STATE OF MISSOURI PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held at its office in Jefferson City on the 13th day of November, 2013.

In the Matter of the True-Up of The Empire) District Electric Company's Fuel Adjustment Clause)

File No. EO-2014-0088 Tariff No. JE-2014-0155

ORDER RESOLVING ANNUAL FUEL ADJUSTMENT CLAUSE TRUE-UP

Issue Date: November 13, 2013 Effective Date: December 1, 2013

On October 1, 2013, The Empire District Electric Company ("Empire"), submitted an application containing its eighth true-up filing for its Fuel Adjustment Clause ("FAC"), as required by Section 386.266.4(2), RSMo Supp. 2012, and Commission Rules 4 CSR 240-3.161(8) and 4 CSR 240-20.090(5). Empire requests that the Commission authorize a true-up adjustment and implement it under its FAC tariff for the recovery period ending May 31, 2013. The submitted tariff bears an effective date of December 1, 2013.

The true-up amount of \$231,592 identified in this filing is the result of an under-collection during Recovery Period 8 ("RP8") that includes the billing months of December 2012 through May 2013. RP8 is the recovery period for and following Accumulation Period 8 ("AP8") that includes the period of March 1, 2012 through August 31, 2012. The \$231,592 true-up amount for RP8 is included in the calculation of the Fuel and Purchased Power Adjustment ("FPA") amount included in Empire's

Accumulation Period 10 ("AP10") adjustment filing, also filed on October 1, 2013 in File No. ER-2014-0087, in compliance with Empire's FAC.¹

Staff examined the direct testimony of Todd W. Tarter, the supporting schedules Empire provided with its application in this case, and the monthly information Empire has submitted to the Commission. Staff also reviewed Empire's monthly interest calculations and agrees with them. Staff has verified that Empire has filed its 2012 annual report and is not delinquent on any assessment. Empire is current on the filing of its Surveillance Monitoring reports as required in 4 CSR 240-20.090(10) and its monthly reports as required by 4 CSR 240-3.161(5). Staff is not aware of any other matter before the Commission that affects or is affected by this filing, except as noted herein. Staff recommends the Commission approve Empire's RP8 true-up filing for the billing months December 2012 through May 2013 during which Empire under-collected \$231,592 from its customers for inclusion in the calculation of the FPA amount included in Empire's AP10 adjustment filing in File No. ER-2014-0087.

Neither the governing statute² nor any other law requires a hearing before approving the unopposed application.³ Because this is a non-contested case, the Commission acts

¹ The Empire District Electric Company's P.S.C. Mo. No. 5, Section 4, 6th Revised Sheet No. 17c tariff sheet: "TRUE-UP OF FPA: In conjunction with an adjustment to its FAR, the Company will make a true-up filing with and adjustment to its FAC on the first Filing Date that occurs after completion of each Recovery Period. The true-up adjustment shall be the difference between the FPA revenues billed and the FPA revenues authorized for collection during the true-up recovery period, i.e. the true-up adjustment. Any true-up adjustments or refunds shall be reflected in item T above and shall include interest calculated as provided for in item I above."

² Section 386.266, RSMo Supp. 2012. This section provides for a hearing when the FAC is approved, modified or rejected. It does not require a hearing when annual true-ups are filed by the company. Commission Rule 4 CSR 240-20.090(5) states the Commission may hold a hearing if needed; one is not required.

³ Section 536.010(4), RSMo Supp. 2012, defines a contested as "a proceeding before an agency in which legal rights, duties or privileges of specific parties are required by law to be determined after hearing." <u>State</u> <u>ex rel. Rex Deffenderfer Ent., Inc. v. Public Service Commission</u>, 776 S.W.2d 494, 496 (Mo. App., W.D. 1989).

on evidence that is not formally adduced and preserved.⁴ There is no evidentiary record.⁵ Consequently, the Commission bases its decision on the parties' verified filings.

Based on the Commission's independent and impartial review of the verified filings, the Commission finds that it is in the public interest to approve Empire's application and authorize Empire to include the calculated under-recovery in its next FAC accumulation period as previously described.

THE COMMISSION ORDERS THAT:

1. The true-up amounts for Recovery Period 8 are established as under-collections by The Empire District Electric Company of \$231,592 and shall be reflected in the rate adjustment as approved in Commission File No. ER-2014-0087.

- 2. This order shall become effective on December 1, 2013.
- 3. This file shall close on December 2, 2013.

BY THE COMMISSION

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Morris L. Woodruff Secretary

R. Kenney, Chm., Stoll, W. Kenney, and Hall, CC., concur.

Bushmann, Regulatory Law Judge

⁴ State ex rel. Public Counsel v. Public Service Comm'n, 210 S.W.3d 344, 353-355 (Mo. App. 2006). ⁵ *Id.*