

**Exhibit No.:** \_\_\_\_\_  
**Issue(s):** Vegetation Management/Infrastructure  
Inspection Annualized  
Expense and Trackers/  
Advanced Coal Project Investment  
Tax Credit (ITC) Over-Collection/  
Iatan 2, Iatan Common, & Plum Point  
Operations & Maintenance (O&M)  
Annualized Expense and Trackers/  
Corporate Franchise Tax  
**Witness/Type of Exhibit:** Roth/Direct  
**Sponsoring Party:** Public Counsel  
**Case No.:** ER-2014-0351

**DIRECT TESTIMONY**

**OF**

**KERI ROTH**

Submitted on Behalf of the Office of the Public Counsel

**EMPIRE DISTRICT ELECTRIC COMPANY**

CASE NO. ER-2014-0351

January 29, 2015

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE 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

**AFFIDAVIT OF KERI ROTH**

STATE OF MISSOURI    )  
                                  )    ss  
COUNTY OF COLE    )

Keri Roth, of lawful age and being first duly sworn, deposes and states:


1. My name is Keri Roth. I am a Public Utility Accountant I for the Office of the Public Counsel.
2. Attached hereto and made a part hereof for all purposes is my direct 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.

  
\_\_\_\_\_  
Keri Roth  
Public Utility Accountant I

Subscribed and sworn to me this 29<sup>th</sup> day of January 2015.



JERENE A. BUCKMAN  
My Commission Expires  
August 23, 2017  
Cole County  
Commission #13754037

  
\_\_\_\_\_  
Jerene A. Buckman  
Notary Public

My Commission expires August, 2017.

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**DIRECT TESTIMONY  
OF  
KERI ROTH  
EMPIRE DISTRICT ELECTRIC COMPANY  
CASE NO. ER-2014-0351**

1 **I. INTRODUCTION**

2 Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

3 A. Keri Roth, P.O. Box 2230, Jefferson City, Missouri 65102-2230.

4

5 Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?

6 A. I am employed by the Missouri Office of the Public Counsel (OPC or Public Counsel) as  
7 a Public Utility Accountant I.

8

9 Q. WHAT IS THE NATURE OF YOUR CURRENT DUTIES AT THE OPC?

10 A. My duties include performing audits and examinations of the books and records of  
11 public utilities operating within the state of Missouri under the supervision of the Chief  
12 Public Utility Accountant, Mr. Ted Robertson.

13

14 Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND OTHER  
15 QUALIFICATIONS.

16 A. I graduated in May 2011, from Lincoln University, in Jefferson City, Missouri, with a  
17 Bachelor of Science Degree in Accounting.

18

1 Q. HAVE YOU RECEIVED SPECIALIZED TRAINING RELATED TO PUBLIC  
2 UTILITY ACCOUNTING?

3 A. Yes. In addition to being employed by the Missouri Office of the Public Counsel since  
4 September 2012, I have also attended the NARUC Utility Rate School held by Michigan  
5 State University.

6  
7 Q. HAVE YOU PREVIOUSLY FILED TESTIMONY BEFORE THE MISSOURI  
8 PUBLIC SERVICE COMMISSION (COMMISSION or MPSC)?

9 A. Yes. Please refer to Schedule KNR-1, attached to this testimony, for a listing of cases in  
10 which I have submitted testimony.

11  
12 Q. WHAT IS THE PURPOSE OF YOUR DIRECT TESTIMONY?

13 A. The purpose of my direct testimony is to sponsor Public Counsel's positions regarding  
14 Empire's vegetation management/infrastructure inspection annualized expense and  
15 tracker amortization from Case No. ER-2008-0093; Empire's vegetation management  
16 annualized expense and tracker amortizations from Case No. ER-2010-0130, Case No.  
17 ER-2011-0004, and Case No. ER-2012-0345; the Advanced Coal Project Investment  
18 Tax Credit (ITC) over-collection; Empire's Iatan 2, Iatan Common, and Plum Point  
19 operations and maintenance annualized expense and tracker amortizations from Case  
20 No. ER-2011-0004 and Case No. ER-2012-0345; and corporate franchise tax.

1 **II. VEGETATION MANAGEMENT/INFRASTRUCTURE INSPECTION**

2 **ANNUALIZED EXPENSE AND TRACKERS**

3 Q. HOW LONG HAS THE VEGETATION MANAGEMENT/INFRASTRUCTURE  
4 INSPECTION TRACKER BEEN IN PLACE?

5 A. The first vegetation management/infrastructure inspection tracker was authorized and  
6 established in Case No. ER-2008-0093. Since Case No. ER-2008-0093, a new  
7 vegetation management tracker has been authorized in Case No. ER-2010-0130, Case  
8 No. ER-2011-0004, and Case No. ER-2012-0345. However, in Case No. ER-2010-0130  
9 the infrastructure inspection tracker was eliminated.

10  
11 Q. HOW DOES THE VEGETATION MANAGEMENT TRACKER WORK?

12 A. The Commission Report and Order in Case No. ER-2008-0093 authorized a 6-year rural  
13 cycle and a 4-year urban cycle of vegetation management activities. At least one full  
14 cycle for each has been completed on the system. The Commission Report & Order also  
15 states in Case No. ER-2008-0093:

16 The Commission will require Empire to implement a two-way  
17 tracker for measuring costs relating to infrastructure inspection and  
18 vegetation management. The tracker shall create a regulatory  
19 liability in any year where Empire spends less than the target  
20 amount, and a regulatory asset where the company spends more  
21 than the target amount. The assets and liabilities shall then be  
22 netted against each other and considered in Empire's next rate  
23 case.  
24

- 1 Q. PLEASE IDENTIFY THE VEGETATION MANAGEMENT/INFRASTRUCTURE  
2 INSPECTION TRACKERS CURRENTLY RECEIVING RATE TREATMENT.  
3 A. Empire’s response to OPC Data Request #1110 provided the following information  
4 shown in the chart below:

| Tracker   | Commission Order(s)*         | Amortization Start Date | Amortization End Date | Monthly Amortization | Operation of Law Date – Balance @ July 26, 2015 |
|---|------------------------------|-------------------------|-----------------------|----------------------|---|
| Veg./Infrastructure Inspection Tracker – ER-2008-0093   | ER-2008-0093<br>ER-2010-0130 | Sep-2010                | Sep-2015              | \$24,376             | \$31,698  |
| Veg. Tracker – ER-2010-0130   | ER-2010-0130<br>ER-2011-0004 | Jun-2011                | Dec-2016              | \$30,716             | \$470,462                                       |
| Veg. Tracker – ER-2011-0004   | ER-2011-0004<br>ER-2012-0345 | Apr-2013                | Mar-2018              | \$83,977             | \$2,687,255                                     |
| <b>Total</b>  |                              |                         |                       | <b>\$139,069</b>     | <b>\$3,189,415</b>                              |
| *First Commission Order listed is for tracker authorization. Second Commission Order listed is for authorization for recovery of cost balances. |                              |                         |                       |                      |   |

- 5  
6 Q. IN EMPIRE CASE NO. ER-2012-0345, DID THE COMMISSION AUTHORIZE THE  
7 COMPANY TO CONTINUE THE VEGETATION MANAGEMENT TRACKER?  
8 A. Yes. The parties in that case agreed to continue the vegetation management tracker in  
9 the Nonunanimous Stipulation and Agreement, filed on February 22, 2013, and re-set the  
10 base level to \$12 million, Missouri jurisdictional. The Nonunanimous Stipulation and  
11 Agreement was approved by the Commission Report and Order filed February 27, 2013.  
12 The accrual beginning date for the tracker, as authorized in Case No. ER-2012-0345,  
13 was April 1, 2013.

1 Q. WHAT IS THE BALANCE TO BE AMORTIZED RELATING TO THE  
2 VEGETATION MANAGEMENT TRACKER AUTHORIZED IN CASE NO. ER-2012-  
3 0345?

4 A. As of December 31, 2014, the balance to be amortized relating to the tracker authorized  
5 in Case No. ER-2012-0345 is (\$871,546). This means Empire has recorded a regulatory  
6 liability and \$871,546 should be returned to customers.

7  
8 Q. WHAT IS PUBLIC COUNSEL'S RECOMMENDATION REGARDING THE  
9 AMORTIZATION RELATED TO THE VEGETATION  
10 MANAGEMENT/INFRASTRUCTURE INSPECTION TRACKER BALANCES?

11 A. Public Counsel recommends combining the balances of all the vegetation  
12 management/infrastructure inspection trackers into one tracker amortization balance to  
13 make it easier and more efficient to monitor all the trackers in one balance, rather than  
14 monitor four separate tracker balances. Public Counsel further recommends the previous  
15 trend from past cases of amortizing the one tracker over 5 years.

16  
17 Q. WHAT IS THE PROPOSED COMBINED TRACKER AMORTIZATION BALANCE?

18 A. The total balance of all trackers at July 2015, the month in which the Operation of Law  
19 Date falls in this case, is \$2,317,869. This total balance includes:

- 20
- the tracker balance for Case No. ER-2008-0093 of \$31,698,



- 1 • the tracker balance for Case No. ER-2010-0130 of \$470,462,
- 2 • the tracker balance for Case No. ER-2011-0004 of \$2,687,255, and
- 3 • the tracker balance for Case No. ER-2012-0345 for (\$871,546).

4 Please note that the tracker balance for Case No. ER-2012-0345 of (\$871,546) is as of  
5 December 31, 2014. Public Counsel will update this amount through the Operation of  
6 Law Date as additional information is received from Empire.

7  
8 Q. DOES PUBLIC COUNSEL BELIEVE IT IS REASONABLE TO CONTINUE THE  
9 VEGETATION MANAGEMENT TRACKER ON A GOING FORWARD BASIS IN  
10 THIS CASE?

11 A. No. Public Counsel believes there is enough historical cost information now available to  
12 determine an annualized level of vegetation management expense since at least one full  
13 urban and rural cycle has been completed on the system and it is more than likely  
14 another cycle has begun.

15  
16 Q. WHAT IS PUBLIC COUNSEL'S RECOMMENDATION REGARDING THE ON-  
17 GOING VEGETATION MANAGEMENT EXPENSE?

18 A. Public Counsel recommends rates include an annualized level of vegetation management  
19 expense going forward.

20

1 Q. WHAT IS THE ANNUALIZED LEVEL OF VEGETATION MANAGEMENT  
2 EXPENSE PUBLIC COUNSEL IS RECOMMENDING?

3 A. Based on historical cost information from August 2008 through December 2014,  
4 provided by Empire to Staff Data Request #53 and Empire's Vegetation Tracker History  
5 workpaper, the actual vegetation management expense was:

- 6 • \$9,787,290 for the twelve months ending April 2010,
- 7 • \$11,192,755 for the twelve months ending April 2011,
- 8 • \$13,626,324 for the twelve months ending April 2012,
- 9 • \$11,521,303 for the twelve months ending April 2013, and
- 10 • \$11,115,498 for the twelve months ending April 2014.

11 Based on the observed decreasing cost trend subsequent to April 2012, Public Counsel  
12 recommends the annualized vegetation management expense be set at the current test  
13 year expense level of \$11,115,498.

14  
15 **III. ADVANCED COAL PROJECT INVESTMENT TAX CREDIT (ITC) OVER-**  
16 **COLLECTION**

17 Q. WHAT DOES THE ITC REPRESENT?

18 A. 26 U.S. Code § 48A(e)(1) – Qualifying Advanced Coal Project Credit states the  
19 following:

1 For purposes of subsection (c)(1), a project shall be considered a  
2 qualifying advanced coals project that the Secretary may certify  
3 under subsection (d)(2) if the Secretary determines that, at a  
4 minimum –

- 5
- 6 (A) the project uses an advanced coal-based generation  
7 technology –
    - 8 (i) to power a new electric generation unit; or
    - 9 (ii) to retrofit or repower an existing electric generation  
10 unit (including an existing natural gas-fired  
11 combined cycle unit);
  - 12 (B) the fuel input for the project, when completed, is at least  
13 75 percent coal;
  - 14 (C) the project, consisting of one or more electric generation  
15 units at one site, will have a total nameplate generating  
16 capacity of at least 400 megawatts;
  - 17 (D) the applicant provides evidence that a majority of the  
18 output of the project is reasonably expected to be  
19 acquired or utilized;
  - 20 (E) the applicant provides evidence of ownership or control  
21 of a site of sufficient size to allow the proposed project to  
22 be constructed and to operate on a long-term basis;
  - 23 (F) the project will be located in the United States; and
  - 24 (G) in the case of any project the application for which is  
25 submitted during the period described in subsection  
26 (d)(2)(A)(ii), the project includes equipment which  
27 separates and sequesters at least 65 percent (70 percent in  
28 the case of an application for reallocated credits under  
29 subsection (d)(4)) of such project's total carbon dioxide  
30 emissions.
- 31  
32

33 Q. WHAT IS THE ISSUE?

34 A. Referencing Mr. Ted Robertson's Direct Testimony in Case No. ER-2011-0004, page  
35 11, lines 1 – 11, he states:

1           On or about October 31, 2008, the Company submitted an  
2 application to the Internal Revenue Service and the Department of  
3 Energy requesting investment tax credits under Code Section 48A  
4 related to its investment in the Iatan II plant. Empire's entire  
5 application was originally denied because the Kansas City Power  
6 & Light Company had previously applied and was awarded the  
7 entire amount of tax credits (125 million) available to the project.  
8 However, Empire requested an allocation of the credits through an  
9 arbitration process and the arbitration panel agreed that the credits  
10 should be reallocated to Iatan II joint owners that directly pay  
11 federal taxes. The Internal Revenue Service granted the  
12 reallocations of the credits which amounts to \$17,712,500 of  
13 federal tax credits available to Empire.  
14

15           The Advanced Coal Project ITC tax benefits were to be returned to customers in rates  
16 starting in 2011 by reducing rates. However, Empire did not utilize the Advanced Coal  
17 Project ITC on its 2011 tax return due to Empire receiving monies from the Internal  
18 Revenue Service in connection to the Ozark Beach generation facility. Customers were,  
19 therefore, provided the benefit of the Advanced Coal Project ITC before Empire utilized  
20 the credit on its tax return. This could be considered a violation under the Internal  
21 Revenue Service Codes if not adjusted correctly in the next rate case. Therefore, the  
22 Commission-approved Stipulation and Agreement from Case No. ER-2012-0345  
23 included the following on page 4:

24           e. Authorize the tracking of revenue related to the recovery of an  
25 Iatan 2 ITC tax liability of \$266,150.  
26

1 Q. HAS EMPIRE OVER-COLLECTED FOR ITS ITC TAX LIABILITY? IF SO, HOW  
2 MUCH?

3 A. Yes. Empire's response to OPC Data Request #1113 shows Empire has over-collected  
4 \$205,593 for ITC tax liability as of December 31, 2014.

5  
6 Q. DOES PUBLIC COUNSEL BELIEVE THE OVER-COLLECTION SHOULD BE  
7 REFUNDED TO CUSTOMERS?

8 A. Yes.

9  
10 Q. WHAT IS PUBLIC COUNSEL'S RECOMMENDATION REGARDING HOW THE  
11 ITC TAX LIABILITY OVER-COLLECTION IS RETURNED TO CUSTOMERS?

12 A. The ITC has been collected through rates since April 1, 2013, and will continue to be  
13 collected in rates through July 2015. Public Counsel recommends refunding the over-  
14 collection as of the end of December 2014 through rates via an amortization of the  
15 balance over a period of 24 months. Additional over-recovery from January 2015  
16 through July 2015 will be reviewed during Empire's next rate case.

17  
18 Empire is expected to return for another rate case in late 2015 or early 2016, as stated by  
19 Ms. Kelly Walters in a meeting with Public Counsel on August 14, 2014. Thus, any  
20 remaining balance will be reviewed again during that time.

1 **IV. IATAN 2, IATAN COMMON, & PLUM POINT OPERATIONS &**

2 **MAINTENANCE (O&M) ANNUALIZED EXPENSE AND TRACKERS**

3 Q. ARE THERE CURRENTLY TRACKERS IN PLACE FOR PLUM POINT, IATAN 2  
4 AND IATAN COMMON O&M EXPENSES?

5 A. Yes.

6  
7 Q. HOW LONG HAVE THE TRACKERS BEEN IN PLACE?

8 A. The trackers were initially authorized in Case No. ER-2011-0004. The Non-Unanimous  
9 Global Agreement in Case No. ER-2011-0004 states:

10 g. Authorize a tracker mechanism related to Plum Point and Iatan 2  
11 and Common plant operating expense. The tracker will exclude  
12 consumables and SO2 emission allowances which are recovered  
13 through the FAC. Empire shall record a regulatory asset or liability  
14 for the difference between the actual expense and annual costs of  
15 \$2,518,440, Missouri jurisdictional, for Plum Point. Empire shall  
16 record a regulatory asset or liability for the difference between  
17 actual expense and annual costs of \$2,818,683, Missouri  
18 jurisdictional, for Iatan 2 and Common.  
19  
20

21 Q. PLEASE IDENTIFY THE CURRENT COST BALANCES BOOKED IN THE O&M  
22 TRACKERS AUTHORIZED IN CASE NO. ER-2011-0345.

23 A. Empire's response to OPC Data Request #1110 provided the following information  
24 shown in the chart below:  
25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12

| Tracker   | Commission Order(s)*         | Amortization Start Date | Amortization End Date | Monthly Amortization | Operation of Law Date – Balance @ July 26, 2015 |
|---|------------------------------|-------------------------|-----------------------|----------------------|---|
| PP O&M Tracker<br>ER-2011-0004  | ER-2011-0004<br>ER-2012-0345 | Apr-2013                | Mar-2016              | \$1,933.43           | (\$340,587)                                     |
| IatanII OM Tracker<br>ER-2011-0004  | ER-2011-0004<br>ER-2012-0345 | Apr-2013                | Mar-2016              | \$3,006.82           | \$239,826                                       |
| IatCom OM Tracker<br>ER-2011-0004   | ER-2011-0004<br>ER-2012-0345 | Apr-2013                | Mar-2016              | \$71,944.60          | (\$351,463)                                     |
| <b>Total</b>  |                              |                         |                       | <b>\$76,884.85</b>   | <b>(\$452,224)</b>                              |
| *First Commission Order listed is for tracker authorization. Second Commission Order listed is for authorization for recovery of cost balances. |                              |                         |                       |                      |   |

Q. WILL ANY OF THE O&M TRACKERS FROM CASE NO. ER-2011-0004 HAVE OVER-RECOVERED AS OF JULY 2015, THE MONTH IN WHICH THE OPERATION OF LAW DATE FALLS IN THIS CASE?

A. Yes. As shown above, the Plum Point O&M Tracker (PP O&M) from Case No. ER-2011-0004 is a regulatory liability. The balance due to customers, according to Empire’s general ledger, is (\$340,587). Additionally, the Iatan Common O&M Tracker from Case No. ER-2011-0004, originally a regulatory asset recorded by Empire, will have over-recovered (\$351,463) from customers. The Iatan Common O&M Tracker (IatCom OM) was scheduled to be fully recovered in March 2016. The date in which the balance should be fully recovered conflicts with Empire’s general ledger balance. Public

1 Counsel may provide an update regarding this issue in later testimony once it is able to  
2 gather additional information from Empire.

3  
4 Q. IN CASE NO. ER-2012-0345, DID THE COMMISSION AUTHORIZE THE  
5 COMPANY TO CONTINUE THE IATAN 2, IATAN COMMON, AND PLUM POINT  
6 O&M TRACKERS?

7 A. Yes. The Commission approved the Nonunanimous Stipulation and Agreement in Case  
8 No. ER-2012-0345 which stated:

9 i. Authorize the continuation of a tracker mechanism related to  
10 Plum Point and Iatan 2 and Iatan Common plant operating  
11 expenses. The tracker will exclude consumables and SO2  
12 emission allowances which are recovered through the FAC.  
13 Empire shall record a regulatory asset or liability for the difference  
14 between the actual expense and annual costs of \$2,375,822,  
15 Missouri jurisdictional, for Plum Point. Empire shall record a  
16 regulatory asset or liability for the difference between the actual  
17 expense and annual costs of \$2,297,061, Missouri jurisdictional,  
18 for Iatan 2 and \$2,590,005, Missouri jurisdictional for Iatan  
19 Common plant.  
20  
21

22 Q. WHAT ARE THE BALANCES TO BE AMORTIZED RELATING TO THE IATAN 2,  
23 IATAN COMMON, AND PLUM POINT O&M TRACKERS AUTHORIZED CASE  
24 NO. ER-2012-0345?



1 A. As of December 31, 2014, the balances to be amortized relating to the trackers  
2 authorized in Case No. ER-2012-0345 are (\$277,098.07) for Plum Point, \$319,650.62  
3 for Iatan 2, and \$269,124.05 for Iatan Common.

4  
5 Q. WHAT IS PUBLIC COUNSEL'S RECOMMENDED RATEMAKING TREATMENT  
6 FOR THE BALANCES RELATING TO THE TRACKERS AUTHORIZED IN CASE  
7 NO. ER-2011-0004 AND CASE NO. ER-2012-0345?

8 A. Public Counsel recommends combining the balances of the respective trackers into  
9 single trackers for Iatan 2, Iatan Common, and Plum Point to make it easier and more  
10 efficient to monitor all the trackers in three balances, rather than six. Public Counsel  
11 further recommends the previous trend of amortizing the three trackers over 3 years.

12  
13 Q. WHAT IS THE PROPOSED COMBINED PLUM POINT TRACKER  
14 AMORTIZATION BALANCE?

15 A. The total balance of the two trackers for Plum Point at July 2015, the month in which the  
16 Operation of Law Date falls in this case, is (\$617,685). This total balance includes:

- 17 • the over-recovered tracker balance from Case No. ER-2011-0004 of (\$340,587);
- 18 and
- 19 • the over-recovered tracker balance from Case No. ER-2012-0345 of (\$277,098).

1 Please note that the tracker balance from Case No. ER-2012-0345 of (\$277,098) is as of  
2 December 31, 2014, and Public Counsel intends to update this amount through the  
3 Operation of Law Date as additional information is received from Empire.  
4

5 Q. WHAT IS THE PROPOSED COMBINED IATAN 2 TRACKER AMORTIZAITON  
6 BALANCE?

7 A. The total balance of the two trackers for Iatan 2 at July 2015, the month in which the  
8 Operation of Law Date falls in this case, is \$559,477. This total balance includes:

- 9 • the tracker balance from Case No. ER-2011-0004 of \$239,826; and
- 10 • the tracker balance from Case No. ER-2012-0345 of \$319,651.

11 Please note that the tracker balance from Case No. ER-2012-0345 of \$319,651 is as of  
12 December 31, 2014, and Public Counsel intends to update this amount through the  
13 Operation of Law Date as additional information is received from Empire.  
14

15 Q. WHAT IS THE PROPOSED COMBINED IATAN COMMON TRACKER  
16 AMORTIZATION BALANCE?

17 A. The total balance of the two trackers for Iatan Common at July 2015, the month in which  
18 the Operation of Law Date falls in this case, is (\$82,339). This total balance includes:

- 19 • the over-recovered tracker balance from Case No. ER-2011-0004 of (\$351,463);
- 20 and

- the tracker balance from Case No. ER-2012-0345 of \$269,124.

Please note that the tracker balance from Case No. ER-2012-0345 of \$269,124 is as of December 31, 2014, and Public Counsel intends to update this amount through the Operation of Law Date as additional information is received from Empire.

Q. DOES PUBLIC COUNSEL BELIEVE IT IS REASONABLE TO CONTINUE THE IATAN 2, IATAN COMMON AND PLUM POINT O&M TRACKERS ON A GOING FORWARD BASIS IN THIS CASE?

A. No. Public Counsel believes there is enough historical cost information now available to determine an annualized level of O&M expense.

Q. WHY DOES PUBLIC COUNSEL BELIEVE THERE IS ENOUGH HISTORICAL COST INFORMATION?

A. Empire began its tracking of costs for Iatan 2, Iatan Common, and Plum Point as authorized in Case No. ER-2011-0004 in June 2011. Thus, there are over 3 years of historical O&M cost data available with which to develop an annualized level of costs going forward. Public Counsel believes that the trackers have served their purpose and that the O&M costs going forward should be developed on a normal regulatory ratemaking basis of historical cost.

1 Q. WHAT IS PUBLIC COUNSEL'S RECOMMENDATION REGARDING IATAN 2,  
2 IATAN COMMON, AND PLUM POINT O&M EXPENSE?

3 A. Public Counsel recommends rates include an annualized level of Iatan 2, Iatan Common,  
4 and Plum Point O&M expense going forward.

5  
6 Q. WHAT IS THE ANNUALIZED LEVEL OF IATAN 2, IATAN COMMON, AND  
7 PLUM POINT O&M EXPENSE PUBLIC COUNSEL IS RECOMMENDING?

8 A. At the time this testimony was written, regarding this issue and actual O&M costs  
9 Empire has incurred, Empire has not yet responded to all outstanding OPC data requests.  
10 Further, Public Counsel is seeking clarification from Empire regarding responses  
11 received from Empire due to conflicting numbers. Public Counsel will update its  
12 recommendation in later testimony once the data request responses have been received.

13

14 **V. CORPORATE FRANCHISE TAX**

15 Q. HAS THERE RECENTLY BEEN A CHANGE IN THE LAW REGARDING  
16 CORPORATE FRANCHISE TAX?

17 A. Yes. On April 26, 2011, Governor Jay Nixon signed Senate Bill 19, which gradually  
18 phases out Missouri's corporate franchise tax over the next five years and ending the  
19 franchise tax by 2016.

20

1 Q. PLEASE EXPLAIN HOW THE PHASING OUT OF MISSOURI CORPORATE  
2 FRANCHISE TAX HAS OCCURRED.

3 A. According to Chapter 147 RSMO:

4 Corporations pay Franchise tax for doing business within the state.  
5 It is not a tax on franchisees. Franchise tax is based on the “par  
6 value of the corporation’s outstanding shares and surplus”. This is  
7 defined as the “total assets or the par value of issued and  
8 outstanding capital stock, whichever is greater”. For capital stock  
9 with no par value, the value is \$5.00 per share or actual value,  
10 whichever is higher. The franchise tax basis (Schedule MO-FT,  
11 Line 6) is the basis of the assets as of the first day of the taxable  
12 year. For taxable years beginning on or after January 1, 2000, all  
13 domestic and foreign corporations under Chapter 351 or engaged in  
14 business must file the franchise tax return. However, only those  
15 corporations whose assets in or apportioned to Missouri that  
16 exceed one million dollars for taxable years 2000 through 2009 or  
17 \$10 million for taxable years 2010 through 2015, are liable to pay  
18 the tax. The due date of the franchise tax return is the 15th day of  
19 the fourth month from the beginning of the taxable period. The  
20 franchise tax rate is 1/30 of 1% (.000333) for tax years 2011 and  
21 prior; 1/37 of 1% (.000270) for tax year 2012; 1/50 of 1%  
22 (.000200) for tax year 2013; 1/75 of 1% (.000133) for tax year  
23 2014; 1/150 of 1% (.000067) for tax year 2015; and 0% for tax  
24 year 2016 and thereafter.  
25

26 Q. WHAT WAS EMPIRE’S TAX YEAR 2014 CORPORATE FRANCHISE TAX  
27 LIABILITY?

28 A. Empire’s tax liability for tax year 2014 was \$227,446. This amount, per the Form MO-  
29 FT provided by Empire in response to OPC Data Request #1111, was based a on tax  
30 year 2014 rate of 1/75<sup>th</sup> of 1%.

1 Q. WILL EMPIRE'S TAX YEAR 2015 CORPORATE FRANCHISE TAX LIABILITY BE  
2 BASED ON A DIFFERENT RATE?

3 A. Yes. As explained above, the Company's tax year 2015 tax liability will be based on a  
4 tax rate of 1/150 of 1% which is 50% less than the tax year 2014 rate.

5  
6 Q. WILL EMPIRE HAVE NO CORPORATE FRANCHISE TAX LIABILITY  
7 BEGINNING WITH TAX YEAR 2016?

8 Yes. Beginning in tax year 2016, Empire's corporate franchise tax liability will be zero,  
9 because in 2016 the corporate franchise tax will be completely phased out.

10  
11 Q. WHAT IS PUBLIC COUNSEL'S POSITION ON THIS ISSUE?

12 A. Public Counsel is aware the 2015 corporate franchise tax rate will decrease by 50% and  
13 will be zero beginning in 2016. Based on this information, Public Counsel believes  
14 Empire's 2015 corporate franchise tax liability will decrease by approximately 50% to  
15 \$113,723. However, several variables will impact the ultimate calculation of the 2015  
16 corporate franchise tax liability amount.

17  
18 Public Counsel has outstanding data requests to Empire which have not yet been  
19 answered regarding this issue. Once Public Counsel receives the responses to the data  
20 requests and is able to review any additional information provided, I will, as appropriate,

1 provide Public Counsel's recommendation for Corporate Franchise Tax in later  
2 testimony.

3

4 Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

5 A. Yes, it does.

**CASE PARTICIPATION  
OF  
KERI ROTH**

| <b><u>Company Name</u></b>                | <b><u>Case No.</u></b>    |
|---|---------------------------|
| Empire District Electric Company          | ER-2012-0345              |
| Emerald Pointe Utility Company            | SR-2013-0016              |
| Lake Region Water & Sewer Company         | WR-2013-0461              |
| Summit Natural Gas of Missouri, Inc.      | GR-2014-0086              |
| Hickory Hills Water & Sewer Company, Inc. | WR-2014-0167/SR-2014-0166 |