

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

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)

Case No. ER-2014-0351

STAFF INITIAL BRIEF

COMES NOW the Staff of the Missouri Public Service Commission, by and through counsel, and for its Initial Brief states as follows:

Revised Stipulation and Agreement and List of Issues (Revised Agreement)

On April 8, 2015, counsel for The Empire District Electric Company (“Empire”), the Staff, the Office of the Public Counsel (“OPC”), City of Joplin (“Joplin”), Missouri Department of Economic Development – Division of Energy (“DE”), and Midwest Energy Users’ Association (“MEUA”) filed a *Revised Agreement* resolving most of the issues of the above-captioned Empire general rate case proceeding.

That same day the Midwest Energy Consumers Group (“MECG”) filed its *Notice of Non-Objection to the Revised Agreement* thereby allowing the Commission to treat the *Revised Agreement* and the issues settled therein as a unanimous agreement pursuant to 4 CSR 240-2.115(2)(C).

The unanimous *Revised Agreement*, among other things, resolved the revenue requirement for Empire. Staff supports the settled revenue requirement amount of \$17,125,000 because it falls within the low and high range of the revenue requirement as

calculated in Staff's audit results as shown in its March 26, 2015 revised Staff Accounting Schedules.¹

Further, the unanimous *Revised Agreement* is the product of extensive negotiations among the parties in a give and take process which recognized the merits of differing viewpoints of the parties on the issues resolved. The Staff supports the *Revised Agreement* because it is a reasonable and just resolution of those issues and recommends that the Commission approve it without modification.

Contested Issues

On April 8, 2015, the parties, with the exception of MEEG, filed a *Non-Unanimous Stipulation and Agreement on Certain Issues* ("*Non-Unanimous Agreement*") resolving all remaining issues among the parties. That same day MEEG filed its *Notice of Objection* requesting a hearing on the issues.

As a result of MEEG's objection under 4 CSR 240-2.115(D), the *Non-Unanimous Agreement* became the joint position of the signatory parties in a joint recommendation to the Commission regarding the resolution of the remaining issues.

All parties, including MEEG, agreed on the list of issues that would be taken to hearing and filed with the Commission a *Joint List of Issues, Request for Additional Witnesses to be Excused, and Proposed Hearing Schedule* ("*Joint List of Issues*") on April 13, 2015.

This Initial Brief addresses Staff's support of the parties' joint recommendations as set forth in the *Non-Unanimous Agreement* and as ordered in the *Joint List of Issues*:

¹ Ex. 229, Accounting Schedule 01.

A. Fuel Adjustment Clause (FAC): Should SPP transmission costs and revenues be included? If so, what transmission costs and revenues should be included?

Introduction

Staff is a signatory party² to the *Non-Unanimous Agreement* (now the joint recommendation) filed on April 8, 2015. The *Non-Unanimous Agreement* includes certain Southwest Power Pool (“SPP”) transmission costs and revenues in Empire’s fuel adjustment clause (“FAC”), and excludes certain other SPP charges from the FAC. Exhibit 1 attached to the *Non-Unanimous Agreement* shows the calculation of Empire’s FAC Base Factor under the *Non-Unanimous Agreement* of \$0.02680 per kWh³, which includes *net* transmission (costs minus revenues) of \$4,894,040. Exhibit 2 attached to the *Non-Unanimous Agreement* contains exemplar FAC tariff sheets, which defines the costs and revenues (including transmission costs and revenues) proposed to be included in Empire’s FAC, and Exhibit 3 attached to the *Non-Unanimous Agreement* contains a list of sub-accounts which the signatories to the *Non-Unanimous Agreement* agree should be included and/or excluded from Empire’s FAC. Staff would note that under the *Non-Unanimous Agreement*, the FAC specifically *excludes* SPP Schedule 1A and 12 charges and also excludes Empire’s labor, administrative, and convention costs from Account 501. As a signatory party to the *Non-Unanimous Agreement*, Staff supports the positions in the *Non-Unanimous Agreement* that is now posed as a joint recommendation to the Commission.

² All parties in this case are signatories to this agreement except the Midwest Energy Consumers Group (“MECG”).

³ This compares to Empire’s current FAC Base Factor of \$0.02831 per kWh. See Ex. 124, p. 3.

Discussion

Together, the unanimous *Revised Agreement* and the *Non-Unanimous Agreement* fully resolve all FAC issues in this case. Regarding issues related to Empire's FAC, the Revised Agreement (which is now unanimous) provides in paragraph 13 "that Empire should be allowed to continue its FAC, with certain modifications. The FAC excludes Southwest Power Pool ("SPP") Schedule 1A and 12 charges and also excludes Empire's labor, administrative, and convention costs from Acct. 501. For the FAC tariff, the Missouri jurisdictional energy allocation factor will be used in the allocation of off-system sales revenues (accounts 447133 and 447830), and REC revenues (account 456073). Empire will work with stakeholders to develop descriptions of the costs and revenues that are flowing through the FAC to be filed with the Commission in the next case." Paragraph 18 of the *Revised Agreement* further provides:

that Empire should provide monthly quality of service reporting, should continue submitting monthly revenue and usage reports to Staff, and should continue providing the following information as part of its monthly reports (as agreed to in the Non-Unanimous Stipulation and Agreement filed May 12, 2010, in Case No. ER-2010-0130):

- a. Monthly SPP market settlements and revenue neutrality uplift charges;
- b. Notify Staff within 30 days of entering a new long-term contract for transportation, coal, natural gas or other fuel; natural gas spot transactions are specifically excluded;
- c. Provide Staff with a monthly natural gas fuel report that includes all transactions, spot and longer term; the report will include term, volumes, price and analysis of number of bids;
- d. Notify Staff within 30 days of any material change in Empire's fuel hedging policy, and provide the Staff with access to new written policy;

e. Provide Staff its Missouri Fuel Adjustment Interest calculation work papers in electronic format with all formulas intact when Empire files for a change in the cost adjustment factor;

f. Notify Staff within 30 days of any change in Empire's internal policies for participating in the SPP; and

g. Continue to provide Staff access to all contracts and policies upon Staff's request, at Empire's corporate office in Joplin, Missouri.

Also regarding issues related to Empire's FAC, the *Non-Unanimous Agreement* provides in paragraph 3 that "Pursuant to Exhibit 1 attached hereto, total fuel and purchased power for Empire's FAC Base⁴ shall include net transmission (costs minus revenues) of \$4,894,040" and further provides in paragraph 4 "that the FAC tariff sheets shall be as shown in Exhibit 2 attached hereto. The FAC excludes Southwest Power Pool ("SPP") Schedule 1A and 12 charges and also excludes Empire's labor, administrative, and convention costs from Acct. 501. Exhibit 3 attached hereto shows the subaccounts which the Signatories agree should be included in Empire's FAC at this time. For the FAC tariff, the Missouri jurisdictional energy allocation factor will be used in the allocation of off-system sales revenues (accounts 447133 and 447830), and REC revenues (account 456073). Empire will work with stakeholders to develop descriptions of the costs and revenues that are flowing through the FAC to be filed with the Commission in the next case."

Reaching these agreements involved many hours of negotiation involving a give and take process; in reaching agreements such as these rarely does any party get everything they originally sought. However, regarding the FAC issues, not only do these

⁴ As mentioned above, Empire's FAC Base Factor under the Non-Unanimous Agreement, as calculated on Exhibit 1 to the Non-Unanimous Agreement, is \$0.02680 per kWh, which is actually less than Empire's current FAC Base Factor of \$0.02831 per kWh (See Ex. 124, p. 3).

two agreements, when taken together, fully resolve all FAC issues in this case, but they do so in a manner that gives Staff nearly everything it was seeking on these issues in Staff's pre-filed testimony and exhibits.⁵ In fact, the FAC Base Factor of \$0.02680 per kWh under the *Non-Unanimous Agreement* is extremely close to Staff's final calculation of the new Base Factor based on Staff's recommendations in the absence of an agreement, as shown in the right-hand column of Ex. 230 HC, Revised Schedule DCR-S1 (see Base Cost per kWh line). Therefore, both agreements are fully supported by competent and substantial evidence and reach a just and reasonable result. As a signatory party to the *Non-Unanimous Agreement*, Staff supports the resolution of this issue as set forth in the *Non-Unanimous Agreement*.

Staff would note that on April 29, 2015, after the hearing in this case had concluded⁶, the Commission issued its *Report and Order* in the case of *In the Matter of Union Electric Company, d/b/a Ameren Missouri's Tariff to Increase Its Revenues for Electric Service*, Case No. ER-2014-0258. In that case the Commission decided, on page 115, that "the costs that should be included in the FAC [*i.e.*, Ameren Missouri's FAC] are 1) costs to transmit electric power it did not generate to its own load (true purchased power) and 2) costs to transmit excess electric power it is selling to third parties to locations outside of MISO (off-system sales)." While the FAC for Empire as set forth in the *Non-Unanimous Agreement* in this case includes transmission costs from Empire's RTO (*i.e.*, SPP) which would not be included under the *Report and Order* in the Ameren case, MEGC's proposal excludes transmission costs from Empire's RTO (SPP) which

⁵ See, Ex. 201 HC, pp. 116-126; Ex. 204 HC, pp. 33-41 and Schedules DCR-1, DCR-2, and HC DCR-3; Ex. 213 HC, pp. 1-4 and Schedule HC DCR-R1; Ex. 223 HC, pp. 1-3 and Schedule HC DCR-S1; and Ex. 230 HC, Revised Schedule DCR-S1.

⁶ The hearing in this case concluded April 17, 2015.

would be included under the *Ameren Report and Order*. Therefore, although MECG will likely argue that the position of the signatories to the *Non-Unanimous Agreement* is not consistent with the *Ameren Report and Order*, neither is MECG's position.

MECG's argument/position in this case is not the same argument/position the Commission heard in the *Ameren* case. MECG's argument did not address the issues of whether the FAC statute contemplates recovery of transmission costs associated with anything other than "true purchased power" and "off-system sales" as addressed in *Ameren*. Rather, according to their witness, MECG's position in this case is simply to exclude *all* SPP related transmission costs from the FAC.⁷ The following exchange⁸ between Commissioner Hall and counsel for MECG further illustrates this point:

COMMISSIONER HALL: Concerning your argument that we should disallow transmission costs from the fuel adjustment clause charge, are you speaking about all transmission costs or just the transmission costs related to serving the utility's native load?

MR. WOODSMALL: *Our position in this case was to eliminate all transmission costs*, and that is largely based upon the belief that the transmission benefits to be derived from SPP, the SPP integrated marketplace is still rather new. So any benefits associated with that are largely tenuous still at this point. (Emphasis added)

Given that we don't know if there's benefits of being in SPP, the SPP IM market⁹, take those revenues out, take the costs out as well, and then review it again in the case that will be coming up to be filed before the end of this year.

Furthermore, in response to a question from Chairman Kenney, the following exchange¹⁰ occurred:

⁷ Tr. Vol. 7, pp. 167-168.

⁸ Tr. Vol. 6, p. 96.

⁹ MECG's witness later admitted Empire's customers are experiencing benefits through the SPP integrated marketplace. Tr. Vol. 7, pp. 171-172.

¹⁰ Tr. Vol. 6, pp. 92-93.

CHAIRMAN KENNEY: Then lastly regarding fuel adjustment clause, it's not your client's position that it's – that there's anything illegal about collecting transmission charges through the FAC?

MR. WOODSMALL: I haven't reviewed that. I know in the Ameren case, I believe MIEC has made that argument, and I was so buried in the Noranda stuff in that case that I didn't really review that. So I haven't made that determination but I know that's an issue in the Ameren case.

CHAIRMAN KENNEY: But you're not making it here?

MR. WOODSMALL: *No, I'm not.* In fact, as part of the settlement, we have agreed to a continuation of the FAC. *We just don't agree with the transmission costs.* And no, I'm not making that argument that they're illegal yet. (Emphasis added)

MECG should not now be allowed to change their argument to mimic the argument made by MIEC in the Ameren case. In fact, the opinion of the Court of Appeals in the last Ameren case¹¹ prior to the case decided on April 29, 2015, is instructive on this point. The Commission's April 29 Ameren *Report and Order* summarized the previous case on page 112 as follows: "The Commission's decision in the last rate case was challenged on appeal by several parties, including MIEC. The Commission's decision was upheld, but MIEC's argument that transmission costs for "purchased power" should not include transmission costs related to self-generated power was found by the court to have been raised for the first time at the appellate court. Thus it was not preserved for appeal and was not addressed by the court. MIEC now raises that argument to the Commission for the first time." The opinion of the Court of Appeals stated¹²:

¹¹ Case No. ER-2012-0166.

¹² *In the Matter of Union Electric Company v. Public Service Commission of the State of Missouri*, 422 S.W.3d 358 at 365 (Mo. App. W.D. 2013).

None of Consumers¹³ presently argued *purchased power* issues were raised below with the PSC. Instead, the arguments raised by Consumers with the PSC, including each of their respective applications for rehearing, were focused on the unlawfulness and unreasonableness of the *transmission costs* included in the FAC. For example, *inter alia*, Consumers principally argued below that the *transmission costs* were unlawful flow-through charges in a FAC because the charges were not “transportation” costs (see discussion of Point II) or constituted unlawful construction work in progress (“CWIP”) charges (see discussion of Point III). Consumers also raised other *transmission costs* issues below that are not argued on appeal and thus abandoned; however, at no time did Consumers raise the *purchased power* issues below before the PSC that they now assert in Point I of their appeal. Thus, those issues have not been properly preserved, and we will not consider them. §386.500.2. (Emphasis in original)

Likewise, in the present case MCEG did not argue that the FAC statute does not contemplate recovery of transmission costs associated with anything other than “true purchased power” and “off-system sales” as addressed in the April 29 Ameren *Report and Order*¹⁴; they simply argued that *all* SPP related transmission costs should be excluded from Empire’s FAC. Neither did they present any evidence to differentiate the amount of “true purchased power” and “off system sales,” as those terms are used in Ameren, from all SPP related transmission costs. Potential arguments are waived if not properly raised. MCEG should not now be allowed to change their argument, particularly in the absence of any supporting evidence.

If you allow transmission costs in the FAC, should they be collected through a demand component (collected on a per kW basis)¹⁵?

¹³ The term “Consumers” was used by the Court of Appeals to refer to Missouri Industrial Energy Consumers (“MIEC”), Consumers Council of Missouri, AARP, and the Office of the Public Counsel collectively. *Id.* at 360-361.

¹⁴ The closest MCEG came to the arguments made in the Ameren case was during opening statements when counsel for MCEG stated that “whatever decision you make in the Ameren case, we want it applied to Empire as well. There’s an issue in Ameren to disallow transmission costs within the fuel adjustment clause, and we agree with that. When and if you make that decision, we want the same thing applied to Empire.” Tr. Vol. 6, pp.88-89. However, this statement appears to conflict with the responses subsequently given to Chairman Kenney and Commissioner Hall set forth above.

¹⁵ Since this issue was not included in the Joint List of Issues, this statement of the issue is based on the opening statement slide presentation of counsel for MCEG.

This issue – which was raised by MCEG at hearing – is not a proper issue for consideration, much less decision, in this case. First, it was not included in the April 13 *Joint List of Issues* which was signed by MCEG. It was also not included in the April 8 *Revised Stipulation and Agreement and List of Issues* which MCEG indicated it did not oppose. The Commission’s *Order Setting Procedural Schedule* issued in this case on October 28, 2014, indicated in paragraph 3 that:

(b) Although not all parties may agree upon how each issue should be described or on whether a listed issue is in fact a proper issue in this case, the parties shall agree upon and file a list of the issues to be heard, the witnesses to appear on each day of the hearing, the order in which they will be called, and the order of cross-examination for each witness. The list of issues should be detailed enough to inform the Commission of each issue that must be resolved. *The Commission will view any issue not contained in this list of issues as uncontested and not requiring resolution by the Commission.* (Emphasis added)

On the last day of the hearing, counsel for MCEG claimed this FAC demand charge issue “is simply a subset of that overarching issue,” *i.e.*, a subset of the issue regarding whether transmission costs should be included in the FAC.¹⁶ That is like saying rate design is a subset of determining a proper revenue requirement. In fact, during his opening statement on the first day of the hearing, counsel for MCEG stated: “Finally, I want to talk about the fuel adjustment clause. *We have two points there. . . .The second thing, though, is a rate design issue.*”¹⁷ (Emphasis added) Accordingly, MCEG should not be allowed to resurrect this issue at the eleventh hour.

¹⁶ Tr. Vol. 7, p. 157.

¹⁷ Tr. Vol. 6, pp. 88-89.

Second, MCEG's witness introduced her "recommendation" on this FAC demand charge for transmission cost recovery issue for the first time in her surrebuttal testimony. 4 CSR 240-2.130(7)(A) provides that "[d]irect testimony shall include all testimony and exhibits asserting and explaining that party's case-in-chief." By introducing a new proposal regarding the recovery of transmission costs in surrebuttal testimony, MCEG violated this rule and denied the other parties to this proceeding an opportunity to present evidence to counter this proposal. For either or both of these reasons, this is simply not a proper issue in this case.

If the Commission determines that it must decide this "issue," MCEG's proposal¹⁸ should be rejected for several reasons. Although ostensibly recommended in order to better reflect cost causation, the proposal of MCEG's witness Ms. Maini does not in actuality reflect cost causation. For each month's transmission charges, SPP bills Empire based on Empire's usage coincident with the applicable SPP system monthly peak;¹⁹ whereas, for those of its customers that actually have demand meters and are demand billed, for each customer's *billing demand* Empire bills those customers based on each individual customer's peak 15-minute usage each month and for each customer's *facilities demand* Empire bills those customers based on the individual customer's peak 15-minute usage each year.²⁰ Since SPP bills Empire based on Empire's usage coincident with the applicable SPP system monthly peak, there is no true relationship to the basis on which Empire bills its demand customers – *i.e.*, the individual customer's peak on the Empire

¹⁸ MCEG's proposal to revolutionize FAC cost recovery is contained on just 4 lines of testimony. See, Maini Surrebuttal, Ex. 702, p. 6 lines 2-5.

¹⁹ Ex. 231; Tr. Vol. 7, pp.181-184.

²⁰ Tr. Vol. 7, pp. 187-188.

system. In addition, given Empire's relatively small percentage share of SPP's monthly peak, it is simply unreasonable to believe that Empire's individual customers influence the setting of SPP's monthly peak.

Furthermore, Ms. Maini admitted that "quite a few customers of Empire" – including but not limited to residential customers – do not even have demand meters.²¹ However, Ms. Maini's recommendation contains no allocation factor to split the charges between those customers with demand meters and those without demand meters. Additionally, as for the demand metered customers, her recommendation is simply not practical, because to be consistent the charge should not be based on a customer's peak demand on Empire's system but, rather, on what the customer's demand was during the specific hour of the applicable SPP system monthly peak – information which Empire would not have, and which is not easy to obtain. Ms. Maini's recommendation contains no estimates of aggregated individually demand metered customers' load at the hour of the applicable SPP peak each month (which would be needed in order to do billing determinants under her proposal). Ms. Maini proposes no method, or additional equipment, to find what each demand metered customer's demand was during the relevant hour on the SPP system. Ms. Maini's recommendation contains no factor to jurisdictionally allocate between states, which would be needed if one wanted to bill these charges based on demand. In short, Ms. Maini's recommendation – which is contained on 4 lines of surrebuttal testimony – is impractical and inadequate.

It is also a bad idea to take one cost element of the FAC (transmission cost) and treat it differently than all of the other FAC cost elements. As the Commission is aware,

²¹ Tr. Vol. 7, pp. 185-186.

the FAC includes fuel and purchased power costs and revenues. Ms. Maini's recommendation does not improve or increase the accuracy in assigning costs; her proposal relies on an extremely tenuous-at-best connection²² between an Empire customer's demand on Empire's system and Empire's hourly load at the time of the applicable SPP monthly peak demand. Under these circumstances, there is no information – certainly no record evidence – showing that Ms. Maini's proposed method of FAC cost recovery is any more accurate than recovering these costs through an energy charge as is currently done.

Finally, Ms. Maini's recommendation raises a timing issue. Pursuant to its tariff, Empire has a limited period of time after the end of an accumulation period to make a fuel adjustment rate filing, and pursuant to the Commission's rules²³ Staff then has 30 days to review the filing and make a recommendation to the Commission on the filing. There would not be enough time for Empire to process the additional information which would be required under Ms. Maini's proposal – assuming that Empire could even obtain the necessary information – and there would not be enough time for Staff to review that filing given the numerous new considerations which her proposal would interject into FAC cost recovery. MCEG's proposal to collect transmission costs included in the FAC through a newly-created demand component in the FAC (collected on a per kW basis) should be rejected in no uncertain terms for any or all of the foregoing reasons.

--Jeffrey A. Keevil.

²² As discussed above, Staff does not believe there is truly any connection.

²³ See 4 CSR 240-20.090(4).

B. Miscellaneous Tariffs: Should Empire be required to submit a Large Power (LP) rate schedule in its next case that recognizes a time differentiated facilities demand charge?

Staff does not oppose consideration of such a schedule, but does not recommend the Commission order its consideration. Staff did not file testimony on this issue.

C. Class Cost of Service and Rate Design:

i. How do Empire's residential and industrial rates compare with national averages?

Staff did not take a position on this issue and did not file testimony on this matter.

ii. What, if any, revenue neutral interclass shifts are supported by Class Cost of Service (CCOS) studies?

The purpose of a CCOS study is to determine whether each customer class is providing sufficient revenue to cover the utility's expenses to serve the class and to provide a return on the utility's investment required or allocated to serve the class. A CCOS study is the basis for allocating or assigning the utility's costs of serving the classes in a manner that reasonably reflects cost causation.²⁴

That said, a CCOS study is not precise. It is used only as a guide for designing rates. Other factors besides the CCOS study are also considered in designing rates, such as bill impacts, simplicity, rate stability, fairness among different consumers, customer understandability, rate riders, and public policy and economic development considerations.²⁵

²⁴ Ex. 204, p. 7, lns 2-8.

²⁵ Ex. 204, p. 11, lns 5-7. Ex. 2013, p. 8 lns 6-17.

At hearing, Ms. Robin Kliethermes testified that, CCOS study notwithstanding, "...each class is covering their expenses. They just have different levels of rate of return."²⁶

Ms. Robin Kliethermes' revised CCOS study results show that the following interclass shifts would be appropriate if, and only if, the objective was to exactly match the rates of return provided by the various classes²⁷:

Residential	10.7%
Commercial Building	0.27%
Commercial Space Heating	0.12%
Total Electric Building	-4.07%
General Power	-5.26%
Large Power	-5.71%
Special Contract-Praxair	5.32%
Feed Mill and Grain Elevator	-35.43%
Lighting and Miscellaneous	-16.52%

According to the above CCOS study results, if the class shows a negative percentage that indicates that the class is collecting revenue in excess of the cost to serve the class and its rates should be reduced. A positive percentage shows that the class is not generating enough revenue to cover its costs and its rates and should be increased.²⁸

Upon questioning from Chairman Robert Kenney about the residential class, Ms. Robin Kliethermes clarified that while each class is covering its fixed costs, each class is

²⁶ Tr. Vol. 6, p. 109 Ins 1-3. Under questioning from Chairman Kenney beginning on p. 108 In 18 through p. 109, In 4, Ms. Kliethermes clarified that the word "subsidy" as it was used by MECG counsel was not accurate "...because each class is covering their expenses. They just have different levels of rate of return."

²⁷ Ex. 210, p. 5, Ins 1-13.

²⁸ Ex. 203, p. 8, Ins 1-5.

contributing a different rate of return and therefore contributing a different component of profit.²⁹

In summary, Staff's CCOS study is only one of many relevant factors that it considered in designing rates.

iii. What, if any, revenue neutral interclass shifts should be made in designing the rates resulting from this case?

Based on the revised Staff CCOS study results and the factors discussed below, the Staff supports an increase or decrease to the current base retail revenue on a revenue-neutral basis for the following customer classes³⁰:

Residential	+ .75%
Total Electric Building, General Power, and Large Power	- .85%

As a result of the CCOS study, the above revenue-neutral adjustments are necessary to gradually shift these classes to their cost of service.³¹

Rate design may be driven by considerations other than the need to recover the revenue requirement in a fair and equitable manner. Rate design witnesses consider bill impacts, simplicity, rate stability among different consumers, and customer understandability. Another consideration in rate design is the avoidance of rate shock caused by a rate increase too large to be readily accepted by consumers.

Staff witness Mike Scheperle testified at hearing that the biggest consideration in making the revenue-neutral adjustments between rate classes is to avoid rate shock. As

²⁹ TR. Vol. 6, p 109, lns 13-25; p 110, ln 1.

³⁰ Ex. 206, p. 6 lns 11 -15. The Rebuttal testimony of Staff witness Brad Fortson was adopted by Staff witness Mike Scheperle. Tr. Vol. 6, p. 119, lns 7 – 25.

³¹ Ex. 206, p. 8 lns 8-9.

additional support for making gradual rate adjustment changes, Mr. Scheperle cited the problem of rate-switching within the commercial and industrial customer classes and the need to curb rate switchers. Rate adjustment changes can cause a customer to perceive an advantage to switch rate classes to obtain a lower rate. In the cost of service report of this case Mr. Scheperle testified that Empire had over 200 rate switchers in the commercial and industrial sector.³²

At hearing, even Ms. Kavita Maini, MECG's witness, agreed that the .85% recommended decrease for Large Power, Total Electric Building, and General Power service classes is a step toward moving those classes to true cost of service.³³

iv. What, if any, changes to the Commercial and Industrial ("C & I") customer charges are supported by Class Cost of service studies?

[and]

v. What, if any, change to the Commercial and Industrial customer charges should be made in designing the rates resulting from this case?

The parties, with the exception of MECG, support allocating Empire's rate increase on an equal percentage basis to all rate components of all classes, including C & I classes, with the exception of the Residential class customer charge.³⁴ This recommendation is consistent with Staff's CCOS study results and related policy considerations.

³² Tr. Vol. 6, p. 138 ln 15 to p 139 ln 4. Ex. 201, p. 73 lns 1-4.

³³ Tr. Vol. 7, p 166, lns 14-23.

³⁴ Ex. 206, p. 8, lns 2-5. The unanimous *Revised Agreement* includes an agreement of all parties that the Residential class customer charge remain the same.

The recommendation that all rate components be increased by the average increase for the applicable class is reasonable for all of the policy reasons supporting the proposed revenue-neutral rate class adjustments as discussed above.³⁵

vi. What, if any, changes to the Large Power (LP) tail block rate are supported by Class Cost of Service studies?

Staff determined, on a per kWh-only basis, that the LP class's non-rate base net revenue requirement is approximately \$.06695/kWh.³⁶ Staff determined that for the first year of SPP IM operation, the average energy cost per kWh for the LP class was \$.03506/kWh³⁷ - an amount which MCEG witness Maini agreed at hearing.³⁸ The Staff's study results support an LP tail block rate of some amount greater than \$.03506/kWh, but less than \$.06695/kWh.³⁹ The changes requested by MCEG to the tail block rate are not supported by the cost of service.

At hearing MCEG witness Maini agreed that there are other costs above and beyond the energy costs of the \$.03506/kWh that need to be recovered through the LP tail block rate.⁴⁰ Although Ms. Maini based her recommendation to decrease the tail block rate on her analysis using the FAC base as the cost of energy, at hearing she agreed that the FAC base includes off-setting revenues for off-system sales and that there are other variable costs in addition to the base cost of energy which need to be recognized.⁴¹

³⁵ Ex. 204, p. 28 lns 34-36.

³⁶ Ex. 220, p. 6, ln 7.

³⁷ Ex. 220, p7, ln 9.

³⁸ Tr. Vol. 7, p/ 177 lns 17-21.

³⁹ Ex. 220, p 6, lns 2- p. 7 ln 9.

⁴⁰ Tr. Vol 7, p. 177 ln 22 – p. 179 ln 10.

⁴¹ Tr. Vol. 7, p. 179 ln 11 through p. 180 ln 17.

vii. What, if any, changes to the LP tail block rate should be made in designing the rates resulting from this case?

Staff supports that each rate component of each class be increased across-the-board for each class on an equal percentage. To arrive at this recommendation, Staff used a three step process. These steps reflect the following consideration: (1) based on CCOS results, Staff supports an increase or decrease to the current base retail revenue on a revenue-neutral basis to various classes of customers. Specifically, Staff recommends the Residential class receive a positive 0.75% adjustment; and the Total Electric Building, General Power, and Large Power classes receive a negative adjustment of approximately 0.85%; (2) Staff directly assigned to applicable customer classes the portion of the revenue increase/decrease that is attributable to energy efficiency (“EE”) programs from Pre-MEEIA program costs; and (3) Staff determined the amount of revenue increase awarded to Empire not associated with EE revenue from Pre-MEEIA revenue requirement assigned in Step 2 from the total increase awarded to Empire. Accordingly, Staff allocated this amount to various customer classes as an equal percent of current base revenues after making the adjustment in Step 1. In addition, the feed mill (also referred to as “PFM”) and combined lighting classes should receive no retail increase because existing revenues received from these classes are providing more revenue to Empire than Empire’s cost to serve.⁴²

--Robert S. Berlin.

⁴² Ex. 204, p. 28 ln 11 through p. 29 ln 2.

WHEREFORE, the Staff tenders its Initial Brief as directed by the Commission.

Respectfully submitted,

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Public Service Commission.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served, either electronically or by hand delivery or by First Class United States Mail, postage prepaid, to all counsel of record on this **15th day of May, 2015**.

/s/ Robert S. Berlin