

Exhibit No.: _____
Issue(s): **Other Project Costs/
Vegetation Management and
Infrastructure Standards Rules Cost Tracker/
Pension and OPEB Plans Tracker Language/
December 2007 Ice Storm Costs**
Witness/Type of Exhibit: Robertson/Surrebuttal
Sponsoring Party: Public Counsel
Case No.: ER-2008-0093

SURREBUTTAL TESTIMONY

OF

TED ROBERTSON

Submitted on Behalf of the Office of the Public Counsel

EMPIRE DISTRICT ELECTRIC COMPANY

CASE NO. ER-2008-0093

April 25, 2008

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

In the matter of The Empire District Electric)
Company of Joplin, Missouri's application)
for authority to file tariffs increasing rates)
for electric service provided to customers in)
the Missouri service area of the Company)

Case No. ER-2008-0093

AFFIDAVIT OF TED ROBERTSON

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

Ted Robertson, of lawful age and being first duly sworn, deposes and states:

1. My name is Ted Robertson. I am a Public Utility Accountant for the Office of the Public Counsel.
2. Attached hereto and made a part hereof for all purposes is my surrebuttal testimony.
3. I hereby swear and affirm that my statements contained in the attached testimony are true and correct to the best of my knowledge and belief.

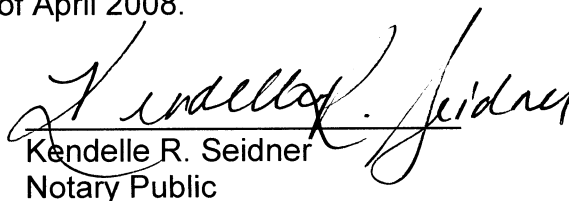


Ted Robertson, C.P.A.
Public Utility Accountant III

Subscribed and sworn to me this 25th day of April 2008.



KENDELLE R. SEIDNER
My Commission Expires
February 4, 2011
Cole County
Commission #07004782



Kendelle R. Seidner
Notary Public

My Commission expires February 4, 2011.

TABLE OF CONTENTS

Testimony	Page
Introduction	1
Other Project Costs	2
Vegetation Management and Infrastructure Standards Rules Cost Tracker	5
Pension and OPEB Plans Tracker Language	10
December 2007 Ice Storm Costs	13

1
2
3
4
5
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**SURREBUTTAL TESTIMONY
OF
TED ROBERTSON**

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**EMPIRE DISTRICT ELECTRIC COMPANY
CASE NO. ER-2008-0093**

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I. INTRODUCTION

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. Ted Robertson, PO Box 2230, Jefferson City, Missouri 65102-2230.

Q. ARE YOU THE SAME TED ROBERTSON THAT HAS PREVIOUSLY FILED
TESTIMONY IN THIS CASE?

A. Yes.

Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?

A. The purpose of this testimony is to respond to the rebuttal testimony of Company witnesses, Mr. Blake A. Mertens - Other Project Costs, Mr. W. Scott Keith - Vegetation Management and Infrastructure Standards Rules Cost Tracker, and Mr. C. Kenneth Vogl - Changes To Pension and OPEB Plans Tracker Language. I will also respond to the rebuttal testimony of MPSC Staff witness, Mr. Mark L. Oligshlaeger, regarding his proposal for a Vegetation Management and Infrastructure Standards Rules Cost Tracker. Lastly, I will discuss OPC's recommended ratemaking treatment for the December 2007 Ice Storm costs.

II. Other Project Costs

Q. HAS COMPANY CHANGED ITS POSITION ON THE RATEMAKING TREATMENT FOR THE EXPENSED PROJECT COSTS DISCUSSED IN YOUR DIRECT TESTIMONY?

A. Yes. Beginning on page 7, line 19, of his rebuttal testimony, Mr. Mertens states:

Q. WHAT IS EMPIRE'S RECOMMENDATION AS IT RELATES TO THESE PROJECT COSTS?

A. Empire requests that these charges be capitalized as part of its Iatan 2 and/or Plum Point base-load, coal-fired generation construction projects. These "other project costs" were part of Empire's overall resource planning decision process which ultimately led to the decision to participate in the Iatan 2 and Plum Point projects. In Case No. ER-2006-0314 Kansas City Power & Light was allowed to capitalize "Certain Costs" that were required in the due diligence process related to Iatan 2 (see page 57 of Rate Order dated December 21, 2006 pertaining to Case No. ER-2006-0314). Empire requests similar treatment of these charges instead of including them as normal ongoing operating expenses.

Q. DOES PUBLIC COUNSEL AGREE WITH MR. MERTENS ASSERTION THAT THESE OTHER PROJECT COSTS ARE SIMILAR TO CERTAIN COSTS AUTHORIZED CAPITAL TREATMENT IN KANSAS CITY POWER & LIGHT CASE NO. ER-2006-0314?

A. Not exactly. In its Report and Order for Kansas City Power & Light, Case No. ER-2008-0314, the Commission authorized implementation of agreements reached

1 in the Nonunanimous Stipulation and Agreement Regarding Capitalization of
2 Certain Costs, Decommissioning Expense Accrual, and Corporate Projects and
3 Strategic Initiatives. On page 57 of the Report and Order it states:
4

5 As agreed to by KCPL and Staff, the Commission authorizes
6 KCPL to capitalize all costs incurred after January 1, 2005 related
7 to project MSC0140, KCPL Strategic Initiatives, and certain
8 advertising costs all incurred by KCPL in the development of
9 various components and informing customers of the features of
10 KCPL's Regulatory Plan Capital Investments, which will be
11 transferred and capitalized to the latan 2 construction project.
12
13

14 The language in the Report and Order clearly states the authorization is for
15 capitalization of costs directly related to the latan 2 construction project; whereas
16 the costs Mr. Mertens discusses beginning on page 6, line 21, of his rebuttal
17 testimony, are, "related to investigation and due diligence costs for base-load,
18 coal fired generation projects that Empire did not ultimately proceed with at this
19 time because of our participation in the latan 2 and Plum Point coal-fired
20 generation projects."
21

22 Q. DOES THE PUBLIC COUNSEL AGREE WITH MR. MERTENS THAT THE
23 PROJECT COSTS WERE INCURRED PURSUANT TO ITS INTEGRATED
24 RESOURCE PLANNING?

1 A. Yes. On page 7, lines 11 - 18, of his rebuttal testimony, Mr. Mertens provides
2 what I believe is an accurate representation of the other project costs. He states:
3

4 A. Empire agrees that these are costs associated with the
5 development of potential future investment. However, the
6 Company does not agree that these costs should not be
7 recovered from ratepayers. These project costs were
8 necessary and required as part of the Company's prudent
9 and thorough investigation into possible base-load
10 generation resource alternatives. Empire has a duty to its
11 customers to make sure it is serving them in the most
12 economical and reliable manner. In order to meet this
13 obligation from time to time Empire must expend money to
14 develop or research projects that may ultimately not move
15 forward to completion.
16
17

18 Q. DOES PUBLIC COUNSEL BELIEVE THAT COMPANY'S REQUEST TO
19 CAPITALIZE THE COSTS AS PART OF ITS IATAN 2 AND/OR PLUM
20 POINT PROJECTS IS REASONABLE?

21 A. In a normal situation, it is the Public Counsel's belief that costs incurred for
22 capital projects which are cancelled should not receive rate base or expense
23 treatment in the ratemaking process; however, in this instance, Public Counsel
24 agrees with Company that the costs at issue were incurred to facilitate its overall
25 integrated resource planning and ultimately its decision to participate in new coal-
26 fired generation construction projects. These costs should not be included as

1 normal ongoing operating expenses, but Public Counsel would not oppose
2 capitalization of the costs to Company's Iatan 2 project.

3
4 **III. Vegetation Management and Infrastructure Standards Rules Cost Tracker**

5 Q. ARE THE COSTS AT ISSUE KNOWN AND MEASURABLE?

6 A. No. The proposed standards rules have not been finalized and the Company has
7 not yet incurred any associated costs. Company support and testimony clearly
8 state that it bases its position on estimates of possible future costs; costs that are
9 not known and measurable. In fact, in his rebuttal testimony, page 11, lines 11 - 18,
10 Mr. W. Scott Keith, states the following:

11
12 As outlined in Empire witness Palmer's testimony, the
13 implementation of a new Commission vegetation management
14 could have a significant financial impact upon Empire, with
15 vegetation management expenditures increasing by over six times
16 depending upon the final draft of the rule. The proposed rule (sic)
17 are closer to becoming official and Empire believes that will incur
18 around an additional \$4 to \$6 million per year to comply with these
19 new rules when its existing internal procedures are modified to
20 comply with the Commission's rules in both of these areas.

21 (Emphasis added by OPC)

22
23
24
25 The use of the testimony modifiers "could have" and "believes," by Mr.

26 Keith confirms that the Company does not know what the actual level of

1 costs to comply with the standards rules will be; what he offers is
2 Company's best guess as of today.
3

4 Q. IS COMPANY SIMPLY REQUESTING A COST TRACKING MECHANISM
5 RATHER THAN COMMISSION AUTHORIZATION FOR SPECIFIC
6 RATEMAKING TREATMENT OF POSSIBLE FUTURE COSTS?

7 A. No. Beginning on page 11, line 19, of his rebuttal testimony, Mr. Keith
8 describes the Company's willingness to discuss the use of a cost tracking
9 mechanism similar to a procedure used by AmerenUE; however, in his
10 direct testimony, page 37, lines 3 - 18, he requested the following specific
11 ratemaking treatment:
12

13 A regulatory asset or liability would be established on Empire's
14 records to track any increases or decreases in vegetation
15 management and infrastructure costs from the cost levels included
16 in this rate case. This account would be maintained until the next
17 rate case at which time it would be amortized and recovered in
18 rates over a period not to exceed five years. For example, if annual
19 vegetation management and infrastructure expenses increased
20 from a current level of around \$6 million to \$26 million, Empire
21 would record the annual increase of \$20 million as a regulatory
22 asset until it can be reflected in rates in the next general rate case.
23 If an increase of this same magnitude occurred for a number of
24 years before the next general rate case, this account would capture
25 more than one year of the cost increase associated
26 with the new vegetation management and infrastructure rules.
27 Once this regulatory asset is reflected in rates, the balance in the
28 regulatory asset would be reduced to reflect that portion of costs
29 being collected from the customers. For example, if the

1 Commission decided to amortize the accumulated balance over
2 more than one year then the balance in the regulatory asset would
3 reflect the amortization levels allowed in rates.
4
5

6 Q. WOULD AN AMERENUE-LIKE COST TRACKING MECHANISM BE A
7 REASONABLE SOLUTION TO THIS ISSUE?

8 A. No. The cost tracking mechanism authorized in AmerenUE, Case No. ER-2007-
9 0002, resulted from negotiations of numerous matters which ultimately led to a
10 Commission authorized stipulation and agreement. No such stipulation and
11 agreement has occurred in the instant case.
12

13 Q. HAS THE MPSC STAFF PROPOSED IMPLEMENTATION OF A COST
14 TRACKING MECHANISM ALONG WITH SPECIFIC RATEMAKING FOR THE
15 ESTIMATED FUTURE COSTS?

16 A. Yes. Beginning on page 8, line 20, of his rebuttal testimony, Mr. Mark L.
17 Oligschlaeger, states:
18

19 Q. What is the level of tree trimming expenses included in the
20 Staff's direct case?

21
22 A. The Staff has included in its direct case an adjusted level of
23 tree trimming expenses in its case for Empire of
24 approximately \$6.8 million (total Company).
25
26

1 And, continuing on page 9, lines 16 - 23, he adds:

2
3 Q. What is the total amount of vegetation standards and
4 infrastructure standards cost that should be included in rates
5 in this case?

6
7 A. Based on the ECI estimates referenced above, Empire
8 should receive a total of \$12.3 million of rate recovery for
9 these items in this case (\$6.8 million "status quo" tree
10 trimming amount; plus \$4 million in incremental vegetation
11 management rule costs; plus \$1.5 million in incremental
12 infrastructure standards rule costs). Again, this amount is a
13 total Company number, stated prior to application of relevant
14 Missouri jurisdictional allocation factors.

15
16 (Emphasis added by OPC)

17
18
19 In addition, Mr. Oligschlaeger, advocates the implementation of a "one-way " tracker
20 mechanism whereby Company commits to spend \$12.3 million each year going
21 forward with any yearly shortfalls, plus shareholder-provided interest, being
22 expended in future years. If, in any given year, the Company spends more than
23 \$12.3 million it may not spend less in any future year to recoup the excess amount
24 spent.

25
26 Q. IS THE MPSC STAFF'S PROPOSAL REASONABLE?

27 A. No. Staff's proposal is not reasonable for the exact same reasons that the
28 Company's proposal is not reasonable. The costs which both Company and Staff

1 propose to include in the determination of rates in this case are not known and
2 measurable. The costs identified by Company and Staff are nothing more than
3 mere estimates of possible future costs. These estimates may, at a later date,
4 prove to be reasonably accurate or they may not; however, until the events that
5 drive the costs actually occur they remain unknown and non-measurable for
6 purposes of regulatory ratemaking.
7

8 Q. IS PUBLIC COUNSEL CONFUSED BY THE MPSC STAFF'S POSITION ON THIS
9 ISSUE?

10 A. Yes. In an ironic twist of positions, Mr. Oligschlaeger takes an exact opposite
11 position to a somewhat similar issue in his rebuttal testimony. Regarding the
12 Asbury SCR project, Staff recommends that its costs not be included in rate base or
13 expense since it was not determined to be "in-service" at the end of calendar year
14 2007.
15

16 Q. WHAT IS THE SIGNIFICANCE OF DECEMBER 31, 2007 DATE?

17 A. As pointed out in Mr. Oligschlaeger's rebuttal testimony, the Commission authorized
18 a test year for this case of June 30, 2007, updated for known and measurable
19 events through the end of December 2007. That is, December 31, 2007, was the
20 cut-off date for inclusion in the determination of rates all known and measurable
21 costs.

1
2 Q. IS IT YOUR OPINION THAT STAFF IS INCONSISTENT IN ITS PROPOSED
3 RATEMAKING TREATMENT OF COSTS ASSOCIATED WITH ITEMS THAT ARE
4 NOT KNOWN AND MEASURABLE?

5 A. Yes. On one hand Staff proposes to include in rates estimated costs of vegetation
6 and infrastructure activities expected to occur months or years subsequent to the
7 December 31, 2007 cut-off date; while on the other hand, it recommends a
8 disallowance of plant-related costs because, though the plant was constructed,
9 Company had not yet been able to test and satisfy the in-service criteria as of the
10 end of the known and measurable period authorized by the Commission.

11
12 Mr. Oligschlaeger exhausted approximately five pages of his rebuttal testimony
13 explaining why the new Asbury SCR should not be included in the determination of
14 rates, but it all pretty much boils down to his conclusion that as of December 31,
15 2007, the plant was determined to be not in-service. It is Public Counsel's belief that
16 December 31, 2007 was the cut-off date for all costs identified in this case and that
17 would include both the Asbury SCR and the estimated vegetation management and
18 electric infrastructure standards rules compliance costs.

19
20 **IV. Pension and OPEB Plans Tracker Language**

21 Q. WHAT IS THE ISSUE?

1 A. The issue concerns modifications to the current pension and OPEB tracker
2 mechanisms which Company witness, Mr. C. Kenneth Vogel, proposes. On page
3 2, lines 18 - 22, of his rebuttal testimony, he states:

4
5 I also will submit modifications to the current tracker mechanism
6 that address how Special Events would be handled under Empire's
7 tracking mechanism. This Special Event situation was initially
8 referenced in Empire witness Laurie Delano's direct testimony at
9 page 5.

10
11 (Emphasis added by OPC)
12
13

14 Furthermore, on page 3, lines 1 - 13, he adds:
15

16 Q. HAVE YOU PREPARED ANY SCHEDULES?
17

18 A. Yes. Rebuttal Schedule CKV-1 contains the proposed
19 modifications to the prior Stipulation and Agreement for
20 pension benefits and OPEB. These provisions are intended
21 to accomplish the following:

22
23 A. To clarify, for ratemaking purposes, the accounting
24 treatment of any special events under Statement of
25 Financial Accounting Standards No. 88 ("FAS 88")
26 and FAS 106 that would require the Company to
27 recognize one time charges (expense) or credits
28 (income) and to ensure that any of these one-time
29 charges or credits be properly reflected in rates.
30

31 B. To ensure that additional funding required to avoid
32 benefit restrictions under certain provisions of the
33 Pension Protection Act of 2006 are properly reflected
34 in rates.

1
2
3 Public Counsel is opposed to the Company's request that the Commission provide
4 authorization in the instant case for ratemaking of future costs that may or may not
5 ever occur. If in the future a "Special Event" should happen to occur, or appear
6 likely to occur, the Company could contact the Commission, its Staff and OPC so
7 that we all can review the specific aspects of the special event and then provide our
8 recommendations as to the appropriate ratemaking of any costs incurred. I see no
9 legitimate regulatory or statutory reason that the Commission should allow itself to
10 be "cornered" now into providing an authorized ratemaking of costs which are not,
11 at this time, known and measurable.

12
13 Q. HAS THE COMMISSION AUTHORIZED SIMILAR MODIFICATIONS IN OTHER
14 RECENT CASES?

15 A. Yes, it has, but, to my knowledge, only in the context of the Commission providing
16 approval of a filed stipulation and agreement reached by the parties in contested
17 cases. In this case, a stipulation and agreement, on this issue, has not been
18 achieved and Public Counsel does not believe that the tracker modifications and
19 before-the-expense-is-incurred ratemaking requested by the Company is necessary
20 or appropriate at this time.
21

V. December 2007 Ice Storm Costs

Q. WHAT IS THE ISSUE?

A. The issue concerns whether or not the costs of the December 2007 ice storm should be allowed ratemaking treatment in the instant case or deferred for possible recovery in subsequent periods. In my direct testimony, I stated that OPC would prefer deferral of the costs due to the likelihood that the associated costs would not have been identified and booked prior to the end of the instant case test period.

Q. HAS THE COMPANY SUBSEQUENTLY PROVIDED ADDITIONAL SUPPORT FOR THE COSTS IT INCURRED?

A. Yes. Subsequent to end of the instant case test year and update period, Company provided to OPC and the MPSC Staff various documents supporting the costs it incurred due to the December 2007 ice storm. As of the end of calendar year 2007, Company booked approximately \$18,559,148; of which, \$9,156,183 was capital-related and \$9,402,965 was maintenance-related.

Q. WERE THE COSTS COMPANY BOOKED IN 2007 THE ACTUAL AMOUNTS INCURRED?

A. No. Company admitted to OPC and Staff, in a conference call, held on April 7, 2008, that the costs booked in 2007 were a combination of actual and estimated costs.

1
2 Q. WAS THE COMPANY ABLE TO IDENTIFY AND SEPARATE, FOR OPC AND
3 STAFF, THE ACTUAL AND ESTIMATED COSTS BOOKED IN 2007?

4 A. No. During the aforementioned conference call, I specifically asked the Company
5 personnel if it knew what the amounts were and their response was that they did
6 not.

7
8 Q. DID COMPANY SUBSEQUENTLY PROVIDE ADDITIONAL UPDATED COST
9 SUPPORT?

10 A. Yes. Company provided cost information updated to actual as of March 31, 2008.
11 The additional updated support listed total actual costs incurred as \$18,782,008; of
12 which, \$9,283,701 was capital-related and \$9,498,307 was maintenance-related.

13
14 Q. HAS PUBLIC COUNSEL BEEN ABLE TO AUDIT THE COST SUPPORT
15 COMPANY PROVIDED?

16 A. Public Counsel is still reviewing the cost information provided.
17

18 Q. HAS PUBLIC COUNSEL CHANGED ITS POSITION REGARDING THE
19 TREATMENT OF ACTUAL DECEMBER 2007 ICE STORM COSTS?

20 A. Yes. Though I am still in the process of reviewing the cost support provided, Public
21 Counsel recommends that the Commission allow Company to amortize the actual

1 maintenance-related costs incurred over 5 years beginning with the month January
2 2008. Public Counsel takes this position based on the fact that I have not yet
3 identified any costs in the support which appear abnormal or improper and with the
4 caveat that, if, at a later date, such costs are identified, Public Counsel will be
5 provided the opportunity to challenge the inclusion of the costs in a future
6 proceeding.

7
8 Q. DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?

9 A. Yes, it does.