

Exhibit No.: _____
Issue(s): Off System Sales Margin
Witness/Type of Exhibit: Kind/True-Up Rebuttal
Sponsoring Party: Public Counsel
Case No.: ER-2008-0093

TRUE-UP REBUTTAL TESTIMONY

OF

Ryan Kind

Submitted on Behalf of the Office of the Public Counsel

EMPIRE DISTRICT ELECTRIC COMPANY

CASE NO. ER-2008-0093

June 16, 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)

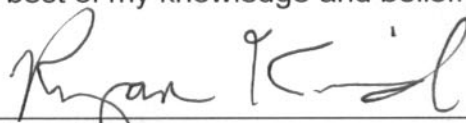
Case No. ER-2008-0093

AFFIDAVIT OF RYAN KIND

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

Ryan Kind, of lawful age and being first duly sworn, deposes and states:

1. My name is Ryan Kind. I am a Chief Utility Economist for the Office of the Public Counsel.
2. Attached hereto and made a part hereof for all purposes is my true-up rebuttal testimony.
3. I hereby swear and affirm that my statements contained in the attached affidavit are true and correct to the best of my knowledge and belief.



Ryan Kind

Subscribed and sworn to me this 16th day of June 2008.



JERENE A. BUCKMAN
My Commission Expires
August 10, 2009
Cole County
Commission #05754036



Jerene A. Buckman
Notary Public

My commission expires August 10, 2009.

1 **TRUE-UP REBUTTAL TESTIMONY**
2 **OF**
3 **RYAN KIND**
4 **EMPIRE DISTRICT ELECTRIC COMPANY**
5 **CASE NO. ER-2008-0093**

6 Q. PLEASE STATE YOUR NAME, TITLE, AND BUSINESS ADDRESS.

7 A. Ryan Kind, Chief Public Utility Economist, Office of the Public Counsel, P.O. Box 2230,
8 Jefferson City, Missouri 65102.

9 Q. ARE YOU THE SAME RYAN KIND WHO HAS PREVIOUSLY FILED REBUTTAL TESTIMONY IN
10 THIS CASE FOR THE OFFICE OF THE PUBLIC COUNSEL (PUBLIC COUNSEL OR OPC)?

11 A. Yes.

12 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

13 A. The purpose of this testimony is to respond to the true-up direct testimony of Missouri
14 PSC Staff (Staff) witness Mark Oligschlaeger regarding the off-system sales margin
15 issue.

16 Q. DID THE STAFF CHANGE ITS RECOMMENDATION ON OFF-SYSTEM SALES MARGINS TO
17 REFLECT THE TRUE-UP PERIOD OPERATING RESULTS?

18 A. No. Mr. Oligschlaeger states on page 5 of his direct true-up testimony that “the Staff
19 believes the recommendation made regarding off system sales (OSS) in its direct case,

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Ryan Kind

1 based upon Empire's results for the first six months of 2007, is still appropriate and
2 representative of an ongoing level of margin from these transactions."

3 Q. WHAT WAS PUBLIC COUNSEL'S POSITON ON THE APPROPRIATE LEVEL OF OSS
4 MARGINS TO INCLUDE IN EMPIRE'S REVENUE REQUIREMENT PRIOR TO THE TRUE-UP
5 PORTION OF THIS CASE?

6 A. In my rebuttal testimony I set forth Public Council's recommendation to use "the level of
7 off-system sales margins that Empire received during all of 2007, \$5,955,336, [because
8 this] better reflects the amount of margins that the Company will be making on its off-
9 system sales in the near future."

10 Q. NOW THAT THE COMMISSION HAS ORDERED A TRUE-UP IN THIS CASE TO INCLUDE THE
11 MONTHS OF JANUARY AND FEBRUARY 2008, WHAT IS PUBLIC COUNSEL'S POSITION
12 ABOUT THE AMOUNT OF OSS MARGINS THAT SHOULD BE INCLUDED IN EMPIRE'S
13 REVENUE REQUIREMENT?

14 A. I recommend including \$6,116,915 in Empire's revenue requirement. This is the level of
15 OSS margin revenues that Empire actually achieved during the 12 months ending
16 February 29, 2008. As other major revenue, expense and rate base items are trued up to
17 reflect their current levels, this component of Empire's revenue requirement should not
18 be excluded. Including the level of OSS margin revenues for the 12 months ending
19 February 29, 2008 will better reflect Empire's current operating environment because it
20 will include a full year of operational results from participating in the Southwest Power
21 Pool (SPP) Energy Imbalance Service (EIS) market which only began operating in
22 February 2007.

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As I noted in my rebuttal testimony, the new SPP EIS market has been one of the factors that has facilitated an increase in the levels of OSS margin revenues for Empire. Empire's report on its operation results for the first quarter of 2008 (SEC 10-Q) contains the following narrative about its upward trends in OSS revenues and margins:

Revenues less expenses increased during the twelve months ended March 31, 2008 as compared to the same period in 2007 **primarily due to sales facilitated by the SPP EIS market** that began on February 1, 2007. Sales from this market contributed \$9.9 million to our off-system electric revenues for the twelve months ended March 31, 2008 with \$7.5 million of related expense as compared to \$1.9 million of electric revenues for the twelve months ended March 31, 2007 with \$1.0 million of related expense. In addition, in May 2007, we entered into a contract with Kansas City Board of Public Utilities (BPU) for the sale of energy and capacity for June through September of 2007 and 2008. Capacity revenue will total approximately \$1.3 million each year with the energy portion dependent upon the number of hours the contract is utilized by BPU. 2007 revenues from the BPU contract were approximately \$1.8 million. (page 36) [Emphasis added]

The Commission should use the most current information available on Empire's OSS margin revenues results in order to recognize, as the Company does in its SEC filings, that Empire's participation in the new SPP EIS market is facilitating a higher level of OSS margins rather than accepting the Staff and Company recommendations which fail to fully reflect the impact that the SPP EIS market is having on Empire's ability to generate increasing levels of OSS margin revenues.

Q. DO YOU HAVE ANY FINAL REMARKS IN SUPPORT OF OPC'S RECOMMENDATION REGARDING THE AMOUNT OF OSS MARGIN REVENUES THAT SHOULD BE INCLUDED IN EMPIRE'S TRUED-UP REVENUE REQUIREMENT?

A. Yes. Because the extended outage at the Asbury plant continued well into the true-up period, the portion of the 12 months ending February 29, 2008 that was impacted by the Asbury outage was substantially greater than the portion of the 12 months ending December 31, 2007 that was impacted by the Asbury outage. Therefore, the OSS

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Ryan Kind

1 operating results for the more recent time period should be considered to be a
2 conservative estimate of the ongoing level of OSS margin revenues that should be
3 achievable when Empire's generating fleet returns to more normal operations with the
4 Asbury plant no longer out of service due to an unplanned outage.

5 Q. WHEN DID THE EXTENDED OUTAGE END AT THE ASBURY PLANT?

6 A. According to Empire witness Blake Mertens, Asbury returned to service on February 10,
7 2008. (See Hearing transcript, page 85)

8 Q. DOES THIS CONCLUDE YOUR TRUE-UP REBUTTAL TESTIMONY?

9 A. Yes.