

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.” *State ex rel. Rex Deffenderfer Ent., Inc. v. Public Service Commission*, 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

A handwritten signature in cursive script that reads "Morris L. Woodruff".

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.*