

Exhibit No.:	
Issue(s):	Joplin Tornado AAO Ratemaking/ SPP Transmission Tracker/ Riverton Retirement Amortization
Witness:	Ted Robertson
Type of Exhibit:	Rebuttal
Sponsoring Party:	Public Counsel
Case Number:	ER-2012-0345

REBUTTAL TESTIMONY

OF

TED ROBERTSON

Submitted on Behalf of
the Office of the Public Counsel

EMPIRE DISTRICT ELECTRIC COMPANY

Case No. ER-2012-0345

January 16, 2013

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


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

AFFIDAVIT OF TED ROBERTSON

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

Ted Robertson, of lawful age and being first duly sworn, deposes and states:

1. My name is Ted Robertson. I am a Chief Public Utility Accountant for the Office of the Public Counsel.
2. Attached hereto and made a part hereof for all purposes is my rebuttal testimony.
3. I hereby swear and affirm that my statements contained in the attached testimony are true and correct to the best of my knowledge and belief.




Ted Robertson, C.P.A.
Chief Public Utility Accountant

Subscribed and sworn to me this 16th day of January 2013.



JERENE A. BUCKMAN
My Commission Expires
August 23, 2013
Cole County
Commission #09754037



Jerene A. Buckman
Notary Public

My Commission expires August, 2013.

TABLE OF CONTENTS

<u>Testimony</u>	<u>Page</u>
Introduction	1
Purpose of Testimony	3
Joplin Tornado AAO Ratemaking	3
SPP Transmission Tracker	8
Riverton Retirement Amortization	10

1
2
3
4
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**REBUTTAL TESTIMONY
OF
TED ROBERTSON**

**EMPIRE DISTRICT ELECTRIC COMPANY
CASE NO. ER-2012-0345**

9 **I. INTRODUCTION**

10 Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

11 A. Ted Robertson, PO Box 2230, Jefferson City, Missouri 65102-2230.

12
13 Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?

14 A. I am employed by the Missouri Office of the Public Counsel (OPC or Public Counsel) as
15 the Chief Public Utility Accountant.

16
17 Q. WHAT IS THE NATURE OF YOUR CURRENT DUTIES AT THE OPC?

18 A. My duties include all activities associated with the supervision and operation of the
19 regulatory accounting section of the OPC. I am also responsible for performing audits
20 and examinations of the books and records of public utilities operating within the state of
21 Missouri.

22
23 Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND OTHER
24 QUALIFICATIONS.

1 A. I graduated in May, 1988, from Missouri State University in Springfield, Missouri, with
2 a Bachelor of Science Degree in Accounting. In November of 1988, I passed the
3 Uniform Certified Public Accountant Examination, and I obtained Certified Public
4 Accountant (CPA) certification from the state of Missouri in 1989. My CPA license
5 number is 2004012798.

6
7 Q. HAVE YOU RECEIVED SPECIALIZED TRAINING RELATED TO PUBLIC
8 UTILITY ACCOUNTING?

9 A. Yes. In addition to being employed by the Missouri Office of the Public Counsel since
10 July 1990, I have attended the NARUC Annual Regulatory Studies Program at Michigan
11 State University, and I have also participated in numerous training seminars relating to
12 this specific area of accounting study.

13
14 Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE MISSOURI PUBLIC
15 SERVICE COMMISSION (COMMISSION OR MPSC)?

16 A. Yes, I have testified on numerous issues before this Commission. Please refer to
17 Schedule TJR-1, attached to this testimony, for a listing of cases in which I have
18 submitted testimony.

19

1 **II. PURPOSE OF TESTIMONY**

2 Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

3 A. The purpose of this Rebuttal Testimony is to present the Public Counsel's positions
4 regarding the ratemaking positions taken by Company witness, Mr. W. Scott Keith,
5 request for rate base treatment of costs deferred pursuant to the Joplin Tornado
6 Accounting Authority Order (AAO) authorized in Case No. EU-2011-0387 and a
7 tracking mechanism for Southwest Power Pool (SPP) Schedules 1a and 11 transmission
8 charges (i.e., transmission tracker). In addition, I will rebut the request of Company
9 witness, Mr. Thomas J. Sullivan, regarding his request for a special amortization
10 associated with the projected retirements of certain coal-fired units at the Riverton plant.
11

12 **III. JOPLIN TORNADO AAO RATEMAKING**

13 Q. WHAT IS THE ISSUE?

14 A. In Case No. EU-2011-0387 the Commission granted Empire an Accounting Authority
15 Order that allowed it to defer incremental operation and maintenance costs, depreciation
16 and carrying costs associated with the tornado that struck the City of Joplin, Missouri, on
17 May 22, 2011. Company now seeks to recover the costs it deferred through an expense
18 amortization and rate base treatment for the unamortized balance.
19

1 Q. IS PUBLIC COUNSEL OPPOSED TO THE RECOVERY OF THE DEFERRED
2 COSTS VIA AN EXPENSE AMORTIZATION?

3 A. No. The Commission's Order Approving And Incorporating Unanimous Stipulation
4 And Agreement stated:

5

6 e. If Empire files an electric general rate case in Missouri by June 1,
7 2013, then Empire shall ratably amortize to Account 182.3 over a
8 ten-year (120-month) period any deferrals it has already booked,
9 beginning on the earlier of: 1) the effective date of new rates
10 implemented in its next general rate increase case or rate complaint
11 case; or 2) June 1, 2013.

12

13

14 Thus, the Company, MPSC Staff and OPC all agree that once the deferred amount has
15 been determined is shall be amortized over 10 years.

16

17 Q. DID THE COMMISSION ALSO AUTHORIZE RATE BASE TREATMENT FOR
18 THE DEFERRED COSTS?

19 A. No. However, the Order does state:

20

21 b. Nothing in the Commission's order shall be considered a finding
22 by the Commission of the reasonableness of the costs and/or
23 expenditures deferred, and the Commission reserves the right to
24 consider the ratemaking treatment to be afforded all deferred costs

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and/or expenditures, including the recovery of carrying costs, if any.

In addition, the Order states:

Empire also agreed to work with parties as the end of the amortization period approaches to develop a mechanism that ensures Empire does not over or under recover the deferred amounts.

Q. DID THE MPSC STAFF'S DIRECT FILING RECOMMEND RATE BASE TREATMENT FOR THE UNAMORTIZED BALANCE OF DEFERRED COSTS?

A No. On page 70 of the MPSC Staff Cost Of Service Report filed in the current case Staff's Witness, Ms. Kimberly K. Bolin, states:

Staff did not include the unamortized balance of the Accounting Authority Order (AAO) granted in Case No. EU-2011-0387 for costs associated with the May 22, 2011, tornado that struck the City of Joplin, Missouri in Empire's rate base. It is an appropriate allocation of the risk associated with extraordinary "Acts of God" to share the costs of such events between shareholders and ratepayers by allowing Empire to earn a return of the deferred balance of tornado related costs, but not a return on these dollars.

1 Q. DOES OPC AGREE WITH THE MPSC STAFF'S POSITION THAT THE
2 UNAMORTIZED BALANCE OF DEFERRED COSTS NOT RECEIVE RATE BASE
3 TREATMENT?

4 A. Yes. It is OPC's position that the unamortized balance of deferred costs not receive
5 Commission authorization for rate base treatment for the very same reasons expressed by
6 the Staff witness. That position has been supported and authorized by the Commission
7 for a number of years in similar "Act of God" type situations.

8
9 Public Counsel is aware and believes that in such extraordinary situations services must
10 be restored as quickly as possible without hesitation by a utility that is concerned with
11 future recovery of costs it may incur, but also recognizes that inherent in the
12 Commission authorized return on equity afforded the utility in its last general rate case is
13 a component which raises the return for potential business risk over which the Company
14 may have no control. Acts of God demand an immediate response and the AAO process
15 shifts some of the costs incurred by the situation from the Company to ratepayers in
16 order to incent the utility to make capital investments and repairs as quickly as possible.
17
18

1 Q. TO YOUR KNOWLEDGE HAS THERE BEEN ANY DISCUSSION AS TO THE
2 PROCESS THAT WILL BE IMPLEMENTED TO ENSURE EMPIRE DOES NOT
3 OVER OR UNDER-RECOVER THE DEFERRED AMOUNTS?

4 A. No. In the AAO Order the Commission, and parties to the case, recognized that Empire
5 should not be allowed to over or under-recover the costs it deferred. I was a party to
6 those discussions in the last case and my concern was related to the fact that once an
7 amortization amount is built into rates utilities often over-collect on the deferrals
8 because full amortization of the costs occurs between rate cases. Some might consider
9 that a regulatory lag issue, but the AAO process is a special or abnormal regulatory
10 process meant to deal with extraordinary and unusual situations. It is not nor ever has
11 been considered as normal regulatory ratemaking.

12
13 Q. WHAT IS THE PUBLIC COUNSEL'S RECOMMENDATION TO ENSURE THAT
14 EMPIRE DOES NOT OVER OR UNDER-RECOVER THE DEFERRED COSTS?

15 A. Public Counsel recommends that the Commission issue an order in this case that the
16 Company will return to ratepayers any amortization amounts built into rates should the
17 deferred amount become fully-amortized between rate cases. For example, though the
18 costs will not become fully-amortized for 10 years, assume that the costs become fully-
19 amortized in year 10 but subsequent to Company's last general rate case thus, for the

1 period beginning the month of the full-amortization of the deferred costs until the
2 effective date of its next general rate case the over-recovered amortization amounts
3 should be calculated and refunded to ratepayers over a reasonable period of time.
4

5 **IV. SPP TRANSMISSION TRACKER**

6 Q. WHAT IS THE ISSUE?

7 A. On page 16 of the Direct Testimony of Company witness, Mr. W. Scott Keith, he begins
8 his testimony regarding the Company's request for a SPP transmission tracker. He
9 states:

10
11 Q. WHAT IS THE COMPANY'S PROPOSAL REGARDING THE
12 SPP TRANSMISSION TRACKER?

13
14 A. Empire requests that a transmission tracking mechanism be
15 authorized in this case to ensure the appropriate recovery of SPP
16 Schedules 1a & 11 transmission costs. The Company's request for
17 a transmission tracker would be treated similarly to the tracking
18 mechanisms Empire uses for its pension and vegetation expense
19 trackers, although there are differences in the way carrying costs
20 are calculated and how the over/(under) cost recovery amounts are
21 amortized for rate purposes.
22
23

24 He then continues on for several pages of testimony explaining why the Company believes
25 that the use of a tracker is appropriate for the SPP transmission charges.

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Q. IS PUBLIC COUNSEL OPPOSED TO THE COMPANY'S REQUEST FOR THE TRANSMISSION TRACKER?

A. Yes. This issue is essentially the same as the transmission tracker request made by Kansas City Power & Light (KCPL) in its recent rate case, Case No. ER-2012-0174 and Kansas City Power & Light Greater Missouri Operations (KCPL-GMO), Case No. ER-2012-0175 which were denied by the Commission. On page 28 of the Report And Order for both the KCPL and KCPL-GMO cases, issued and effective January 9, 2013, the Commission stated:

Applicants have not carried their burden of proving that the Commission should order deferred recording (“a tracker”) for transmission costs. The issue is moot because Applicants can already determine how to record that cost by themselves, as they do with almost every cost every day, under the Uniform System of Accounts (“USoA”).

Continuing on page 32:

Because Applicants have not shown that the projected transmission increases are current and will be rare, Applicants have not carried their burden of proving that the projected transmission increases are extraordinary. If the increases—once they happen—prove to be less than five percent of income, Applicants may apply for an accounting authority order under the law they cite. If the projected transmission increases prove

1 to be more than five percent of income, they will be subject to deferral
2 without the Commission's order.
3

4 Either way, the law provides a "regulatory mechanism to ensure that
5 increasing SPP transmission expenses between rate cases are appropriately
6 deferred for possible recovery in a future rate proceeding." The only thing
7 that the Commission is denying Applicants is a blessing upon the
8 treatment of facts that have not yet occurred, an order for which
9 Applicants cite no authority in the law. Whether the Commission can
10 create a transmission tracker by regulation, or the General Assembly can
11 create a tracker by legislation, or some other jurisdiction has already done
12 either, does not change the result.
13

14 For those reasons, the Commission concludes that denying a tracker is
15 consistent with the law and does not threaten safe and adequate service at
16 just and reasonable rates, so the Commission will not order a transmission
17 tracker.
18
19

20 **V. RIVERTON RETIREMENT AMORTIZATION**

21 **Q. WHAT IS THE ISSUE?**

22 **A.** Company is requesting to amortize over approximately four years what it perceives as a
23 depreciation reserve deficiency for its Riverton coal-fired generating facilities.

24 Beginning on page 15 of the Direct Testimony of Company witness, Mr. Thomas J.

25 Sullivan, he states:
26

27 **Q. ARE THERE ANY ADDITIONAL RECOMMENDATIONS**
28 **YOU ARE MAKING?**

29 **A.** Yes, I am recommending that the Company amortize the
30 depreciation reserve deficiency for its Riverton coal-fired

1 generating facilities over the facilities expected 4-year remaining
2 life.

3
4 Q. WHAT IS THE AMOUNT OF THE AMORTIZATION THAT
5 YOU RECOMMEND?

6 A. Based on the depreciation reserve deficiency of \$13,140,709
7 shown on line 45 of Schedule TJS-7 Page 1, I recommend that the
8 Company amortize \$3,285,177 per year for each year during the
9 2013 through 2016 period. This amount is in addition to the
10 annual depreciation expense based on the recommended whole life
11 depreciation rate of 3.20 percent for the Riverton coal-fired
12 generating facility.

13
14 Q. WHAT IS THE BASIS FOR THE FOUR-YEAR PERIOD?

15 A. According to the Company's IRP, Empire is planning for the
16 retirement of the coal-fired generating facilities at the Riverton
17 Plant in mid-year 2016 due to environmental compliance issues
18 and the age of the facilities.

19
20
21 Q. DIDN'T THE COMPANY PRESENT THIS SAME ISSUE IN ITS LAST RATE CASE,
22 CASE NO. ER-2011-0004?

23 A. Yes. The Company's request is for additional depreciation expense on Company's
24 Riverton Units 7 & 8 due to their expected early retirement.

25
26 Q. IS PUBLIC COUNSEL OPPOSED TO THE COMPANY'S REQUEST?

27 A. Yes.

28
29 Q. WHY IS THE PUBLIC COUNSEL OPPOSED TO THE COMPANY'S REQUEST?

1 A. Public Counsel is opposed to the request for two reasons, 1) it is my understanding that the
2 Company's total depreciation reserve is over-accrued to the point that any under-recovery
3 of the Riverton plant due to early retirement could be compensated for by the existing
4 depreciation reserve over-accrual, and 2) the projected retirement of the plant is not known
5 and measureable since it has not actually occurred.

6
7 Regarding the first concern, beginning on page 18 of the Rebuttal Testimony of MPSC
8 Staff witness, Mr. John A. Robinett, in Case No. ER-2011-004, he stated:

9
10 **IV RIVERTON RESERVE DEFICIENCY ISSUE**

11 Q. What is Empire's request regarding the future retirement of the
12 Riverton production plant accounts?

13
14 A. As described on pages 7 through 9 of Mr. Sullivan's direct
15 testimony, Empire seeks an amortization to accrue \$1,343,104 per
16 year for eight years for the "unrecovered" cost of the Riverton
17 steam production units 7 & 8. The Company alleges that the full
18 investment in the plant and final retirement costs will not be
19 recovered through depreciation expense if the Riverton Units 7 and
20 8 are retired in 2018. Mr. Sullivan also shows on Schedule TJS-2
21 that the accumulated provision for depreciation applicable to total
22 plant-in-service is \$558,896,532 as of December 31, 2009. It is
23 from this amount that Staff states the Riverton retirements, when
24 and if they occur, should be charged.

25
26 Q. What is Staff's position regarding the amortization of unrecovered
27 investment by Empire?
28
29

1 A. Acceptance of Empire's requested recovery method results in
2 double recovery. Empire's depreciation reserve for the steam
3 production fleet is significantly over accrued and will continue to
4 accrue. It is only by the Company's own bookkeeping that an
5 under accrual for a specific plant could appear to exist, as the
6 reserve should be accrued for the fleet and not by individual steam
7 production plant.
8

9 Q. What is Staff's recommendation regarding the amortization of net
10 salvage for the Riverton Power Plant?
11

12 A. The net salvage expense for the Riverton Power Plant should not
13 be amortized. Staff recommends these amounts should be drawn
14 from the existing depreciation retirement reserve and not recovered
15 through an additional amortization expense.
16

17 (Emphasis added by OPC)
18
19

20 Q. IS IT STILL THE MPSC STAFF'S POSITION THAT THE COMPANY'S
21 DEPRECIATION RESERVE IS OVER-ACCRUED?

22 A. Yes. On page 97 of the MPSC Staff's Cost of Service Report filed in the current case Mr.
23 Robinett, who is again the witness for this issue, states:
24

25 Based upon the Commission's currently ordered depreciation rates for
26 Empire, the reserve for depreciation is over-accrued by \$72,132,008 at the
27 filing of direct testimony in Case No. ER-2011-0004. This amount has
28 continued to increase since Empire's depreciation rates were last ordered
29 in Case No. ER-2011-0004. Although the reserve is over-accrued, when
30 the actual reserve is compared to the theoretical reserve that is calculated
31 based on current rates, the actual reserve is not significantly over-accrued
32 when calculated based on the depreciation rates Staff is recommending in

1 this case. Thus, Staff is not recommending a corrective action to adjust
2 the depreciation reserve by decreasing the depreciation rates in this case.
3
4

5 Q. IS THE POSITION TAKEN IN CASE NO. ER-2011-004 BY MR. ROBINETT STILL
6 RELEVANT IN THE CURRENT CASE?

7 A. Yes. If the total depreciation reserve over-accrual is of a magnitude that it could
8 compensate any future under-recovery of depreciation caused by an early retirement of the
9 Riverton Units 7 & 8 then the Staff's earlier position that the Commission deny the
10 Company's request is still valid.
11

12 Q. REGARDING PUBLIC COUNSEL'S SECOND CONCERN THAT THE ACTUAL
13 RETIREMENTS HAVE NOT OCCURRED, WHY IS THAT RELEVANT TO THE
14 FACT THAT THE POTENTIAL RESERVE DEFICIENCY IS NOT KNOWN AND
15 MEASURABLE?

16 A. In Company's last rate case it alleged that the retirements would occur in calendar year
17 2018 while in the current case calendar year 2016 has been identified as the date set for the
18 retirements. Thus, the relevance is that retirement of the units is a moving target that may
19 or may not occur in 2016, 2018 or even some other earlier or later date. Not until the
20 retirements actually occur will the parties, or the Commission, know what, if any, reserve
21 deficiency exists or if one exists at all. Therefore, it is Public Counsel's recommendation

1 that the Commission deny the Company's request based on a projected retirement year and
2 estimated deficiency amount which it does not know for certain will occur.

3

4 Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?

5 A. Yes, it does.

**CASE PARTICIPATION
OF
TED ROBERTSON**

Company Name	Case No.
Missouri Public Service Company	GR-90-198
United Telephone Company of Missouri	TR-90-273
Choctaw Telephone Company	TR-91-86
Missouri Cities Water Company	WR-91-172
United Cities Gas Company	GR-91-249
St. Louis County Water Company	WR-91-361
Missouri Cities Water Company	WR-92-207
Imperial Utility Corporation	SR-92-290
Expanded Calling Scopes	TO-92-306
United Cities Gas Company	GR-93-47
Missouri Public Service Company	GR-93-172
Southwestern Bell Telephone Company	TO-93-192
Missouri-American Water Company	WR-93-212
Southwestern Bell Telephone Company	TC-93-224
Imperial Utility Corporation	SR-94-16
St. Joseph Light & Power Company	ER-94-163
Raytown Water Company	WR-94-211
Capital City Water Company	WR-94-297
Raytown Water Company	WR-94-300
St. Louis County Water Company	WR-95-145
United Cities Gas Company	GR-95-160
Missouri-American Water Company	WR-95-205
Laclede Gas Company	GR-96-193
Imperial Utility Corporation	SC-96-427
Missouri Gas Energy	GR-96-285
Union Electric Company	EO-96-14
Union Electric Company	EM-96-149
Missouri-American Water Company	WR-97-237
St. Louis County Water Company	WR-97-382
Union Electric Company	GR-97-393
Missouri Gas Energy	GR-98-140
Laclede Gas Company	GR-98-374
United Water Missouri Inc.	WR-99-326
Laclede Gas Company	GR-99-315
Missouri Gas Energy	GO-99-258
Missouri-American Water Company	WM-2000-222
Atmos Energy Corporation	WM-2000-312
UtiliCorp/St. Joseph Merger	EM-2000-292
UtiliCorp/Empire Merger	EM-2000-369
Union Electric Company	GR-2000-512
St. Louis County Water Company	WR-2000-844
Missouri Gas Energy	GR-2001-292
UtiliCorp United, Inc.	ER-2001-672
Union Electric Company	EC-2002-1
Empire District Electric Company	ER-2002-424

**CASE PARTICIPATION
OF
TED ROBERTSON**

Company Name	Case No.
Missouri Gas Energy	GM-2003-0238
Aquila Inc.	EF-2003-0465
Aquila Inc.	ER-2004-0034
Empire District Electric Company	ER-2004-0570
Aquila Inc.	EO-2005-0156
Aquila, Inc.	ER-2005-0436
Hickory Hills Water & Sewer Company	WR-2006-0250
Empire District Electric Company	ER-2006-0315
Central Jefferson County Utilities	WC-2007-0038
Missouri Gas Energy	GR-2006-0422
Central Jefferson County Utilities	SO-2007-0071
Aquila, Inc.	ER-2007-0004
Laclede Gas Company	GR-2007-0208
Kansas City Power & Light Company	ER-2007-0291
Missouri Gas Utility, Inc.	GR-2008-0060
Empire District Electric Company	ER-2008-0093
Missouri Gas Energy	GU-2007-0480
Stoddard County Sewer Company	SO-2008-0289
Missouri-American Water Company	WR-2008-0311
Union Electric Company	ER-2008-0318
Aquila, Inc., d/b/a KCPL GMOC	ER-2009-0090
Missouri Gas Energy	GR-2009-0355
Empire District Gas Company	GR-2009-0434
Lake Region Water & Sewer Company	SR-2010-0110
Lake Region Water & Sewer Company	WR-2010-0111
Missouri-American Water Company	WR-2010-0131
Kansas City Power & Light Company	ER-2010-0355
Kansas City Power & Light Company	ER-2010-0356
Timber Creek Sewer Company	SR-2010-0320
Empire District Electric Company	ER-2011-0004
Union Electric Company, d/b/a AmerenUE	ER-2011-0028
Missouri-American Water Company	WR-2011-0337
Union Electric Company, d/b/a AmerenMO	EU-2012-0027
Missouri-American Water Company	WA-2012-0066
Union Electric Company, d/b/a AmerenMO	ER-2012-0166
Laclede Gas Company	GO-2012-0363
Kansas City Power & Light Company	ER-2012-0174
Kansas City Power & Light Company GMOC	ER-2012-0175
Empire District Electric Company	ER-2012-0345