Exhibit No.:	
Issues:	*Pension Expense; Customer Growth*
Witness:	*Doyle L. Gibbs*
Sponsoring Party:	*MoPSC Staff*
Type of Exhibit:	*Surrebuttal Testimony*
Case No.:	*ER-2004-0570*
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MISSOURI PUBLIC SERVICE COMMISSION

UTILITY SERVICES DIVISION

SURREBUTTAL TESTIMONY

OF

DOYLE L. GIBBS

THE EMPIRE DISTRICT ELECTRIC COMPANY

CASE NO. ER-2004-0570

Jefferson City, Missouri
November 2004

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BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In The Matter of the Tariff Filing of The Empire District Electric Company to Implement a General Rate Increase for Retail Electric Service Provided to Customers in its Missouri Service Area.	)))))	Case No. ER-2004-0570

AFFIDAVIT OF DOYLE L. GIBBS

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

Doyle L. Gibbs, being of lawful age, on his oath states: that he has participated in the preparation of the following surrebuttal testimony in question and answer form, consisting of 8 pages to be presented in the above case; that the answers in the following surrebuttal testimony 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.

Doyle L Gibbs
Doyle L. Gibbs

Subscribed and sworn to before me this 23rd day of November 2004.

D. SUZIE MANKIN
Notary Public - Notary Seal
State of Missouri
County of Cole
My Commission Exp. 07/01/2008

D Suzie Mankin
Notary

SURREBUTTAL TESTIMONY

OF

DOYLE L. GIBBS

THE EMPIRE DISTRICT ELECTRIC COMPANY

CASE NO. ER-2004-0570

Q. Please state your name and business address.

A. Doyle L. Gibbs, 1845 Borman Court, Suite 101, St. Louis, Missouri 63146.

Q. Are you the same Doyle L. Gibbs that previously filed direct and rebuttal testimony in this case?

A. Yes, I am.

Q. What is the purpose of your surrebuttal testimony?

A. The purpose of my surrebuttal testimony is to respond to the rebuttal testimony of Empire District Electric Company's (Empire, EDE or Company) witnesses C. Kenneth Vogl regarding pension expense and Kelly S. Walters regarding customer growth.

PENSION EXPENSE

Q. Please summarize Empire's and the Staff's positions on the pension issue.

A. The Company is proposing the use of Statement of Financial Accounting Standard (FAS) 87 as the basis to determine pension expense in cost-of-service and the Staff is proposing to continue to use the methodology agreed to in the Company's last rate case, Case No. ER-2002-424, that is based on the minimum required pension contribution required by the Employee Retirement Income Security Act of 1974 (ERISA).

Q. Does Mr. Vogl's rebuttal testimony provide any reasons in addition to those provided in his direct testimony to support changing the pension cost recognition methodology from the ERISA minimum contribution, as agreed to in the last rate case, to FAS 87?

A. No. Beginning on page 2 of Mr. Vogl's rebuttal testimony, he simply restates the reasons why the ERISA minimum contribution method is unacceptable that were cited on page 3 in his direct testimony:

1) Excessive year-to-year volatility inherent in the ERISA calculations can create test year costs significantly higher or lower than actual costs incurred during the recovery period;
2) It will create inequities between generations of ratepayers;
3) It is not consistent with Generally Accepted Accounting Principles (GAAP) and, therefore, cannot be used for shareholder financial reporting purposes;
4) It discourages funding policies that are consistent with good pension fund management.

Q. Has Mr. Vogl provided any additional information in his surrebuttal testimony to support the claim that the ERISA minimum method is more volatile than FAS 87?

A. No he has not. Mr. Vogl continues to rely on his calculations of future what-if scenarios, presented in Schedule 2 attached to his direct testimony, which have been duplicated and attached as Schedule 1 to his rebuttal testimony. The perceived volatility depicted in Mr. Vogl's calculations is also his underlying basis to support his position regarding intergeneration inequity as indicated on Page 4, Line 18. History, however, has shown that FAS 87 has been more volatile than the ERISA minimum method.

Q. On Schedule 1 attached to your rebuttal testimony, you presented a comparison between FAS 87 and ERISA minimum for each of the years 1999 through 2004. Have you expanded that schedule to include additional years?

A. Yes. Schedule 1 attached to this surrebuttal testimony shows what FAS 87 and the ERISA minimum have been for all the years since 1995, when FAS 87 was first adopted for ratemaking purposes for Empire. Clearly, FAS 87 has been more volatile than the ERISA minimum.

Q. In the discussion of volatility, on page 4 of his rebuttal testimony, Mr. Vogl implies that under the ERISA minimum method, ratepayers will be overcharged if a large contribution occurred during a test year and that large regulatory assets may result if an increase in contributions occurs during a non-test-year. Is he correct in his assumption?

A. No he is not. Mr. Vogl is apparently unaware of the expense normalization concept that is used in the ratemaking process. He has assumed that whatever happens during a test year would translate to what would be incorporated into rates. That is rarely the case. During a test year, practically all components of revenue, expense and capital are examined and adjusted to reflect an annualized/normalized level. Pension expense would be no different. Pension contributions, past and present, would be examined and a normalized level of contributions would be determined based on the available data. The test year would merely be used as a comparison to the normalized amount to quantify an adjustment. Mr. Vogl is correct, assuming the Staff's tracker methodology described on pages 10 and 11 of my direct testimony is implemented, that in the event that the actual contributions differ from what is included in rates, a regulatory asset or liability would be created for future rate inclusion. However, it would only be speculation as to the size of the regulatory asset or liability and, given the Company's two-year filing frequency, any change in the level of minimum funding required by ERISA and the amortization of any regulatory asset or liability could be addressed within a reasonable time frame.

Q. On page 5 and continuing onto page 6 of Mr. Vogl's rebuttal testimony, he credits the Staff's past FAS 87 pension methodologies as a contributing factor to generational inequity. Have you been able to determine the impact of Staff's methodologies on FAS 87 pension expense as compared to the smoothing techniques being proposed by the Company?

A. No, I have not.

Q. Why have you not been able to make the comparison?

A. The information necessary to accurately verify Mr. Vogl's argument is not available. Data Request 446, submitted by the Staff on August 17, 2004, requested that the Company provide the FAS 87 costs for each of the years 1999 through 2003 assuming the use of market related value, a ten percent corridor and amortization of gains and losses over the average future service life of plan participants. In a recent communication to the Staff, EDE indicated that it was unable to provide the data necessary to respond to the data request.

Q. On page 6 of his rebuttal testimony, Mr. Vogl states "…Empire must recognize pension cost in accordance with Statement of Financial Accounting Standards No. 87". Do you believe that statement to be true?

A. No. As indicated on page 6 of my rebuttal testimony, the Financial Accounting Standards Board recognizes that accounting for regulation may be different from standard GAAP. The criteria for FAS 71 to apply are that the rates for regulated services are subject to an independent third-party regulator, the rates are designed to recover the enterprise's cost of providing the regulated service and it is reasonable to assume that the rates set to recover the enterprise's cost of service can be charged and collected from its customers. These criteria certainly apply to Empire. Additionally, there needs to be reasonable assurance of future recovery of the asset created through the application of FAS 71.

Q. Is there reasonable assurance of future recovery of the asset created through the application of FAS 71?

A. Yes, the Company's own actuary provides this reasonable assurance. As Mr. Vogl states on page 13 and 19 of his direct testimony, since the total cost over the life of the pension plan represents the benefits paid, the cost recognized will be the same under either FAS 87 or minimum ERISA. Therefore, it is reasonable to assume that any asset that is accumulated during the life of the pension plan that represents the difference between FAS 87 and minimum ERISA will be recovered over the life of the pension plan.

Q. Has the Commission shown by its past actions, that it provides for the recovery of regulatory pension assets?

A. Yes. The Commission has approved stipulations and agreements in several cases that have recognized recovery of regulatory pension assets. In Empire's last rate case an amortization of the prepaid asset was established to recognize the accumulated difference between FAS 87, which was being recognized in rates and minimum ERISA contributions. In the recent Aquilla rate case a mechanism was established to track and recover any difference between the amount included in rates and the actual ERISA minimum contributions. The Staff is proposing this same mechanism in this case. This mechanism will assure the Company that it will be able to collect through its rates the actual pension cost represented by the actual cash contributions required to fund its pension plan.

Q. Mr. Vogl states on page 7 of his rebuttal testimony that the ERISA minimum contribution method discourages funding policies that are consistent with good pension management. Do you agree with this statement?

A. No. Mr. Vogl's claim is based primarily on what he perceives as the inflexibility of the method to recognize contributions in excess of the minimum. This perception ignores the application of normalization procedures typically used by the Staff in a rate proceeding. As a case in point, in my rebuttal testimony, I cited Case No. ER-2004-0034 involving Aquila, Inc., where the Staff included pension contributions in excess of the ERISA minimum and did so for the very reason cited in Mr. Vogl's rebuttal testimony, i.e., to avoid a significant increase in the annual premiums to the Pension Benefit Guarantee Corporation (PBGC). Additionally, implicit in his reasoning as to why the ERISA minimum contribution method discourages funding policies that are consistent with good pension management is that the funding is dictated by the regulatory treatment of how pension expense is determined for ratemaking. From 1996 through 2002 when the Company was on a FAS 87 basis for setting its rates, no contribution in excess of the ERISA minimum was made because it was not permitted under ERISA. The maximum ERISA contribution, as well as the minimum ERISA contribution for each during this time period was zero. Therefore, it was not the ratemaking treatment accorded to pension expense that prevented contributions in excess of minimum ERISA from being made to the fund, but ERISA itself.

Q. Please summarize the Staff's position on pensions.

A. It is the Staff's opinion that pension expense based on the ERISA minimum method is superior to the FAS 87 accrual method for ratemaking because it matches the cost the ratepayer is required to pay through rates with the actual cost the Company incurs to fund pensions. History has demonstrated that FAS 87 is more volatile than the ERISA minimum, Empire meets the criteria that would allow the use of FAS 71, and funding pensions in accordance with laws specifically enacted to provide security to employee pension funds is sound pension fund management.

CUSTOMER GROWTH

Q. On page 8 of Ms. Walters' rebuttal testimony, she describes a customer growth issue that is apparently the result of customers switching between the General Power (GP) and Commercial (CB) rate classes. Has the Staff been able to examine the data that supports the Company's claim that the impact of the customers switching between the GP and CB rate classes causes the Staff's customer growth adjustment to be overstated?

A. Yes, it has.

Q. What is the Staff's conclusion based on that examination?

A. The Company's position does have merit, although the Staff's examination indicates that the impact is less than what is presented in Ms. Walters' rebuttal testimony.

Q. What has the Staff determined to be the value related to the impact of the customer switching?

A. The Staff has determined that the impact of the customer switching would reduce the Staff's growth adjustment by 11.4 million kWh rather than the 18.3 million reflected on page 9 of Ms. Walters' rebuttal testimony. Translated to dollars, the 11.4 kWh would equal a reduction of approximately $726,000 in annualized revenue, versus the Company's amount of $1 million. The amount of the reduction in annualized revenue, however, does not constitute the impact on revenue requirement, as indicated in Ms. Walters' rebuttal testimony. Any increase in revenue requirement, as a result of the decrease in annualized revenue, would be partially offset by a reduction to fuel expense for the reduced level of annualized kWh.

Q. Given the changes to the Staff's case, related to the customer switching previously referenced, does customer growth remain an issue in this case?

A. I believe it will be resolved. However, as of this writing, the Staff and Company are still in discussions.

Q. Does this conclude your surrebuttal testimony?

A. Yes, it does.

The Empire District Electric Company
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Analysis of Annual Change in Pension (Accrual vs Contribution)

	FAS 87			Minimum ERISA	
Year	Cost	$ Change	% Change	Cost	$ Change
1995	4,008,746			0	
1996	(1,074,130)	(5,082,876)	-126.8%	0	0
1997	(725,199)	348,931	32.5%	0	0
1998	(2,239,850)	(1,514,651)	-208.9%	0	0
1999	(4,390,811)	(2,150,961)	-96.0%	0	0
2000	(7,780,497)	(3,389,686)	-77.2%	0	0
2001	(4,366,247)	3,414,250	43.9%	0	0
2002	(3,581,781)	784,466	18.0%	0	0
2003	3,753,522	7,335,303	204.8%	342,348	342,348
2004	2,900,653	(852,869)	-22.7%	0	(342,348)