BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of The Empire District Electric Company's Request for Authority to File Tariffs Increasing Rates for Electric Service Provided to Customers in its Missouri Service Area	)))))	Case No. ER-2019-0374

PUBLIC COUNSEL'S RESPONSE TO THE EMPIRE DISTRICT ELECTRIC COMPANY'S COMPLIANCE TARIFF SHEETS

COMES NOW the Office of Public Counsel (Public Counsel) and responds to The Empire District Electric Company's compliance tariff sheets as follows:

1. The Empire District Electric Company filed tariff sheets on August 17, 2020, purporting to comply with the Commission's July 23, 2020, *Amended Report and Order* as clarified by its August 5, 2020, *Order of Clarification*. On August 31, 2020, it filed substitute tariff sheets to replace many of the tariff sheets it filed on August 17, 2020.

2. Even as substituted, the tariff sheets have the issues identified in the attached redlined version of the language from Empire's FAC compliance substitute tariff sheets. The attachment also proposes how to address the identified issues. Due to those issues, the Commission should reject Empire's tariff sheets unless Empire cures the issues.

3. The issues identified include the material issue that the definition of PP = purchased power costs includes language for other FAC terms. See Sheet 17l, subpart 4. They also include the material issue of the lack of identification of the FERC subaccounts that are included and excluded from the operation of Empire's FAC. The meaning of VAF should be included in Empire's FAC tariff sheets—"voltage adjustment factors." References to the Neosho Ridge, North Fork Ridge, and Kings Point wind projects should be factually accurate.

WHEREFORE, the Office of the Public Counsel responds to The Empire District Electric Company's compliance tariff sheets as set forth above.

Respectfully,

/s/ Nathan Williams

Nathan Williams
Chief Deputy Public Counsel
Missouri Bar No. 35512

Office of the Public Counsel
Post Office Box 2230
Jefferson City, MO 65102
(573) 526-4975 (Voice)
(573) 751-5562 (FAX)
Nathan.Williams@ded.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 1st day of September 2020.

/s/ Nathan Williams

Attachment

The two six-month accumulation periods, the two six-month recovery periods and filing dates are set forth in the following table:

Accumulation Periods	Filing Dates	Recovery Periods
September–February	By April 1	June–November
March–August	By October 1	December–May

The Company will make a Fuel Adjustment Rate ("FAR") filing by each Filing Date. The new FAR rates for which a filing is made will be applicable starting with the Recovery Period that begins following the Filing Date. All FAR filings shall be accompanied by detailed workpapers with subaccount detail supporting the filing in an electronic format with all formulas intact.

DEFINITIONS

ACCUMULATION PERIOD:
The six calendar months during which the actual costs and revenues subject to this rider will be accumulated for the purpose of determining the FAR.

RECOVERY PERIOD:
The billing months during which a FAR is applied to retail customer usage on a per kilowatt-hour ("kWh") basis.

BASE ENERGY COST:
Base energy cost is ordered by the Commission in the last rate case consistent with the costs and revenues included in the calculation of the Fuel and Purchase Power Adjustment ("FPA").

BASE FACTOR ("BF"):
The base factor is the base energy cost divided by net generation kWh determined by the Commission in the last general rate case. BF = $0.02338 per kWh for each accumulation period.

APPLICATION

FUEL & PURCHASE POWER ADJUSTMENT

$$FPA = \{[(FC + PP + E – OSSR - REC - B) * J] * 0.95\} + T + I + P$$

Where:

FC = Fuel Costs Incurred to Support Sales:

The following costs reflected in Federal Energy Regulatory Commission ("FERC") Accounts 501 and 506: coal commodity and railroad transportation, switching and demurrage charges, applicable taxes, natural gas costs, alternative fuels (i.e. tires, and bio-fuel), fuel additives, Btu adjustments assessed by coal suppliers, quality adjustments assessed by coal suppliers, fuel hedging costs, fuel adjustments included in commodity and transportation costs, broker commissions and fees associated with price hedges, oil costs, combustion product disposal revenues and expenses, consumable costs related to Air Quality Control Systems ("AQCS") operation, such as ammonia, lime, limestone, and powdered activated carbon, and settlement proceeds, insurance recoveries, subrogation recoveries for increased fuel expenses in Account 501.

The following costs reflected in FERC Accounts 547 and 548: natural gas generation costs related to commodity, oil, transportation, fuel losses, hedging costs for natural gas and oil, fuel additives, and settlement proceeds, insurance recoveries, subrogation recoveries for increased fuel expenses, broker commissions and fees.

Attachment

PP = Purchased Power Costs:

1. Costs and revenues for purchased power reflected in FERC Account 555, excluding all charges under Southwest Power Pool ("SPP") Schedules 1a and 12 Such costs include:

   A. SPP costs or revenues for SPP's energy and operating market settlement charge types and market settlement clearing costs or revenues including:

      i. Energy;
      ii. Ancillary Services;
         a. Regulating Reserve Service
         b. Energy Imbalance Service
         c. Spinning Reserve Service
         d. Supplemental Reserve Service
      iii. Revenue Sufficiency;
      iv. Revenue Neutrality;
      v. Demand Reduction;
      vi. Grandfathered Agreements;
      vii. Virtual Energy including Transaction Fees;
      viii. Pseudo-tie; and
      ix. Miscellaneous;

   B. Non-SPP costs or revenue as follows:

      i. If received from a centrally administered market (e.g. PJM / MISO), costs or revenues of an equivalent nature to those identified for the SPP costs or revenues specified in sub part A of part 1 above;
      ii. If not received from a centrally administered market:
         a. Costs for purchases of energy; and
         b. Costs for purchases of generation capacity, provided such capacity is acquired for a term of one (1) year or less; and

   C. Settlements, insurance recoveries, and subrogation recoveries for purchased power expenses.

2. Costs of purchased power will be reduced by expected replacement power insurance recoveries qualifying as assets under Generally Accepted Accounting Principles.

3. Transmission service costs reflected in FERC Account 565:

   A. Thirty-four percent (34%) of SPP costs associated with Network Transmission Service:

      i. SPP Schedule 2 – Reactive Supply and Voltage Control from Generation or Other Sources Service;
      ii. SPP Schedule 3 – Regulation and Frequency Response Service; and
      iii. SPP Schedule 11 – Base Plan Zonal Charge and Region-wide Charge.

   B. Fifty percent (50%) of Mid-Continent Independent System Operator ("MISO") costs associated with:

      i. Network transmission service;
      ii. Point-to-point transmission service;
      iii. System control and dispatch; and
      iv. Reactive supply and voltage control.

4. Costs and revenues not specifically detailed in Factors FC, PP, E, or OSSR shall not be included in the Company's FAR filings; provided however, in the case of Factors PP or OSSR the market settlement charge types under which SPP or another market participant bills / credits a cost or revenue need not be detailed in Factors PP or OSSR for the costs or revenues to be considered specifically detailed in Factors PP or OSSR; and provided further, should the SPP or another market participant implement a new charge type, exclusive of changes in transmission revenue. The list of sub-accounts included will be provided in the FAC Monthly Reports.

A. The Company may include the new charge type cost or revenue in its FAR filings if the Company believes the new charge type cost or revenue possesses the characteristics of, and is of the nature of, the costs or revenues listed in factors PP or OSSR, as the case may be, subject to the requirement that the Company make a filing with the Commission as outlined in B below and also subject to another party's right to challenge the inclusion as outlined in E. below;

B. The Company will make a filing with the Commission giving the Commission notice of the new charge type no later than 60 days prior to the Company including the new charge type cost or revenue in a FAR filing. Such filing shall identify the proposed accounts affected by such new charge type cost or revenue, provide a description of the new charge type demonstrating that it possesses the characteristics of, and is of the nature of, the costs or revenues listed in factors PP or OSSR as the case may be, and identify the preexisting market settlement charge type(s) which the new charge type replaces or supplements;

C. The Company will also provide notice in its monthly reports required by the Commission's fuel adjustment clause rules that identifies the new charge type costs or revenues by amount, description and location within the monthly reports;

D. The Company shall account for the new charge type costs or revenues in a manner which allows for the transparent determination of current period and cumulative costs or revenues;

E. If the Company makes the filing provided for by B above and a party challenges the inclusion, such challenge will not delay approval of the FAR filing. To challenge the inclusion of a new charge type, a party shall make a filing with the Commission based upon the contention that the new charge type costs or revenues at issue should not have been included, because they do not possess the characteristics of the costs or revenues listed in Factors PP or OSSR, as the case may be. A party wishing to challenge the inclusion of a charge type shall include in its filing the reasons why it believes the Company did not show that the new charge type possesses the characteristic of the costs or revenues listed in Factors PP or OSSR, as the case may be, and its filing shall be made within 30 days of the Company's filing under B above. In the event of a timely challenge, the Company shall bear the burden of proof to support its decision to include a new charge type in a FAR filing. Should such challenge be upheld by the Commission, any such costs will be refunded (or revenues retained) through a future FAR filing in a manner consistent with that utilized for Factor P; and

F. A party other than the Company may seek the inclusion of a new charge type in a FAR filing by making a filing with the Commission no less than 60 days before the Company's next FAR filing. Such a filing shall give the Commission notice that such party believes the new charge type should be included because it possesses the characteristics of, and is of the nature of, the costs or revenues listed in factors PP or

OSSR, as the case may be. The party's filing shall identify the proposed accounts affected by such new charge type cost or revenue, provide a description of the new charge type demonstrating that it possesses the characteristics of, and is of the nature of, the costs or revenues listed in factors PP or OSSR as the case may be, and identify the preexisting market settlement charge type(s) which the new charge type replaces or supplements. If a party makes the filing provided for by this paragraph F and a party (including the Company) challenges the inclusion, such challenge will not delay inclusion of the new charge type in the FAR filing or delay approval of the FAR filing. To challenge the inclusion of a new charge type, the challenging party shall make a filing with the Commission based upon that party's contention that the new charge type costs or revenues at issue should not have been included, because they do not possess the characteristics of the costs or revenues listed in Factors PP or OSSR, as the case may be. The challenging party shall make its filing challenging the inclusion and stating the reasons why it believes the new charge type does not possess the characteristic of the costs or revenues listed in Factors PP or OSSR, as the case may be, within 30 days of the filing that seeks inclusion of the new charge type. In the event of a timely challenge, the party seeking the inclusion of the new charge type shall bear the burden of proof to support its contention that the new charge type should be included in the Company's FAR filings. Should such challenge be upheld by the Commission, any such costs will be refunded (or revenues retained) through a future FAR filing in a manner consistent with that utilized for Factor P.

Commented [ML1]: Since this language is not specific to purchased power (PP) but applies to fuel costs (FC), PP, Emissions costs (E) and off-system sales revenue (OSSR) it should be moved out of the definition of PP.

The listing of sub-accounts in the FAC monthly reports (last sentence in first paragraph) is replaced with the listing of accounts at the time of the Commission order to reduce the possibility of changes without notification to the Commission.

This language has been moved below under the heading of ACCOUNTING FOR COSTS AND REVENUES.

E = Net Emission Costs: The following costs and revenues reflected in FERC Accounts 509 and 411 (or any other account FERC may designate for emissions expense in the future): emission allowance costs offset by revenues from the sale of emission allowances including any associated hedging.

OSSR = Revenue from Off-System Sales (Excluding revenue from full and partial requirements sales to municipalities):

The following revenues or costs reflected in FERC Account 447: all revenues from off-system sales and SPP energy and operating market including (see Note A. below):

i. Energy;
ii. Capacity Charges associated with Contracts shorter than 1 year;
iii. Ancillary Services including;
  a. Regulating Reserve Service
  b. Energy Imbalance Service
  c. Spinning Reserve Service
  d. Supplemental Reserve Service
iv. Revenue Sufficiency;
v. Losses;
vi. Revenue Neutrality;
vii. Demand Reduction;
viii. Grandfathered Agreements;
ix. Pseudo-tie;
x. Miscellaneous; and
xi. Hedging.

REC = Renewable Energy Credit Revenue reflected in FERC Account 456 from the sale of Renewable Energy Credits that are not needed to meet the Renewable Energy Standard.

Attachment

HEDGING COSTS:

Hedging costs are defined as realized losses and costs (including broker commission fees and margins) minus realized gains associated with mitigating volatility in the Company's cost of fuel, fuel additives, fuel transportation, emission allowances and purchased power costs, including but not limited to, the Company's use of derivatives whether over-the-counter or exchanged traded including, without limitation, futures or forward contracts, puts, calls, caps, floors, collars and swaps.

ACCOUNTING FOR COSTS AND REVENUES

The following are the sub-accounts included in and excluded from the FAC:

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Commented [ML2]: It is necessary to put in tariff sheet. Previously contained in a document filed in the rate case and referred to in the tariff sheet. No such document exists in this case because of the addition of TCR and ARR activity in FERC account 555,

Attachment

GL	Descriptions	GL	Descriptions	GL	Descriptions
501	**Included:**	**506**	**Included:**	**555**	**Included:**
501042	Fuel - Coal	506127	Limestone Expense -Iatan	555430	Direct Purchases
501045	Fuel - Oil	506128	Powdered Activated Carbon	555431	Purchase Power Tolling Fees
501054	Fuel - Natural Gas	506129	Ammonia Expense	555432	Energy Imbalance
501183	Sales Of Ash	506201	Limestone Expense	555437	Interrupt Svc Compensation
501211	Ineffect (Gain)Loss Deri Steam	506202	Ammonia Expense	555800	DA Asset Energy
501212	Effective (Gn)Lss Deriv Steam	506203	Powdered Activated Carbon	555810	DA Non-Asset Energy
501216	NonFAS133Deriv(Gain)/LossSteam	506204	Lime Expense	555820	DA Virtual Energy
501300	Fuel -Tires			555840	DA Reg-Up
501401	Ops Mtls-Fuel Handling	**548**	**Included:**	555850	DA Reg-Down
501607	Fuel Adm E Trader Commission	548202	Ammonia Expense	555860	DA Spinning
				555870	DA Supplemental
501	**Excluded:**	**447**	**Included:**	555880	DA Other
501011	Conv & Seminar-Fuel	447113	Gen Ark Off-Sys Sale-Resale	555900	RT Asset Energy
501400	Ops Labor-Fuel Handling	447124	Gen Ks Off-System Sale-Resale	555910	RT Non-Asset Energy
501601	Fuel Administration -Asbury	447133	Gen Mo Off-Sys Sale-Resale	555920	RT Virtual Energy
501604	Fuel Administration -Riverton	447143	Gen Ok Off-Sys Sales-Resale	555940	RT Reg-Up
501605	Fuel Administration Plum Point	447810	SPP IM Revenue -AR	555950	RT Reg-Down
		447820	SPP IM Revenue -KS	555960	RT Spinning
547	**Included:**	447830	SPP IM Revenue -MO	555970	RT Supplemental
547205	Natural Gas SLCC Tolling	447840	SPP IM Revenue -OK	555980	RT Other
547206	Nat Gas-Tollng SLCC Ineffectiv	447850	SPP IM Revenue	555990	TCR Activity
547207	Nat Gas-Tolling SLCC Effective	447860	Bilateral/Off Line Aux Revenue	555995	ARR Activity
547208	Comb Turb Fuel Sales -Nat Gas				
547210	Combust Turb Fuel Natural Gas	**447**	**Excluded:**	**565**	**Included:**
547211	Ineffect (Gain)Loss Deriv Gas	447430	Aec -Off-Sys-Missouri	565413	Trans Of Electricity By Others
547212	Effective (Gain)Loss Deriv Gas	447540	Oklahoma G R D A Off-System	565414	SPP Fixed Chg -Native Load Exclude S1-A
547213	Fuel -No 2 Oil Fuel	447610	Energy Imbalance -Arkansas	565416	Non SPP Fixed Chg -Native Load
547301	NonFAS133 Deriv (Gain)/Loss	447620	Energy Imbalance -Kansas	565417	PP Non SPP Var -Native Load
547607	Fuel Adm E Traders Commission	447630	Energy Imbalance -Missouri	565418	Gen Non SPP Var -Native Load
		447640	Energy Imbalance -Oklahoma	565419	Off Sys Sales Trans Costs
547	**Excluded:**				
547605	Fuel Adm State Line	**457**	**Excluded:**	**565**	**Excluded:**
547606	Fuel Adm Energy Center	457131	Oth El Rev-Sched Sys Ctrl&Disp		
547210	Natural Gas Fixed Transportation and and Fixed Storage Only	457137	Ot El RvOffSys LTFSTF PTP Trns	565414	SPP Schedule 1-A only
		457138	Ot El RvOffSys NnFrm PTP Trns	565415	SPP Var Chg Schedule 12
		457139	Ot El RvOffSys NITS Rev	**456**	**Included:**
411	**Included:**	457140	Oth El Rev-Off-Sys Losses	456071	Misc Elec Rev-Green Credits-AR
411800	Gains-Disposition Emmiss Allow	457141	Sch 11 NITS	456072	Misc Elec Rev-Green Credits-KS
		457142	Sch 11 PTP	456073	Misc Elec Rev-Green Credits-MO
509	**Included:**	457160	Sch 1 PTP	456074	Misc Elec Rev-Green Credits-OK
509052	Emission Allowance Exp			456075	REC Revenue

Costs and revenues not specifically detailed in Factors FC, PP, E, or OSSR shall not be included in the Company's FAR filings; provided however, in the case of Factors PP or OSSR the market settlement charge types under which SPP or another market participant bills / credits a cost or revenue need not be detailed in Factors PP or OSSR for the costs or revenues to be considered specifically detailed in Factors PP or OSSR; and provided further, should the SPP or another market participant implement a new charge type, exclusive of changes in transmission revenue.

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1. The Company may include the new charge type cost or revenue in its FAR filings if the Company believes the new charge type cost or revenue possesses the characteristics of, and is of the nature of, the costs or revenues listed in factors PP or OSSR, as the case may be, subject to the requirement that the Company make a filing with the Commission as outlined in B below and also subject to another party's right to challenge the inclusion as outlined in E. below;

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2. The Company will make a filing with the Commission giving the Commission notice of the new charge type no later than 60 days prior to the Company including the new charge type cost or revenue in a FAR filing. Such filing shall identify the proposed accounts affected by such new charge type cost or

revenue, provide a description of the new charge type demonstrating that it possesses the characteristics of, and is of the nature of, the costs or revenues listed in factors PP or OSSR as the case may be, and identify the preexisting market settlement charge type(s) which the new charge type replaces or supplements;

3. The Company will also provide notice in its monthly reports required by the Commission's fuel adjustment clause rules that identifies the new charge type costs or revenues by amount, description and location within the monthly reports;

4. The Company shall account for the new charge type costs or revenues in a manner which allows for the transparent determination of current period and cumulative costs or revenues;

5. If the Company makes the filing provided for by B above and a party challenges the inclusion, such challenge will not delay approval of the FAR filing. To challenge the inclusion of a new charge type, a party shall make a filing with the Commission based upon the contention that the new charge type costs or revenues at issue should not have been included, because they do not possess the characteristics of the costs or revenues listed in Factors PP or OSSR, as the case may be. A party wishing to challenge the inclusion of a charge type shall include in its filing the reasons why it believes the Company did not show that the new charge type possesses the characteristic of the costs or revenues listed in Factors PP or OSSR, as the case may be, and its filing shall be made within 30 days of the Company's filing under B above. In the event of a timely challenge, the Company shall bear the burden of proof to support its decision to include a new charge type in a FAR filing. Should such challenge be upheld by the Commission, any such costs will be refunded (or revenues retained) through a future FAR filing in a manner consistent with that utilized for Factor P; and

6. A party other than the Company may seek the inclusion of a new charge type in a FAR filing by making a filing with the Commission no less than 60 days before the Company's next FAR filing. Such a filing shall give the Commission notice that such party believes the new charge type should be included because it possesses the characteristics of, and is of the nature of, the costs or revenues listed in factors PP or OSSR, as the case may be. The party's filing shall identify the proposed accounts affected by such new charge type cost or revenue, provide a description of the new charge type demonstrating that it possesses the characteristics of, and is of the nature of, the costs or revenues listed in factors PP or OSSR as the case may be, and identify the preexisting market settlement charge type(s) which the new charge type replaces or supplements. If a party makes the filing provided for by this paragraph F and a party (including the Company) challenges the inclusion, such challenge will not delay inclusion of the new charge type in the FAR filing or delay approval of the FAR filing. To challenge the inclusion of a new charge type, the challenging party shall make a filing with the Commission based upon that party's contention that the new charge type costs or revenues at issue should not have been included, because they do not possess the characteristics of the costs or revenues listed in Factors PP or OSSR, as the case may be. The challenging party shall make its filing challenging the inclusion and stating the reasons why it believes the new charge type does not possess the characteristic of the costs or revenues listed in Factors PP or OSSR, as the case may be, within 30 days of the filing that seeks inclusion of the new charge type. In the event of a timely challenge, the party seeking the inclusion of the new charge type shall bear the burden of proof to support its contention that the new charge type should be included in the Company's FAR filings. Should such challenge be upheld by the Commission, any such costs will be refunded (or revenues retained) through a future FAR filing in a manner consistent with that utilized for Factor P.

Should ~~FERC require~~ any item covered by factors FC, PP, E, REC or OSSR ~~to~~ be recorded in an ~~n~~ account different than the FERC accounts listed in such factors or the sub-account listed in this tariff, such items shall nevertheless be included in factor FC, PP, E, REC or OSSR. In the month that the Company begins to record items in a different account, the Company will file with the Commission the

Commented [ML3]: Currently included in the definition of PP even though it applies to FC, E and OSSR too. Moving here is consistent with intent.

Commented [ML4]: Currently this only applies to FERC accounts. This change in language would allow management the discretion to change sub accounts too.

previous account number, the new account number and what costs or revenues that flow through this Rider FAC are to be recorded in the account.

With respect to the ~~Company's~~ North Fork Ridge, Neosho Ridge, and Kings Point wind projects, costs associated with the wind projects and revenue generated from the wind projects shall not be passed through to customers via the Fuel Adjustment Clause~~ before the wind projects' revenue requirements are included in rates~~.

Commented [ML5]: These are not "company" wind projects yet.

Commented [ML6]: No costs or revenues should be included in the FAC until the Commission says so.

B = Net base energy cost is calculated as follows:

B = (SAP * $0.02338)

SAP = Actual net system input at the generation level for the accumulation period.

J = Missouri retail kWh sales / Total system kWh sales

Where Total system kWh sales includes sales to municipalities that are associated with Empire and excludes off-system sales.

T = True-up of over/under recovery of FAC balance from prior recovery period as included in the deferred energy cost balancing account. Adjustments by Commission order pursuant to any prudence review shall also be placed in the FPA for collection unless a separate refund is ordered by the Commission.

I = Interest applicable to (i) the difference between Total energy cost (FC + PP + E – OSSR – REC) and Net base energy costs ("B") multiplied by the Missouri energy ratio ("J") for all kWh of energy supplied during an AP until those costs have been billed; (ii) refunds due to prudence reviews ("P"), if any; and (iii) all under- or over-recovery balances created through operation of this FAC, as determined in the true-up filings ("T") provided for herein. Interest shall be calculated monthly at a rate equal to the weighted average interest paid on the Company's short-term debt, applied to the month-end balance of items (i) through (iii) in the preceding sentence.

P = Prudence disallowance amount, if any, as defined below.

FUEL ADJUSTMENT RATE

The FAR is the result of dividing the FPA by estimated recovery period SRP kWh, rounded to the nearest $0.00000. The FAR shall be adjusted to reflect the differences in line losses that occur at primary and secondary voltage by multiplying the average cost at the generator by the voltage adjustment factors ("VAF") of 1.04494 and 1.07159, respectively. Any FAR authorized by the Commission shall be billed based upon customers' energy usage on and after the authorized effective date of the FAR. The formula for the FPA is displayed below

Commented [ML7]: VAF is referred to in the tariff sheet with the actual rate but it is not defined in the tariff sheet anywhere. This provides clarification as to what "VAF" refers to.

$$FAR = \frac{FPA}{S_{RP}}$$

Where:

SRP = Forecasted Missouri NSI kWh for the recovery period.

= Forecasted total system NSI * Forecasted Missouri retail kWh sales / Forecasted total system kWh sales

Where Forecasted total system NSI kWh sales includes sales to municipalities that are associated with Empire and excludes off-system sales.

GENERAL RATE CASE/PRUDENCE REVIEW

Attachment

The following shall apply to this FAC, in accordance with Section 386.266.4, RSMo. and applicable Missouri Public Service Commission Rules governing rate adjustment mechanisms established under Section 386.266, RSMo:

The Company shall file a general rate case with the effective date of new rates to be no later than four years after the effective date of a Commission order implementing or continuing this FAC. The four-year period referenced above shall not include any periods in which the Company is prohibited from collecting any charges under this FAC, or any period for which charges hereunder must be fully refunded. In the event a court determines that this FAC is unlawful and all moneys collected hereunder are fully refunded, the Company shall be relieved of the obligation under this FAC to file such a rate case.

Prudence reviews of the costs subject to this FAC shall occur no less frequently than every eighteen months, and any such costs which are determined by the Commission to have been imprudently incurred or incurred in violation of the terms of this rider shall be returned to customers. Adjustments by Commission order, if any, pursuant to any prudence review shall be included in the FAR calculation in P above unless a separate refund is ordered by the Commission. Interest on the prudence adjustment will be included in I above.

TRUE-UP OF FPA

In conjunction with an adjustment to its FAR, the Company will make a true-up filing with an 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.