

Exhibit No.:
Issues: *Off System Sales Margin;*
Pensions and OPEBs
Witness: *Dana E. Eaves*
Sponsoring Party: *MoPSC Staff*
Type of Exhibit: *Surrebuttal Testimony*
Case No. *ER-2008-0093*
Date Testimony Prepared: *April 25, 2008*

MISSOURI PUBLIC SERVICE COMMISSION

UTILITY SERVICES DIVISION

SURREBUTTAL TESTIMONY

OF

DANA E. EAVES

THE EMPIRE DISTRICT ELECTRIC COMPANY

CASE NO. ER-2008-0093

Jefferson City, Missouri
April 2008

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- The Staff's position on suggested language by Empire for the accounting treatment of costs associated with certain "special events" as they impact its pensions and other post employment benefits (OPEB) cost levels.

APPROPRIATE LEVEL OF MARGINS ON OSS

Q. Did you address the Staff's position on the level of margins on OSS revenue in the Staff's COS Report in this case?

A. Yes, I did.

Q. Can you briefly describe the position of OPC witness Kind concerning OSS margins?

A. Yes. Mr. Kind is recommending the level of OSS margins that Empire achieved during calendar year 2007 in the amount of \$5,955,336 as an appropriate ongoing level.

Q. What is the level of OSS margins the Staff is recommending in this case?

A. The Staff is recommending an adjusted level of OSS Margin of \$4,415,779. This amount was derived by multiplying the January through June 2007 OSS margin amounts by two. The Staff believed this approach gave appropriate recognition to new factors impacting Empire's ability to achieve higher OSS margins during the last six months of the test year for this case, the 12 months ending June 2007.

Q. Has the Staff addressed why it chose not to recommend a multi-year average of OSS margins to develop its recommended level of margins to include in the case, which is the approach the Commission ordered in its Report and Order in Empire's previous Missouri rate proceeding, Case No. ER-2006-0315?

1 A. Yes. In the Staff's COS Report, it states:

2 Starting in February 2007, Empire has participated in the
3 Energy Imbalance System (EIS) Market operated and
4 controlled by the Southwest Power Pool (SPP). The EIS market
5 is intended to allow member utilities access to economical
6 real time energy based upon market bids by members and the
7 availability of dispatchable generation and transmission with in
8 the SPP market footprint.

9 Since Empire began participating in the EIS market, it has been
10 a net seller of power into the market. Involvement in the
11 EIS market has benefited Empire with increased margins from
12 the sale of power. Empire has cited this benefit from
13 participation in the SSP EIS Market in its Form 10-K and 10-Q
14 filings with the Securities and Exchange Commission (SEC).

15 Using an OSS margin calculation based upon the last six months of the test year gives
16 recognition to the new and ongoing environment for OSS caused by the new EIS market.
17 Use of a multi-year historical average for OSS margins in this proceeding would not have
18 done so.

19 Q. Is the amount of OSS Margin that Mr. Kind recommending the highest
20 amount the Company has achieved during recent history?

21 A. Yes. The table below shows the annual amounts of OSS Margins
22 for the period 1999 thru 2007:

Calendar Year	Net Sales Margins
1999	\$2,378,042
2000	\$2,443,844
2001	\$832,651
2002	\$5,116,368
2003	\$3,016,910
2004	\$1,687,445
2005	\$3,502,169
2006	\$3,441,831
2007	\$5,955,336

1 Q. In your opinion, why would it be inappropriate to use calendar year 2007
2 margins to set rates in this case?

3 A. It is possible that some of the very high margins achieved in 2007 were caused
4 by temporary factors other than the new EIS environment. For that reason, the Staff
5 approach is more conservative and is more appropriate than OPC's approach.

6 Q. Are there any other issues in this case that relate to the OSS margin issue in
7 dispute?

8 A. Yes. The Staff has recommended that OSS margins be incorporated in its
9 fuel adjustment clause (FAC) pass-through mechanism. The Staff believes that all parties
10 either support or do not object to the inclusion OSS margins in the FAC. Under the
11 FAC proposals sponsored by the parties to this proceeding, inclusion of OSS margins in the
12 FAC would mean a majority of any difference between future achieved OSS margin levels
13 and the level reflected in Empire's rates will be passed on to customers as either an increase
14 or decrease in the Company's FAC rate. While the Staff still believes it is important for the
15 Commission to select the most reasonable amount for OSS margins for purposes of setting
16 Empire's rates, the inclusion of these margins in the FAC will make the consequences of
17 "guessing wrong" on this amount considerably less onerous to Empire and its customers than
18 under traditional regulation.

19 **RATE TREATMENT FOR FAS 88 AND FAS 106 "SPECIAL EVENTS"**

20 Q. What are FAS 88 and FAS 106 "special events"?

1 A. Company witness Laurie A. Delano provides the explanation of these events
2 in her direct testimony on pages 4 and 5 as follows:

3 Statement of Financial Accounting Standards
4 No.88 (“FAS 88”) and FAS 106 require the Company to
5 recognize one-time charges (expense or credits (income).
6 Consistent with the stipulation and agreement in AmerenUE’s
7 recent cases (GR-2007-0003) and (ER-2007-0002), we are
8 requesting a procedure to ensure that any on-time charges or
9 credits recognized in accordance with FAS 88 or FAS 106 be
10 properly reflect in rates. We are also requesting modifications
11 to provide additional funding flexibility that would enable the
12 Company to avoid benefit restrictions due to certain provisions
13 of the Pension Protection Act of 2006.

14 Q. Since the filing of direct testimony, has Empire proposed specific language to
15 modify past stipulations concerning pensions and OPEBs to specify accounting treatment of
16 FAS 88 and FAS 106 special events and Pension Protection Act benefit restrictions?

17 A. Yes. Suggested language was attached to the rebuttal testimony of Empire
18 witness C. Kenneth Vogl.

19 Q. Is Ms. Delano correct that similar language has been afforded to utilities in
20 prior AmerenUE and Laclede Gas Company stipulations and agreements?

21 A. Yes, she is.

22 Q. Does the Staff agree with the language suggested by Mr. Vogl?

23 A. Yes. However, the Staff recommends that the following language be added to
24 that suggested by Mr. Vogl: “Empire shall inform the Staff of the occurrence of any
25 “special events” under FAS 88 and FAS 106 that would trigger the accounting treatment
26 discussed in the preceding paragraphs, and well as any contributions of additional amounts to
27 its pension trust fund to avoid Pension Protection Act benefit restrictions.”

1 Q. Mr. Vogl questions the Staff's COS Report as it relates to a description of
2 how Empire's Prepaid Pension Asset is impacted by a past Empire Stipulation and
3 Agreement. Do you agree with Mr. Vogl's statement on page 4, line 11 that "Empire's
4 pension methodology is not based on ERISA minimum funding?

5 A. Yes. The statement in the COS report that Empire's ratemaking for pensions
6 is based upon ERISA minimum funding levels was an inadvertent error.

7 Q. Does this conclude your surrebuttal testimony?

8 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's Application for)
Authority to File Tariffs Increasing Rates for)
Electric Service Provided to Customers in the)
Missouri Service Area of the Company)

Case No. ER-2008-0093


AFFIDAVIT OF DANA E. EAVES

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

Dana E. Eaves, of lawful age, on his oath states: that he has participated in the preparation of the foregoing Surrebuttal Testimony in question and answer form, consisting of 6 pages to be presented in the above case; that the answers in the foregoing 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.


Dana E. Eaves

Subscribed and sworn to before me this twenty-fourth day of April, 2008.


Nikki Senn
Notary Public

NIKKI SENN Notary Public - Notary Seal State of Missouri Commissioned for Osage County My Commission Expires: October 01, 2011 Commission Number: 07287016
