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Side Management Programs
Witness: Martin Hyman
Sponsoring Party: Missouri Department of Economic
Development – Division of Energy
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Case Nos.: ER-2016-0023

MISSOURI PUBLIC SERVICE COMMISSION

THE EMPIRE DISTRICT ELECTRIC COMPANY

CASE NO. ER-2016-0023

SURREBUTTAL TESTIMONY

OF

MARTIN R. HYMAN

ON

BEHALF OF

MISSOURI DEPARTMENT OF ECONOMIC DEVELOPMENT

DVISION OF ENERGY

Jefferson City, Missouri

May 16, 2016

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

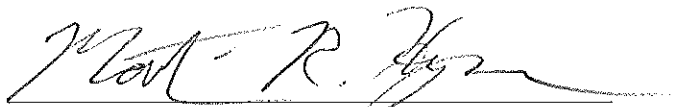
In the Matter of The Empire)
 District Electric Company's Request) ER-2016-0023
 for Authority to Implement a General Rate)
 Rate Increase for Electric Service)

AFFIDAVIT OF MARTIN HYMAN

STATE OF MISSOURI)
) ss
COUNTY OF COLE)


Martin R. Hyman, of lawful age, being duly sworn on his oath, deposes and states:

1. My name is Martin R. Hyman. I work in the City of Jefferson, Missouri, and I am employed by the Missouri Department of Economic Development as a Planner III, Division of Energy.
2. Attached hereto and made a part hereof for all purposes is my Surrebuttal Testimony on behalf of the Missouri Department of Economic Development – Division of Energy.
3. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct to the best of my knowledge.



 Martin R. Hyman

Subscribed and sworn to before me this 16th day of May, 2016.



 Notary Public

My commission expires:

MELISSA ANN ADAMS Notary Public - Notary Seal State of Missouri Commissioned for Cole County My Commission Expires: March 09, 2019 Commission Number: 15633820



TABLE OF CONTENTS

I. INTRODUCTION 1

II. PURPOSE AND SUMMARY OF TESTIMONY 1

III. RATE DESIGN 2

 A. RESPONSE TO EMPIRE WITNESS MR. W. SCOTT KEITH..... 2

 B. RESPONSE TO STAFF WITNESS MS. ROBIN KLIETHERMES..... 7

IV. DEMAND-SIDE MANAGEMENT PROGRAMS 9

 A. RESPONSE TO EMPIRE WITNESS MR. W. SCOTT KEITH..... 9

 B. RESPONSE TO STAFF WITNESS MR. BRAD J. FORTSON..... 13

V. CONCLUSIONS..... 17

1 **I. INTRODUCTION**

2 **Q. Please state your name and business address.**

3 A. My name is Martin R. Hyman. My business address is 301 West High Street, Suite 720,
4 PO Box 1766, Jefferson City, Missouri 65102.

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

6 A. I am employed by the Missouri Department of Economic Development – Division of
7 Energy (“DE”) as a Planner III.

8 **Q. Have you previously filed testimony before the Missouri Public Service Commission**
9 **(“Commission”) in this case (ER-2016-0023)?**

10 A. Yes. I submitted Direct Testimony (Rate Design) on behalf of DE regarding The Empire
11 District Electric Company’s (“Empire” or “Company”) rate design, the Company’s
12 residential declining winter block rate, and Empire’s demand-side management
13 programs. I also submitted Rebuttal Testimony on behalf of DE regarding the
14 Commission Staff’s (“Staff”) residential rate design proposal.

15 **II. PURPOSE AND SUMMARY OF TESTIMONY**

16 **Q. What is the purpose of your Surrebuttal Testimony in this proceeding?**

17 A. The purpose of my Surrebuttal Testimony is to respond to the testimonies of Empire
18 witness Mr. W. Scott Keith and Staff witness Ms. Robin Kliethermes regarding
19 residential rate design; although Mr. Keith’s arguments regarding my Direct Testimony
20 are unpersuasive, Ms. Kliethermes provides an example rate design which is acceptable
21 to DE. Additionally, I respond to the testimonies of Mr. Keith and Staff witness Mr. Brad
22 J. Fortson regarding the Company’s demand-side management (“DSM”) programs. After
23 reviewing the testimony on the Company’s DSM programs, DE’s recommendations have

1 not changed. In response to a DE data request, Mr. Keith actually indicated that the
2 Company did not intend to discontinue its DSM programs in this case.¹

3 **III. RATE DESIGN**

4 **A. RESPONSE TO EMPIRE WITNESS MR. W. SCOTT KEITH**

5 **Q. How does Mr. Keith respond to DE’s residential rate design recommendations?**

6 A. Mr. Keith disagrees with DE’s rate design recommendations. He claims that Empire’s
7 residential customer charge recommendation is based on a class cost-of-service
8 (“CCOS”) allocation; that the residential customer charge should be raised to improve
9 “price signals” to residential customers regarding purported “fixed costs;” that raising the
10 residential customer charge is beneficial for Low-Income Heating and Energy Assistance
11 Program (“LIHEAP”) customers and unfair to high use customers; and that no working
12 docket on residential rate design is needed or appropriate.²

13 **Q. Was Empire’s residential rate design proposal based upon a correctly performed**
14 **CCOS study?**

15 A. No. It is important to note that Mr. Keith states:

16 The residential customer charge Empire proposed of \$14.47 per month was based
17 upon and is supported by the cost of service filed in Empire’s prior rate case, ER-
18 2014-0351. In addition, the Staff cost of service study filed in this case would also
19 support this level of residential customer charge.³

¹ Company response to Data Request DED-DE 202.

² Missouri Public Service Commission Case No. ER-2016-0023, *In the Matter of The Empire District Electric Company’s Request for Authority to Implement a General Rate Increase for Electric Service*, Rebuttal Testimony of W. Scott Keith on Behalf of The Empire District Electric Company, May 2, 2016, pages 12-13, lines 2-23 and 1-19.

³ *Ibid*, page 12, lines 13-17.

1 Mr. Keith only offers that the Company’s recommendation is based on a CCOS from the
2 prior rate case, or, alternatively, that it is justified by Staff’s CCOS. However, Mr. Keith
3 did not file a CCOS study as part of this rate case, and – as explained in both my Rebuttal
4 Testimony⁴ and Office of the Public Counsel witness Dr. Geoff Marke’s testimony⁵ –
5 Staff’s CCOS study incorrectly allocates numerous costs. Additionally, the main cost
6 driver of this case – the Riverton 12 plant upgrade⁶ – is not an incremental customer-
7 related cost; a disproportionate increase to the customer charge is not warranted under
8 these circumstances absent a compelling CCOS study.

9 **Q. Does Mr. Keith state his acceptance of Staff’s CCOS results?**

10 A. Yes. Mr. Keith states that, “Empire can accept ... Staff’s proposed increase in the
11 customer charge for the residential customers”⁷ However, this would contradict his
12 later statement (as quoted above) regarding the appropriateness of using the Company’s
13 CCOS results from the prior rate case; if Mr. Keith believes the Company’s CCOS results
14 from the prior rate case are appropriate, then he should support those results. More
15 importantly, Staff’s CCOS report in this case is flawed in that it over-allocates costs to

⁴ Missouri Public Service Commission Case No. ER-2016-0023, *In the Matter of The Empire District Electric Company’s Request for Authority to Implement a General Rate Increase for Electric Service*, Rebuttal Testimony of Martin R. Hyman on Behalf of the Department of Economic Development – Division of Energy, May 2, 2016, page 4, lines 1-8.

⁵ Missouri Public Service Commission Case No. ER-2016-0023, *In the Matter of The Empire District Electric Company’s Request for Authority to Implement a General Rate Increase for Electric Service*, Rebuttal Testimony of Dr. Geoff Marke on Behalf of the Office of the Public Counsel, May 2, 2016, page 13, lines 3-20, and pages 16-17, lines 15-23 and 1-13.

⁶ Missouri Public Service Commission Case No. ER-2016-0023, *In the Matter of The Empire District Electric Company’s Request for Authority to Implement a General Rate Increase for Electric Service*, Direct Testimony of W. Scott Keith on Behalf of The Empire District Electric Company, October 16, 2015, page 4, lines 7-8.

⁷ Keith Rebuttal, page 10, lines 21-23.

1 the residential customer charge;⁸ Mr. Keith’s citation of an inaccurately conducted study
2 is not convincing.

3 **Q. Would increasing the residential customer charge correct “improper price signals,”⁹**
4 **as alleged by Mr. Keith?**

5 A. No. This is the same argument made by the Company in response to a data request by the
6 Office of the Public Counsel.¹⁰ However, customers do not receive “improper price
7 signals” when energy charges are increased. If anything, a higher energy charge sends a
8 more appropriate price signal than a higher customer charge, since higher cumulative
9 energy-related charges communicate to a customer the costs associated with increased
10 use of utility services. A customer charge should only indicate to the customer what the
11 cost is for their incremental additional service as a customer; customer charges cannot be
12 controlled by the customer absent total disconnection from the utility, and therefore
13 provide no usage-based economic signal to customers.

14 **Q. Is Mr. Keith’s argument also based on a misidentification of “fixed costs?”**

15 A. Yes. Mr. Keith’s statement that, “Empire’s current energy charges collect substantial
16 levels of fixed costs that do not vary with usage ...”¹¹ suggests a misunderstanding of the
17 difference between accounting-related fixed costs and those costs incremental to serving
18 an additional customer. The National Association of Regulatory Utility Commissioners’
19 cost allocation manual states the following regarding customer-related costs: “By their
20 nature, it is difficult to determine the ‘cause’ of these costs by any particular function of

⁸ Hyman Rebuttal, page 4, lines 1-8 and Marke Rebuttal, page 13, lines 3-20, and pages 16-17, lines 15-23 and 1-13.

⁹ Keith Rebuttal, page 13, lines 4-5.

¹⁰ Company Response to Office of the Public Counsel Data Request DR 5049, Part a.

¹¹ Keith Rebuttal, page 13, lines 3-4.

1 the utility's operation or by particular classes of their customers."¹² Certain accounting-
2 related fixed costs can be allocated by energy- or demand-based allocation factors, while
3 others cannot, since they relate to the incremental cost to serve each additional customer
4 – not to particular energy- or demand-related functions of the utility's customers. The
5 latter type of cost is appropriate for recovery through the customer charge, which
6 represents the cost caused by serving each additional customer regardless of use.

7 **Q. Mr. Keith claims that DE's proposal, "... will unnecessarily burden Empire's**
8 **customers with added costs during periods of extreme weather when customer**
9 **usage tends to increase."**¹³ **Do you agree?**

10 A. I agree that total energy charges would be higher during periods of higher use if the
11 energy charge component of the Company's bill is higher. However, this is not an
12 "unnecessary" addition to customer costs, and, in fact, reflects cost causation, as I
13 described above. Higher use incurs higher costs for the Company; if customers are able to
14 use energy more efficiently, then Empire's rates should reflect the associated reduction in
15 the Company's cost of service. This is the appropriate price signal to send to customers; a
16 higher customer charge sends an inappropriate price signal by moving all customers
17 towards similar bills regardless of use.

18 **Q. What is problematic with Mr. Keith's claim pertaining to LIHEAP customers?**

19 A. Mr. Keith offers in his Rebuttal Testimony that:

20 ... Empire has no records that indicate customer income levels. Empire does,
21 however, have records of which customers are receiving assistance with the

¹² National Association of Regulatory Utility Commissioners (1992), Electric Utility Cost Allocation Manual, Washington, D.C., page 102.

¹³ Keith Rebuttal, page 13, lines 5-7.

1 payment of their electric bills, and Empire used this information to analyze the
2 usage patterns of those customers to see how Empire's original residential
3 customer charge proposal would affect this group.¹⁴

4 Since Empire purports to not have records that indicate customer income levels, the
5 Company relied only on LIHEAP participant usage data to assert the effect of its higher
6 customer charge on all low-income customers.¹⁵ However, LIHEAP customers are not
7 representative of low-income customers, as explained in the Rebuttal Testimony of DE
8 witness Ms. Sharlet E. Kroll¹⁶ and in Dr. Marke's Rebuttal Testimony;¹⁷ effects on
9 LIHEAP customers from rate increases are not indicative of effects on low-income
10 customers as a whole from rate increases.

11 **Q. Mr. Keith claims that a working docket on residential rate design is, "...**
12 **inappropriate, unnecessary and potentially very costly ...,"** and that, **"Residential**
13 **rate design changes are properly handled at the time of a rate case."**¹⁸ **Do you**
14 **agree?**

15 **A.** No. Mr. Keith's statement neglects the fact that, in AW-2015-0282, parties considered
16 revenue decoupling proposals, which necessarily required discussions of rate design
17 outside of a rate case; Empire filed comments in that docket.¹⁹ Furthermore, Mr. Keith's
18 accusation that a working docket on residential rate design would be "unnecessary" has

¹⁴ *Ibid*, page 13, lines 9-13.

¹⁵ Keith Direct, page 11, lines 9-19.

¹⁶ Missouri Public Service Commission Case No. ER-2016-0023, *In the Matter of The Empire District Electric Company's Request for Authority to Implement a General Rate Increase for Electric Service*, Rebuttal Testimony of Sharlet E. Kroll on Behalf of the Department of Economic Development – Division of Energy, May 2, 2016, pages 19-20, lines 9-15 and 1-20.

¹⁷ Marke Rebuttal, page 21-24, lines 1-25, and pages 23-24, lines 8-18 and 1-17.

¹⁸ Keith Rebuttal, page 13, lines 14-19.

¹⁹ Missouri Public Service Commission Case No. AW-2015-0282, *In the Matter of a Working Case to Consider Proposals to Create a Revenue Decoupling Mechanism for Utilities*, The Empire District Electric Company, Empire Comments, September 1, 2015.

1 no support in the evidence which he presents. The necessity of such a docket, as
2 elaborated upon in my Direct Testimony in this case, is that the Company's rates could be
3 designed to better encourage efficiency²⁰ while still ensuring that the Company has a
4 reasonable opportunity to earn its authorized rate of return. There is value in working
5 cooperatively to develop information that can inform the Commission about various rate
6 design options and the customer impacts of those options.

7 **Q. Should the Commission rely on Mr. Keith's Rebuttal Testimony in making**
8 **conclusions about rate design in this case?**

9 A. No.

10 **B. RESPONSE TO STAFF WITNESS MS. ROBIN KLIETHERMES**

11 **Q. Does Ms. Kliethermes disagree with your bill impact analysis?**

12 A. No. She indicates that:

13 In general, Staff agrees with Mr. Hyman's customer impact analysis, however,
14 Staff would clarify that although **Mr. Hyman's results show that customers**
15 **with lower kWh usage would receive a slightly higher percentage increase**
16 **than a higher usage customer under the scenario of increasing the customer**
17 **charge**, the variation in results between lower and higher usage customers is very
18 small. (Emphasis added.)²¹

²⁰ Missouri Public Service Commission Case No. ER-2016-0023, *In the Matter of The Empire District Electric Company's Request for Authority to Implement a General Rate Increase for Electric Service*, Direct Testimony of Martin R. Hyman on Behalf of the Department of Economic Development – Division of Energy, April 8, 2016, pages 24-28, lines 12-22, 1-23, 1-23, 1-9, and 1-11.

²¹ Missouri Public Service Commission Case No. ER-2016-0023, *In the Matter of The Empire District Electric Company's Request for Authority to Implement a General Rate Increase for Electric Service*, Rebuttal Testimony of Robin Kliethermes on Behalf of the Missouri Public Service Commission Staff Division – Operational Analysis Department, May 2, 2016, pages 1-2, lines 22-23 and 1-3.

1 Staff not only agrees with my analysis, but agrees that a higher customer charge results in
2 a higher bill impact for lower use customers. The only defense Ms. Kliethermes provides
3 is that this difference in increases across usage levels is a purportedly small difference;
4 such a counterargument does not fundamentally address the inappropriate price signal
5 sent with a higher customer charge.

6 **Q. Ms. Kliethermes provides her own bill impact analyses as well. Do her analyses also**
7 **demonstrate your position?**

8 A. Yes. Tables 1 and 2 of her testimony show that there is a substantial difference in bill
9 impacts between the lowest level of usage which she analyzed (10.51 percent increase at
10 200 kWh per month) and the highest level of usage which she analyzed (6.27 percent
11 increase at 3000 kWh per month).²²

12 **Q. Ms. Kliethermes provides two additional bill impact analyses in her testimony, in**
13 **which she includes no customer charge increase for residential customers. Would**
14 **DE support such a rate design?**

15 A. Under Staff's current revenue requirement, DE would support the alternative rate design
16 as presented in Tables 3 and 4 of Ms. Kliethermes's Rebuttal Testimony. Under the
17 alternative rate design, energy charges would only increase slightly, but appropriate price
18 signals would result: the bill impact at the lowest level of usage which she analyzed
19 would be lower (5.14 percent increase at 200 kWh per month) than the bill impact at the
20 highest level of usage which she analyzed (7.48 percent increase at 3000 kWh per
21 month). This would represent lower bill impacts than Staff's original proposal for
22 customers with lower use, and would represent a \$0.06 lower increase than the Staff's

²² *Ibid*, page 3, lines 1-2.

1 original proposal for customers using 1,100 kWh per month (approximately the weather-
2 normalized average monthly usage which Ms. Kliethermes cites).²³ From DE's
3 perspective, this alternative example represents a reasonable solution to allowing the
4 Company to recover costs of service and a return on its investment, as it maintains and
5 enhances the price signal sent to residential customers.

6 **IV. DEMAND-SIDE MANAGEMENT PROGRAMS**

7 **A. RESPONSE TO EMPIRE WITNESS MR. W. SCOTT KEITH**

8 **Q. Why does Mr. Keith disagree with your recommendation to continue the**
9 **Company's current DSM programs?**

10 **A.** Mr. Keith's only justification is that, "DSM is not mandatory in Missouri"²⁴ While
11 the provision of programs by utilities under the Missouri Energy Efficiency Investment
12 Act ("MEEIA") is not mandatory, §393.1075.3, RSMo. (the MEEIA statute) also states,
13 **"It shall be the policy of the state to value demand-side investments equal to**
14 **traditional investments in supply and delivery infrastructure** and allow recovery of
15 all reasonable and prudent costs of delivering cost-effective demand-side programs"
16 (emphasis added). Additionally, §393.1040, RSMo. – which predates the MEEIA statute
17 – states:

18 In addition to the renewable energy objectives set forth in sections 393.1025,
19 393.1030, and 393.1035, **it is also the policy of this state to encourage**
20 **electrical corporations to develop and administer energy efficiency initiatives**

²³ *Ibid*, pages 3-5, lines 3-4, 1-5, 1-2, and footnote 1.

²⁴ Keith Rebuttal, page 14, line 7.

1 **that reduce the annual growth in energy consumption and the need to build**
2 **additional electric generation capacity.** (Emphasis added.)

3 DSM programs afford customers the opportunity to reduce their energy usage and shift or
4 reduce demand, providing them with greater bill control – a particularly important
5 consideration if the Commission accepts an increase to the Company’s residential
6 customer charge. If Empire’s customer charges are increased, the Company’s DSM
7 programs would need to be strengthened in order to counteract the resulting longer
8 payback periods for efficiency measures.

9 **Q. Notwithstanding Mr. Keith’s statements regarding the discontinuation of the**
10 **Company’s DSM programs, does Empire actually intend to discontinue its DSM**
11 **programs in the present case?**

12 **A.** No. In response to a Data Request by DE (attached as schedule MRH-1), Mr. Keith
13 states:

14 Empire has not requested termination of its existing DSM programs as part of the
15 current rate case.

16 No final decision has been made on the date of termination of the existing DSM
17 programs or the venue that will be used.²⁵

²⁵ Company response to Data Request DED-DE 202.

1 **Q. Mr. Keith cites the Company’s recent triennial Integrated Resource Plan (“IRP”)**
2 **filing (EO-2016-0223) to justify the Company’s decision not to file a MEEIA**
3 **application.²⁶ How do you respond?**

4 A. First, it should be noted that the MEEIA statute does not explicitly reference the IRP
5 process at any point. There is no statutory basis for tying the decision to offer DSM
6 programs or a MEEIA portfolio solely to the outputs of the IRP process; additional public
7 policy objectives must be considered when determining whether to offer DSM programs.
8 Second, even if the IRP process was the appropriate venue for such a decision, Mr. Keith
9 bases his support on the fact that the Company’s “preferred plan” – which lacks DSM
10 programs – is the least-cost alternative.²⁷ This incorrectly implies that “least-cost” is the
11 only criterion for selecting a preferred plan under the Commission’s IRP rules, when, in
12 fact, many other considerations should factor into the Company’s selection. The
13 Commission’s rules at 4 CSR 240-22.010(2)(B) specify the use of the, “... minimization
14 of the present worth of long-run utility costs as the primary selection criterion in choosing
15 the preferred plan, **subject to the constraints in subsection (2)(C) ...**” (emphasis
16 added); under 4 CSR 240-22.010(2)(C), electric utilities must:

17 **Explicitly identify and, where possible, quantitatively analyze any other**
18 **considerations which are critical to meeting the fundamental objective of the**
19 **resource planning process, but which may constrain or limit the**
20 **minimization of the present worth of expected utility costs.** The utility shall
21 describe and document the process and rationale used by decision-makers to

²⁶ Keith Rebuttal, pages 13-14, lines 20-23 and 1-3.

²⁷ *Ibid.*, page 14, lines 1-2.

1 assess the tradeoffs and determine the appropriate balance between minimization
2 of expected utility costs and these other considerations in selecting the preferred
3 resource plan and developing the resource acquisition strategy. **These**
4 **considerations shall include, but are not necessarily limited to, mitigation of:**

5 1. Risks associated with critical uncertain factors that will affect the actual costs
6 associated with alternative resource plans;

7 **2. Risks associated with new or more stringent legal mandates that may be**
8 **imposed at some point within the planning horizon; and**

9 3. Rate increases associated with alternative resource plans. (Emphases added).

10 A preferred plan which does not include DSM programs or a MEEIA portfolio thus fails
11 to include all, "... considerations which are critical to meeting the fundamental objective
12 of the resource planning process, but which may constrain or limit the minimization of
13 the present worth of expected utility costs," since such a plan would ignore the policy
14 objectives stated at §§393.1075.3 and 393.1040, RSMo.

15 **Q. Should the Commission rely on Mr. Keith's testimony with regards to DSM and**
16 **MEEIA programs in its decision in this case?**

17 A. No.

1 **B. RESPONSE TO STAFF WITNESS MR. BRAD J. FORTSON**

2 **Q. Does Mr. Fortson make similar policy arguments to Mr. Keith?**

3 A. Yes. Mr. Fortson cites the Commission’s Report and Order in Case No. ER-2014-0351 as
4 evidence²⁸ that the Company does not have to continue its DSM programs, and uses the
5 Company’s IRP filing as a justification against a MEEIA filing.²⁹

6 **Q. Are your concerns with these arguments the same as those with Mr. Keith’s**
7 **arguments?**

8 A. Yes. Both §§393.1075.3 and 393.1040, RSMo. make it the policy of the state to value
9 DSM and supply-side investments equally, and does not explicitly mention the IRP
10 process; additionally, the IRP process contemplates factors beyond the primary criterion
11 of “least-cost.”

12 **Q. How does Mr. Fortson respond to your Direct Testimony regarding DSM programs**
13 **and customer bill control?**³⁰

14 A. Mr. Fortson indicates that my conclusion, “... would be much more accurate if Empire’s
15 DSM programs had more participation, had better design, and performed better.”³¹
16 However, he admits shortly thereafter that participation in Empire’s residential DSM
17 programs partly suffers from “poor program design”³² – a factor unrelated to the ability
18 of the programs to aid customers with bill control and efficiency. In fact, Mr. Fortson
19 does not provide convincing evidence that any of the Company’s DSM programs fail to

²⁸ Missouri Public Service Commission Case No. ER-2016-0023, *In the Matter of The Empire District Electric Company’s Request for Authority to Implement a General Rate Increase for Electric Service*, Rebuttal Testimony of Brad J. Fortson on Behalf of the Missouri Public Service Commission Staff Division, May 2, 2016, page 4, lines 11-19.

²⁹ *Ibid*, pages 4-6, lines 20-22, 1-20, and 1-16, and pages 8-9, lines 6-21 and 1-2.

³⁰ Hyman Direct, page 32, lines 5-15.

³¹ Fortson Rebuttal, page 6, lines 27-28.

³² *Ibid*, page 7, lines 3-5.

1 save money and promote efficiency for individual participants, or that the Company's
2 programs should not be revised to improve their performance, but should instead be
3 terminated. He offers no constructive recommendations for revising the Company's DSM
4 programs.

5 **Q. Mr. Fortson mentioned the lack of knowledge about, "... whether the programs are**
6 **providing benefits to all Empire customers."**³³ **Upon what is this statement based?**

7 A. Mr. Fortson's statement appears to be based on §393.1075.4, RSMo., which states (in
8 part):

9 The commission shall permit electric corporations to implement commission-
10 approved **demand-side programs proposed pursuant to this section** with a goal
11 of achieving all cost-effective demand-side savings. **Recovery for such**
12 **programs** shall not be permitted unless the programs are approved by the
13 commission, result in energy or demand savings and are **beneficial to all**
14 **customers in the customer class in which the programs are proposed,**
15 regardless of whether the programs are utilized by all customers. (Emphases
16 added.)

17 Two key points should be noted with regards to this section. First, Mr. Fortson does not
18 acknowledge the important caveat that MEEIA program benefits must occur for all
19 customers, "... in the customer class in which the programs are proposed;" in other
20 words, the consideration of benefits must occur within specific customer classes and not
21 for customers as a whole. Second, the statute does not require that all DSM programs
22 benefit all customers in their respective customer classes – it only provides for such a

³³ *Ibid*, pages 3-4, lines 19 and 1-2.

1 benefit requirement for programs proposed pursuant to the MEEIA statute. Mr. Fortson's
2 assertions attempt to hold Empire's non-MEEIA DSM programs to the standards in the
3 MEEIA statute, and are not based on state policy.

4 **Q. Does Mr. Fortson include any evaluation of the DSM programs' cost-effectiveness?**

5 A. No. Mr. Fortson provides numerous statistics regarding targeted and actual program
6 savings, budgets, and expenditures,³⁴ but admits that, "... Empire has not calculated the
7 benefits of any of its DSM programs."³⁵ This is, in fact, confirmed by Mr. Keith's
8 response to another part of DE's Data Request, which states, "No specific conclusions
9 have been reached with respect to the ongoing 'cost effectiveness' of Empire's existing
10 DSM portfolio."³⁶ The statistics which Mr. Fortson includes are only indicative of
11 potential difficulties in program design.

12 **Q. What is Mr. Fortson's recommendation with respect to Empire's DSM programs?**

13 A. According to Mr. Fortson, "Staff recommends that **Empire work with the parties** in this
14 case to reach agreement **on program designs and annual spending levels for: (a) the**
15 **low-income weatherization program, and (b) a new Empire low-income energy**
16 **efficiency program**" (emphases added; citation omitted).³⁷ DE does not agree with this
17 limited recommendation, which would implicitly require Empire to discontinue many of
18 its DSM programs; it would only have Empire voluntarily work with the parties to this
19 case to continue a revised version of its low-income energy efficiency program. While
20 DE supports low-income DSM programs, DE also supports DSM programs for all
21 customer classes.

³⁴ *Ibid*, pages 2-3, lines 6-9 and 1-2, and page 7, lines 7-12.

³⁵ *Ibid*, page 3, lines 18-19.

³⁶ Company response to Data Request DED-DE 202.

³⁷ Fortson Rebuttal, page 10, lines 6-8.

1 **Q. If, as Mr. Fortson alleges, there are problems with Empire’s DSM program designs**
2 **but no cost-effectiveness evaluation is available, is it appropriate for Empire to**
3 **discontinue all of its DSM programs except for low-income programs?**

4 A. No. Difficulties in program design should indicate the need to revise programs, not
5 simply terminate them. A lack of a cost-effectiveness evaluation for non-MEEIA
6 programs also indicates the possible need for such an evaluation, with resulting revisions
7 to the Company’s programs; discontinuation of the programs would be premature and
8 would defeat the purpose of a cost-effectiveness evaluation, which might aid in the
9 programs’ successful modification. Staff’s DSM recommendation, which was not offered
10 until Rebuttal Testimony and is not based in a cost-effectiveness evaluation, is non-
11 constructive and is counterproductive to stated policy goals.

12 **Q. Mr. Fortson includes the low-income weatherization program in his**
13 **recommendation. Is Empire’s low-income weatherization program the same as**
14 **Empire’s other DSM programs?**

15 A. No. Empire’s low-income weatherization program is required to continue at current
16 funding levels as the result of the Revised Stipulation and Agreement in ER-2014-0351.
17 The agreement also states that the Company’s low-income weatherization program, “...
18 is not a ‘demand side measure’ or program for purposes of RSMo. 393.1075.7,” and
19 builds cost recovery for the program into base rates.³⁸ Mr. Fortson’s recommendation to
20 continue the Company’s low-income weatherization program is thus moot and
21 inappropriate in the context of a discussion of DSM programs.

³⁸ Missouri Public Service Commission Case No. ER-2014-0351, *In the Matter of The Empire District Electric Company for Authority to File Tariffs Increasing Rates for Electric Service Provided to Customers in the Company’s Missouri Service Area*, Revised Stipulation and Agreement and List of Issues, April 8, 2015, page 4.

1 **V. CONCLUSIONS**

2 **Q. Please summarize your conclusions and the positions of DE.**

3 A. DE continues to support no increase to the residential customer charges in this case,
4 despite Mr. Keith's assertions. DE would support the example rate design provided by
5 Staff, which involved no residential customer charge increase, as an acceptable outcome
6 under Staff's current revenue requirement. Though Mr. Keith and Mr. Fortson provided
7 Rebuttal Testimony against DE's DSM program recommendations, neither witness
8 correctly applied state policies to the current situation. Consequently, the Commission
9 should require the Company to continue offering its current DSM programs.

10 **Q. Does this conclude your Surrebuttal Testimony in this case?**

11 A. Yes.

**MISSOURI DEPARTMENT OF ECONOMIC DEVELOPMENT
DIVISION OF ENERGY
DATA REQUEST**

**THE EMPIRE DISTRICT ELECTRIC COMPANY,
CASE NO. ER-2016-0023**

Requested From: The Empire District Electric Company

Requested By: Alex Antal, Alexander.antal@ded.mo.gov;
Martin Hyman, martin.hyman@ded.mo.gov

Date of Request: April 4, 2016

Information Requested:

Please answer the following with respect to Empire's demand-side management ("DSM") programs:

1. Does Empire intend to discontinue its DSM programs as a part of this current rate case? If so, please indicate where in Empire's filing this discontinuation has been – or will be – proposed. If not, please indicate what venue Empire will use to propose this discontinuation.
*Response: Empire has not requested termination of its existing DSM programs as part of the current rate case.
No final decision has been made on the date of termination of the existing DSM programs or the venue that will be used.*
2. If Empire does intend to discontinue its DSM programs, by what date does Empire intend to discontinue its DSM programs?
Response: See response to 1 above.
3. Has Empire determined that its current DSM portfolio is not cost-effective? If so, please provide a reference to this determination.
Response: No specific conclusions have been reached with respect to the ongoing "cost effectiveness" of Empire's existing DSM portfolio.
4. In its triennial Integrated Resource Plan ("IRP") filing (EO-2016-0223), did Empire evaluate any alternative resource plans without DSM programs in which estimated probable environmental compliance costs were included? If so, please reference these plans and describe how probable environmental compliance costs were applied to the calculation of the net present value of the revenue requirement ("NPVRR").
Response: See objection.

5. Why did Empire not pass alternative resource plan 10 on to its resource acquisition strategy selection process in its triennial IRP filing (EO-2016-0223)?
Response: See objection.
6. Did Empire select its preferred resource plan based on any other factors than the NPVRR? If so, please describe these factors and how they are met by the preferred plan, but not any of the alternative resource plans. Additionally, please provide a reference to where this description may be found in the Company's triennial IRP filing (EO-2016-0223).
Response: See objection.
7. As part of its triennial IRP filing (EO-2016-0223), did Empire provide the analyses of compliance with environmental regulations and the Clean Power Plan ("CPP") which were required by the Public Service Commission in the Order in EO-2016-0040? If so, please provide a reference to these analyses and describe how they affect Empire's plan to either pursue or not pursue DSM programs in the future.
Response: See objection.
8. Does Empire plan to offer low-income DSM programs if it discontinues its entire DSM portfolio? If so, please describe these programs and provide a reference to where they are described in the Company's triennial IRP filing (EO-2016-0023).
Response: Empire has not requested termination of any of its existing energy efficiency programs as part of this rate case.

To the extent that any of the requested information is not available, please provide the remaining data where possible. If another party to this case issued a similar Data Request, please provide a copy of the response to that Data Request.

Response Provided: See above

The information provided in response to the enclosed data information request is accurate and complete, and contains no material misrepresentations or omissions, based upon present facts of which the undersigned has knowledge, information or belief. The undersigned agrees to promptly notify the requesting party if, during the pendency of Case No. ER-2016-0023 before the Missouri Public Service Commission, any matters are discovered which would materially affect the accuracy or completeness of the attached information.

Response Provided By: Scott Keith
Date: April 15, 2016