

Exhibit No.:
Issue: Retiree Benefits, Health Trust Acct.
Witness: Myron W. McKinney
Sponsoring Party: The Empire District Electric Co.
Case No.: EM-2000-369
Date Prepared: September 6, 2000

MISSOURI PUBLIC SERVICE COMMISSION
Case No. EM-2000-369

Supplemental Surrebuttal Testimony

of

Myron W. McKinney

Jefferson City, Missouri

Exhibit No. 32
Date 9-14-00 Case No. EM-2000-369
Reporter MC

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI
SUPPLEMENTAL SURREBUTTAL TESTIMONY
OF MYRON W. MCKINNEY
ON BEHALF OF THE EMPIRE DISTRICT ELECTRIC COMPANY**

CASE NO. EM-2000-369

1 Q. Please state your name.

2 A. Myron W. McKinney.

3 Q. By whom are you employed and in what capacity?

4 A. The Empire District Electric Company ("Empire") as President and Chief Executive Officer.

5 Q. Are you the same Myron W. McKinney who caused to be prepared and filed in this
6 proceeding certain direct and surrebuttal testimony on behalf of Empire in connection with
7 its proposed merger with UtiliCorp United Inc. ("UtiliCorp")?

8 A. Yes.

9 Q. What is the purpose of this testimony?

10 A. The purpose of this testimony is to provide information in response to testimony filed by Mr.
11 Albert Fuchs, which, while purporting to be surrebuttal testimony, introduces new and
12 unfounded assertions regarding retiree pensions and benefits other than pensions.

13 Q. Beginning at Page 5, Line 21, Mr. Fuchs states, "To the best of my personal knowledge all of
14 these benefits were derived from the collective bargaining process . . ." Was Mr. Fuchs ever
15 directly involved in the Collective Bargaining Process at Empire?

16 A. No. Mr. Fuchs, while employed by Empire, was never involved in any of the many
17 negotiating sessions between Empire and Local 1474 and, therefore, has no direct personal
18 knowledge of what may or may not have been included as part of those negotiating sessions.

19 Q. On Page 4, Lines 5-8, Mr. Fuchs states that the pension fund was funded by ratepayers and
20 by contributions of employees. How do you respond?

1 A. Mr. Fuchs has mischaracterized the source of the Empire Pension Fund. The Empire Pension
2 Plan is, and has been since its inception, a defined benefit non-contributory plan. Non-
3 contributory means just that. The employees of Empire, Mr. Fuchs included, have never
4 contributed one penny to the Empire Pension Plan. Contributions to the Plan have been made
5 entirely by Empire.

6 Q. Beginning at Page 6, Line 1, Mr. Fuchs states: "All union members obtained their retirement
7 benefits, and expectations for retirement benefits, including health care benefits, from the
8 various union contracts negotiated with the company . . ." [emphasis added]. How do you
9 respond?

10 A. He is incorrect. Contracts between Empire and Local 1474 apply, and have always applied,
11 to employees of Empire (See M.W. McKinney Surrebuttal Testimony at Page 2, Lines 12-23
12 and Page 3, Lines 1-7.) Further, only certain fiscal issues related to employee health care
13 plan benefits have been the subject of negotiations and agreements between Empire and
14 Local 1474. This would include such items as health care premium subsidy, co-payments,
15 prescription drug coverage, and deductible limits. Also, from time to time, the parties agreed
16 to adjust certain pension-related factors that are used to calculate a pension benefit. The
17 parties to the Collective Bargaining Agreement ("CBA") have never adopted an agreement
18 that contains any health care-related issue, plans, benefits or premiums for retired employees
19 or their spouses. Furthermore, while Mr. Fuchs attempts to link benefits for union and non-
20 union employees together, it is simply untrue that the Collective Bargaining Process has
21 determined the benefits provided for non-union employees. Although Empire has attempted
22 to keep benefits as uniform as possible, many benefits have been established by Empire,
23 which are not in any way related to union negotiations.

24 Q. Are there any examples of benefits which are not related to union negotiations?

25 A. Yes. These would include Empire's Incentive Pay Plan, the 401(k) Plan, Employee Stock
26 Ownership Plan, and Employee Financing Plan. At one time, Empire maintained two health

1 care plans, one union and one non-union. In the matter of the Health Care Plan, Empire has
2 maintained flexibility to make changes to the Plan regarding plan design, administration, and
3 health care providers. Empire has, from time to time, adjusted the pension benefits which
4 retirees receive. These adjustments are made unilaterally and have not resulted from
5 collective bargaining. To assert that the Collective Bargaining Process drives the
6 determination of employee benefits at Empire reflects a lack of understanding regarding the
7 relationship between Empire and its employees.

8 Q. Mr. Fuchs, on Page 6, Lines 8-10, states that Exhibit AF-1, a copy of the Health and Welfare
9 Trust Agreement, was derived from Collective Bargaining. How do you respond?

10 A. It is an inaccurate statement. The Trust Agreement was established as a result of Empire's
11 adoption of FASB 106 in Case No. ER-94-174 and Case No. ER-91-74, which became
12 effective for services on and after January 1, 1995. In the stipulation, which was the basis for
13 settlement of the cases, Empire agreed to fund its obligation for pensions and other post
14 retirement employee benefits (OPEBs). Two health care trusts were established to facilitate
15 this funding for employee health care, one for union employees and one for non-union. The
16 only reason for the establishment of the union trust was the deductibility of contributions.
17 While the non-union trust has certain limiters regarding deductibility for federal tax
18 purposes, the union trust contributions are deductible in their entirety. Empire believed, and
19 continues to believe, that it is in the best interest of its ratepayers to capture all available tax
20 deductions and, by establishing the separate trusts, has fulfilled that objective. The union
21 trust was not established as a result of negotiations, but as a unilateral action of Empire. No
22 reference to it exists in any of the documents that make up the agreement between Empire
23 and Local 1474.

24 Q. Does this conclude your testimony?

25 A. Yes.


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

In the Matter of the Joint Application of)
UtiliCorp United Inc. and The Empire)
District Electric Company for Authority to)
Merge The Empire District Electric) Case No. EM-2000-369
Company with and into UtiliCorp United)
Inc., and, in Connection Therewith, Certain)
Other Related Transactions.)


County of Jasper)
)
State of Missouri)

AFFIDAVIT OF MYRON W. MCKINNEY

Myron W. McKinney, being first duly sworn, deposes and says that he is the witness who sponsors the accompanying testimony entitled supplemental surrebuttal testimony; that said testimony was prepared by him and or under his direction and supervision; that if inquiries were made as to the facts in said testimony and schedules, he would respond as therein set forth; and that the aforesaid testimony and schedules are true and correct to the best of his knowledge, information, and belief.


Myron W. McKinney

Subscribed and sworn before me this 6th day of September, 2000.


Notary Public

My Commission Expires:

