L. Oligschlaeger

Subscribed and sworn to before me this 20<sup>th</sup> day of August, 2012.

D. SUZIE MANKIN  
Notary Public - Notary Seal  
State of Missouri  
Commissioned for Cole County  
My Commission Expires: December 08, 2012  
Commission Number: 08412071

  
Notary Public

**CASE PARTICIPATION OF  
MARK L. OLIGSCHLAEGER**

| <b>Company Name</b>   | <b>Case Number</b>         | <b>Issues</b>  |
|---|----------------------------|--|
| Western Resources   | GR-90-40 and<br>GR-91-149  | Take-Or-Pay Costs  |
| Missouri-American Water<br>Company                            | WR-91-211                  | True-up; Known and Measurable  |
| Missouri Public Service                                       | EO-91-358 and<br>EO-91-360 | Accounting Authority Order   |
| Generic Telephone   | TO-92-306                  | Revenue Neutrality; Accounting<br>Classification   |
| Generic Electric  | EO-93-218                  | Preapproval  |
| Western Resources & Southern<br>Union Company                 | GM-94-40                   | Regulatory Asset Transfer  |
| St. Louis County Water  | WR-95-145                  | Policy   |
| Union Electric Company  | EM-96-149                  | Merger Savings; Transmission Policy  |
| St. Louis County Water  | WR-96-263                  | Future Plant   |
| Missouri Gas Energy   | GR-96-285                  | Riders; Savings Sharing  |
| The Empire District Electric<br>Company                       | ER-97-82                   | Policy   |
| Missouri Public Service                                       | ER-97-394                  | Stranded/Transition Costs; Regulatory<br>Asset Amortization; Performance<br>Based Regulation |
| Western Resources & Kansas<br>City Power & Light              | EM-97-515                  | Regulatory Plan; Ratemaking<br>Recommendations; Stranded Costs                               |
| United Water Missouri   | WA-98-187                  | FAS 106 Deferrals  |
| Laclede Gas Company   | GR-99-315 (remand)         | Depreciation and Cost of Removal   |
| Missouri-American Water                                       | WM-2000-222                | Conditions   |
| UtiliCorp United & St. Joseph<br>Light & Power                | EM-2000-292                | Staff Overall Recommendations  |
| UtiliCorp United &<br>The Empire District Electric<br>Company | EM-2000-369                | Overall Recommendations  |
| Green Hills Telephone   | TT-2001-115                | Policy   |
| IAMO Telephone Company  | TT-2001-116                | Policy   |
| Ozark Telephone Company                                       | TT-2001-117                | Policy   |

**CASE PARTICIPATION OF  
MARK L. OLIGSCHLAEGER**

| <b>Company Name</b>  | <b>Case Number</b>                                 | <b>Issues</b>  |
|--|--|--|
| Peace Valley Telephone   | TT-2001-118  | Policy   |
| Holway Telephone Company   | TT-2001-119  | Policy   |
| KLM Telephone Company  | TT-2001-120  | Policy   |
| Missouri Gas Energy  | GR-2001-292  | SLRP Deferrals; Y2K Deferrals;<br>Deferred Taxes; SLRP and Y2K<br>CSE/GSIP   |
| The Empire District Electric<br>Company  | ER-2001-299  | Prudence/State Line<br>Construction/Capital Costs.   |
| Ozark Telephone Company  | TC-2001-402  | Interim Rate Refund  |
| Gateway Pipeline Company   | GM-2001-585  | Financial Statements   |
| Missouri Public Service  | ER-2001-672  | Purchased Power Agreement; Merger<br>Savings/Acquisition Adjustment  |
| Union Electric Company   | EC-2002-1  | Merger Savings; Criticisms of Staff's<br>Case; Injuries and Damages;<br>Uncollectibles                               |
| Laclede Gas Company  | GA-2002-429  | Accounting Authority Order Request   |
| Aquila, Inc., d/b/a Aquila<br>Networks-MPS-Electric and<br>Aquila Networks-L&P-Electric<br>and Steam | ER-2004-0034 and<br>HR-2004-0024<br>(Consolidated) | Aries Purchased Power Agreement;<br>Merger Savings   |
| Missouri Gas Energy  | GR-2004-0209                                       | Revenue Requirement Differences;<br>Corporate Cost Allocation Study;<br>Policy; Load Attrition; Capital<br>Structure |
| Empire District Electric   | ER-2006-0315                                       | Fuel/Purchased Power; Regulatory<br>Plan Amortizations; Return on Equity;<br>True-Up                                 |
| Missouri Gas Energy  | GR-2006-0422                                       | Unrecovered Cost of Service<br>Adjustment; Policy  |
| Laclede Gas Company  | GR-2007-0208                                       | Case Overview; Depreciation<br>Expense/Depreciation Reserve;<br>Affiliated Transactions; Regulatory<br>Compact       |
| Missouri Gas Utility   | GR-2008-0060                                       | Report on Cost of Service; Overview<br>of Staff's Filing   |



**CASE PARTICIPATION OF  
MARK L. OLIGSCHLAEGER**

| <b>Company Name</b>   | <b>Case Number</b> | <b>Issues</b>   |
|---|--------------------|---|
| The Empire District Electric Company                          | ER-2008-0093       | Case Overview; Regulatory Plan Amortizations; Asbury SCR; Commission Rules Tracker; Fuel Adjustment Clause; ROE and Risk; Depreciation; True-up; Gas Contract Unwinding   |
| KCP&L Greater Missouri Operations Company                     | EO-2008-0216       | <b>Rebuttal:</b> Accounting Authority Order Request   |
| Missouri Gas Energy, a Division of Southern Union             | GR-2009-0355       | <b>Staff Report Cost of Service: Direct</b> Report on Cost of Service; Overview of the Staff's Filing;<br><b>Rebuttal:</b> Kansas Property Taxes/AAO; Bad Debts/Tracker; FAS 106/OPEBs; Policy;<br><b>Surrebuttal:</b> Environmental Expense, FAS 106/OPEBs |
| The Empire District Electric Company, The-Investor (Electric) | ER-2010-0130       | <b>Staff Report Cost of Service: Direct</b> Report on Cost of Service; Overview of the Staff's Filing; Regulatory Plan Amortizations;<br><b>Surrebuttal:</b> Regulatory Plan Amortizations  |
| The Empire District Electric Company                          | ER-2011-0004       | <b>Staff Report on Cost of Service: Direct:</b> Report on Cost of Service; Overview of the Staff's Filing,<br><b>Surrebuttal:</b> SWPA Payment, Ice Storm Amortization Rebasing, S02 Allowances, Fuel/Purchased Power and True-up                           |
| Missouri-American Water Company                               | WR-2011-0337       | <b>Surrebuttal:</b> Pension Tracker   |
| Missouri Gas Energy, A Division of Southern Union             | GU-2011-0392       | <b>Rebuttal:</b> Lost Revenues<br><b>Cross-Surrebuttal:</b> Lost Revenues   |
| KCP&L Greater Missouri Operations Company                     | EO-2012-0009       | <b>Rebuttal:</b> DSIM   |
| Union Electric Company d/b/a Ameren Missouri                  | EU-2012-0027       | <b>Rebuttal:</b> Accounting Authority Order<br><b>Cross-Surrebuttal:</b> Accounting Authority Order   |
| Union Electric Company d/b/a Ameren Missouri                  | EO-2012-0142       | <b>Rebuttal:</b> DSIM   |

**CASE PARTICIPATION OF  
MARK L. OLIGSCHLAEGER**

**Cases prior to 1990 include:**

| <u>COMPANY NAME</u>                 | <u>CASE NUMBER</u>       |
|-------------------------------------|--------------------------|
| Kansas City Power and Light Company | ER-82-66                 |
| Kansas City Power and Light Company | HR-82-67                 |
| Southwestern Bell Telephone Company | TR-82-199                |
| Missouri Public Service Company     | ER-83-40                 |
| Kansas City Power and Light Company | ER-83-49                 |
| Southwestern Bell Telephone Company | TR-83-253                |
| Kansas City Power and Light Company | EO-84-4                  |
| Kansas City Power and Light Company | ER-85-128 &<br>EO-85-185 |
| KPL Gas Service Company             | GR-86-76                 |
| Kansas City Power and Light Company | HO-86-139                |
| Southwestern Bell Telephone Company | TC-89-14                 |