

In the Matter of the Joint Application )  
of Entergy Arkansas, Inc., Mid South )  
TransCo LLC, Transmission Company )  
Arkansas, LLC and ITC Midsouth LLC )  
for Approval of Transfer of Assets and )  
Certificate of Convenience and Necessity, )  
and Merger and, in connection therewith, )  
Certain Other Related Transactions )

ENTERGY ARKANSAS, INC., MID SOUTH TRANSCO LLC, AND  
TRANSMISSION COMPANY ARKANSAS, LLC

June 5, 2013

1     **I.     INTRODUCTION**

2     Q.     PLEASE STATE YOUR NAME.

3     A.     My name is Richard C. Riley.

4

5     Q.     ARE YOU THE SAME RICHARD C. RILEY WHO FILED DIRECT  
6            TESTIMONY IN THIS DOCKET?

7     A.     Yes.

8

9     Q.     ON WHOSE BEHALF ARE YOU FILING THIS DIRECT TESTIMONY?

10    A.     I am filing this surrebuttal testimony on behalf of Entergy Arkansas,  
11            Inc. ("EAI"), Mid South TransCo LLC ("Mid South TransCo"), and  
12            Transmission Company Arkansas, LLC ("TC Arkansas").

13

14    Q.     WHAT IS THE PURPOSE OF YOUR TESTIMONY?

15    A.     The purpose of my testimony is to support the Joint Application of EAI,  
16            Mid South TransCo, and TC Arkansas filed on February 14, 2013  
17            together with ITC Midsouth LLC ("ITC").<sup>1</sup> My testimony addresses and  
18            rebutts several issues The Empire District Electric Company ("Empire")  
19            witness Barry Warren raised in his rebuttal testimony, as well as some  
20            related issues raised by witnesses for Kansas City Power & Light  
21            Company and KCP&L Greater Missouri Operations Company

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<sup>1</sup> I note that I also sometimes may refer to ITC Holdings Corp. generally as "ITC."

1 (collectively, "KCPL").

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3 **II. RESPONSE TO EMPIRE**

4 Q. IN HIS TESTIMONY ON BEHALF OF EMPIRE, MR. WARREN TAKES  
5 ISSUE WITH YOUR DESCRIPTION THAT EAI'S FACILITIES IN  
6 MISSOURI ARE USED TO FURNISH WHOLESALE ELECTRIC  
7 SERVICE IN MISSOURI TO VARIOUS CITIES AND ELECTRIC  
8 COOPERATIVES.<sup>2</sup> HOW DO YOU RESPOND?

9 A. Mr. Warren clarifies that Empire is an investor-owned utility. Although I  
10 inadvertently misclassified Empire's corporate structure, that does not  
11 affect the point I was making, which was that EAI provides only  
12 interstate wholesale transmission service in Missouri, has not  
13 undertaken any duty to serve the general public in Missouri on an  
14 intrastate basis, and does not have any retail customers in Missouri.  
15 Mr. Warren's testimony does not dispute those fundamental points.

16

17 Q. MR. WARREN DISCUSSES EMPIRE'S INTEREST IN THE PLUM  
18 POINT COAL-FIRED STATION ("PLUM POINT").<sup>3</sup> IS THAT STATION  
19 LOCATED IN MISSOURI?

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<sup>2</sup> Warren Rebuttal Testimony at 5.

<sup>3</sup> *Id.*

1 A. No. It is located near Osceola, Arkansas, as Mr. Warren also  
2 acknowledges.

3

4 Q. HOW DO YOU RESPOND TO MR. WARREN'S TESTIMONY  
5 REGARDING EMPIRE'S INTERCONNECTION AGREEMENT  
6 PERTAINING TO SERVICE AT PLUM POINT?<sup>4</sup>

7 A. This agreement has been satisfactory, and Mr. Warren does not  
8 identify any reason why it cannot continue to meet Empire's needs.

9

10 Q. MR. WARREN STATES THAT A NEW INTERCONNECTION  
11 AGREEMENT WOULD BE REQUIRED BETWEEN EAI AND EMPIRE  
12 AS A RESULT OF EAI'S BECOMING A MEMBER OF MISO. DO  
13 YOU AGREE?

14 A. No, I do not agree that a new Interconnection Agreement would be  
15 required between EAI and Empire as a result of EAI's integration into  
16 MISO. Empire would still be interconnected to EAI, a transmission  
17 owner, after EAI integrates with MISO. Thus, no change in the  
18 interconnection agreement would be required.

19

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<sup>4</sup> *Id.* at 5-7.

1 Q. WOULD A NEW INTERCONNECTION AGREEMENT BE REQUIRED  
2 AS A RESULT OF APPROVAL OF THE PROPOSED ITC  
3 TRANSACTION?

4 A. The Empire Interconnection Agreement provides that it may be  
5 assigned without the consent of the parties and, as a result, a new  
6 interconnection agreement is not necessary. As ITC Witness Thomas  
7 Wrenbeck indicates, ITC Arkansas would succeed to the transmission  
8 related obligations of this agreement or would negotiate a new  
9 transmission interconnection agreement with Empire as  
10 appropriate. Moreover, as I understand it, Empire's consent to assign  
11 the agreement is not required under Arkansas law in order for the  
12 transaction to close.

13

14 Q. YOU STATE THAT A NEW AGREEMENT IS NOT NECESSARY, BUT  
15 PLEASE EXPLAIN HOW EAI WOULD CONTINUE TO BE  
16 RESPONSIBLE FOR ANY METERING OR OTHER NON-  
17 TRANSMISSION-RELATED PROVISIONS UNDER THE EXISTING  
18 INTERCONNECTION AGREEMENT.

19 A. As I explained above, we anticipate that the Empire Interconnection  
20 Agreement will be assigned to ITC upon the close of the  
21 Transaction. We recognize, however, that EAI will retain and continue  
22 to be responsible for the metering-related provisions of the

1 Interconnection Agreement because EAI will retain ownership of its  
2 existing metering equipment following transfer of its transmission  
3 facilities to ITC. If there remains any other non-transmission  
4 responsibilities under the Empire Interconnection Agreement by  
5 operation of the Separation Agreement that governs the Transaction,  
6 then EAI will continue to undertake those non-transmission  
7 responsibilities after closing.  
8

9 Q. DO YOU ANTICIPATE DISCUSSING THE STATUS OF AGREEMENTS  
10 WITH CUSTOMERS, INCLUDING EMPIRE?

11 A. Yes, of course. The Entergy Operating Companies and ITC currently  
12 are working through the process of identifying all affected agreements  
13 that will move, in whole or in part, to ITC at closing and developing a  
14 plan for their transfer to ITC. We anticipate initiating customer  
15 outreach on this aspect of the transaction this summer. We do not  
16 anticipate making any substantive changes to agreements during this  
17 process, but will describe the necessary non-substantive changes and  
18 separation of obligations that are necessary as a result of the  
19 transaction. Our objective is to get customers, including Empire,  
20 comfortable with this process. Because the agreements at issue are  
21 FERC-jurisdictional agreements that will be filed with FERC, any  
22 disagreements that cannot be resolved prior to the filing of the Notice

1 of Succession can be resolved by FERC through customers' exercise  
2 of their rights under the Federal Power Act.

3

4 Q. PLEASE ELABORATE ON THE CHANGES YOU ANTICIPATE WILL  
5 BE MADE TO AGREEMENTS SUCH AS EMPIRE'S.

6 A. Upon completion of the ITC Transaction, ITC will assume ownership of  
7 the Entergy Operating Companies' transmission assets and  
8 transmission business, but EAI will retain ownership of its distribution  
9 system and certain other assets, such as metering equipment. Some  
10 of the agreements to which ITC will succeed have obligations that will  
11 remain the responsibility of the Entergy Operating Companies following  
12 the close of the proposed Transaction, such as the provision of  
13 metering services. Those agreements will be amended and restated to  
14 identify ITC as the provider of transmission and transmission-related  
15 services and to identify the appropriate Entergy Operating Company as  
16 the provider of metering or other non-transmission services. While in  
17 such cases the services formerly provided by the Entergy Operating  
18 Companies will be provided by both ITC and the Entergy Operating  
19 Companies, Empire and other customers will be unaffected because  
20 they will continue to receive the same services without material change  
21 other than the identity of the service provider.

1

2 Q. HOW DO YOU RESPOND TO MR. WARREN'S STATEMENT ON  
3 PAGES 7 AND 8 OF HIS TESTIMONY THAT, "EAI AND ITC HAVE  
4 NO VESTED INTEREST IN THE DELIVERY COSTS OF CAPACITY  
5 AND ENERGY TO EMPIRE'S WHOLESALE AND RETAIL  
6 CUSTOMERS IN MISSOURI"?

7 A. This statement implicitly supports EAI's position that it does not owe  
8 any duty to another utility's retail customers in Missouri. It further  
9 supports the position that entities such as Empire and KCPL are not  
10 entitled to frozen wholesale market rates or constant wholesale market  
11 factors (such as a guaranteed sales quota) as they otherwise seem to  
12 suggest with their "hold harmless" and "off-system sales" claims. The  
13 FERC has the responsibility to ensure that they only have to pay just  
14 and reasonable interstate rates.

15

16 Q. DO YOU AGREE WITH MR. WARREN'S TESTIMONY IN THIS  
17 PROCEEDING ADDRESSING EMPIRE'S ALLEGED CONCERNS  
18 WITH EAI JOINING MISO?<sup>5</sup>

19 A. No, because EAI's separate integration of its limited transmission  
20 facilities in Missouri into MISO is not an issue in this case, which  
21 pertains to the ITC Transaction. I respond to Empire's MISO claims in

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<sup>5</sup> Warren Rebuttal Testimony at 8-10.



1           separate File No. EO-2013-0431. In support of the fact that the two  
2           events are separate matters, I reiterate that EAI will integrate into  
3           MISO regardless of the outcome of the pending ITC Transaction  
4           proceedings. Finally, I also state again that any rate issues about  
5           which Empire complains in either case are FERC tariff issues and  
6           primarily the result of EAI's transmission assets in Arkansas integrating  
7           into MISO as I discuss in greater detail in File No. EO-2013-0431.

8

9    Q.   DO YOU AGREE WITH MR. WARREN'S STATEMENT ON PAGES  
10       10 AND 11 OF HIS TESTIMONY THAT THE FACT THAT THE  
11       MERGER AGREEMENT PROVIDES THAT THE ITC TRANSACTION  
12       IS CONDITIONED ON ENTERGY CORPORATION'S RECEIPT OF  
13       ALL NECESSARY APPROVALS FROM STATE AND FEDERAL  
14       REGULATORY AUTHORITIES TO ALLOW THE TRANSMISSION  
15       BUSINESS TO BECOME A MEMBER OF AN ACCEPTABLE RTO  
16       APPEARS TO HAVE SOME IMPORTANCE TO THE  
17       TRANSACTION?

18   A.   In part, yes. I am familiar enough with the Merger Agreement to  
19       understand that, unless amended by the parties to the agreement, the  
20       Entergy Operating Companies' being approved to join an acceptable  
21       RTO (the Entergy Operating Companies' decisions to join MISO meet  
22       this requirement) is a condition to closing. This is similar to the parties  
23       to the agreement also conditioning closing on the companies'

1 maintaining their applicable business licenses and good standings. As  
2 to EAI, this section of the Merger Agreement contemplates applicable  
3 FERC approvals and applicable approvals from EAI's retail regulator.  
4 This provision also supports that MISO integration is not part of the ITC  
5 Transaction. For instance, the Merger Agreement does not spell out  
6 specific requirements as to the RTO integration or even selection. And  
7 again, EAI plans to integrate into MISO regardless of the outcome of  
8 the ITC Transaction.

9  
10 Q. DO YOU AGREE WITH MR. WARREN'S STATEMENT ON PAGE 12  
11 OF HIS TESTIMONY THAT BECAUSE THE TRANSACTION IS  
12 CONDITIONED ON REGULATORY APPROVALS IT APPEARS THAT  
13 EAI BELIEVES THIS COMMISSION'S APPROVAL IS REQUIRED?

14 A. I disagree, and his statement is inconsistent both with EAI's filings in  
15 this matter explaining that these assets are subject to FERC  
16 jurisdiction and also the Joint Application noting that this filing was  
17 made out of an abundance of caution and with reservation of the  
18 parties' legal positions as to jurisdiction.

19  
20 Q. HOW DO YOU RESPOND TO INTERVENOR WITNESS  
21 ASSERTIONS ABOUT RATE IMPACTS FROM THE TRANSMISSION  
22 ASSETS IN MISSOURI BEING HELD BY AN INDEPENDENT

1 TRANSMISSION-ONLY COMPANY WITH NO GENERATION OR  
2 DISTRIBUTION ASSETS?<sup>6</sup>

3 A. I disagree with Empire's notion that there will be additional rate  
4 implications and jurisdictional impacts arising from this limited  
5 transaction with ITC.<sup>7</sup> Specifically, the assets are subject to FERC  
6 jurisdiction today and will continue to be so after they are transferred to  
7 from EAI to ITC, and Empire does not dispute that. Further, any rate  
8 implications Empire alleges relate to the separate issue of EAI's  
9 Arkansas transmission assets integrating into MISO, and Mr. Warren  
10 fails to specify how the rate impacts Empire alleges relate directly and  
11 solely to the limited interstate transmission facilities in Missouri being  
12 transferred to ITC.

13  
14 KCPL did not file separate testimony between this case and File  
15 No. EO-2013-0431, but to the extent KCPL raises costing issues in its  
16 testimony, those issues relate to the assets of EAI or other Entergy  
17 Operating Companies that are not parties to any proceeding in  
18 Missouri integrating into MISO. KCPL likewise fails to specify how any  
19 of its alleged costing issues arise directly and solely from the limited  
20 EAI Missouri assets being transferred to ITC. Further, KCPL

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<sup>6</sup> *Id.* at 12.

<sup>7</sup> *Id.*

1 generically uses terms such as "Entergy" to include issues beyond  
2 these assets, which fails to recognize that it is EAI that is an applicant  
3 in this case, and not Entergy Corporation or any other Entergy  
4 Operating Company. Indeed, KCPL admits that it is currently not  
5 allowed to recover any such transmission costs related to its  
6 Crossroads facility from Missouri retail customers such that its  
7 allegations cannot identify any detriment to the public interest in  
8 Missouri contrary to KCPL's suggestion in either proceeding.

9

10 Q. HOW DO YOU RESPOND TO MR. WARREN'S SUGGESTION ON  
11 PAGE 13 OF HIS TESTIMONY THAT ITC AND EAI MAY NOT  
12 RECEIVE ALL OF THE REQUISITE REGULATORY APPROVALS  
13 FOR THE TRANSACTION?

14 A. Mr. Warren extracts one piece of testimony from another state  
15 proceeding without explaining that the testimony addresses primarily  
16 retail impacts in that other state proceeding (something that is wholly  
17 irrelevant to this Missouri proceeding because EAI has no retail  
18 customers in Missouri). Nor does he explain that the testimony to  
19 which he refers was rebutted or provide that rebuttal testimony.

20

21 Q. CAN YOU PLEASE SUMMARIZE YOUR KEY RESPONSES TO THE  
22 INTERVENORS' TESTIMONY?

1     A.     Yes.    The issues raised in this matter by the intervenors do not  
2           demonstrate that the transfer of the limited Missouri assets to ITC  
3           presents any detriment to the public interest in Missouri.   The  
4           intervenors do not dispute that EAI has no retail customers in Missouri  
5           and do not dispute that any applicable rate issues pertaining to these  
6           assets are governed exclusively by FERC.   The jurisdictional nature of  
7           the assets will not change upon the transfer to ITC.   The intervenors  
8           also do not identify any costing issues related directly to the transfer of  
9           the less than 100 miles of transmission facilities in Missouri to ITC.

10

11

12    Q.     DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?

13    A.     Yes.