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-2016-0023

THE EMPIRE DISTRICT ELECTRIC COMPANY'S STATEMENT OF POSITIONS

COMES NOW The Empire District Electric Company ("Empire" or "Company"), by and through counsel, and respectfully files its Statement of Positions in the above-captioned case. In this regard, Empire states as follows to the Missouri Public Service Commission ("Commission"):

1. Prepayments: Should the prepayments related to the working funds for Iatan, Plum Point, and KCP&L land lease be included in rate base?

Empire's Response: Yes, these working capital funds should be included in rate base, as is the common practice. Staff's proposed exclusion should be rejected, because these accounts represent working capital funds that are required as part of the Plum Point and Iatan ownership agreements. KCP&L and Plum Point Energy Associates are "holders" of these working capital accounts, which would be drawn upon if Empire were in default of the ownership agreements for either of these two plants (i.e. could not make the required payments).

John M. Woods (Rebuttal, pp. 4-6)

2. Property Tax Expense: What is the appropriate amount of property tax expense to include in rates?

Empire's Response: $20,458,887 (Missouri jurisdictional). Staff has computed a composite property tax rate from a previous period based on plant in service and applied this rate to plant in service at December 31, 2014, thereby depriving Empire recovery of expense related to plant acquired in 2015 and 2016, including the additional property tax to be paid related to the

large new plant addition at Riverton. The level of increased expense is known and measurable and should be reflected in the rates coming out of this case. The effective rate calculation and plant in service balances must be updated to March 31, 2016, the true-up date in this case, to eliminate the time lag in Staff's calculation.

L. Jay Williams (Rebuttal, pp. 5-6)

3. Fuel Adjustment Clause: (a) Should Empire's FAC be continued? (b) If the Commission approves a FAC, should it contain costs that Empire does not currently incur? (c) If the Commission approves a FAC, what additional reporting requirements should it include? (d) If the Commission approves a FAC, should the incentive mechanism be changed to 90%/10%?

Empire's Response: (a) Yes, Empire's FAC should be continued, with the same FAC components as Empire's existing FAC. Empire's current and proposed FAC consist of net FPP energy costs (including FPP costs associated with the SPP IM, fuel related costs such as unit train, undistributed and other, variable natural gas transportation expenses), plus the cost of the AQCS consumables, a portion of transmission expense and net emissions cost, if any, less the net sales of RECs. The FAC base is then calculated on a per unit basis utilizing net system input expressed in kilowatt hours or megawatt hours.

(b) In general, the FAC would contain the same cost components and the same accounts as the current FAC. An example of specific accounts and definitions from Empire's existing and proposed FAC is attached in Schedule TWT-5. Accounts, especially subaccounts, can change from time to time, so some flexibility should be retained to handle changing business conditions.

(c) In addition to the monthly reporting required by 4 CSR 240-3.161(5), Empire will continue to provide the additional information agreed to in the Revised Stipulation and Agreement

filed April 8, 2015, in Case No. ER-2014-0351 on a monthly basis. (d) No, the incentive mechanism should not be changed. The incentive mechanism should remain at 95%/5%.

Todd W. Tarter (Direct, pp. 2-16; Rebuttal, pp. 8-13; Surrebuttal, pp. 1-12)

4. SERP Expense: What is the appropriate amount of SERP expense to include in rates?

Empire's Response: $675,810 (through September 15) should be included in rates. Empire's supplemental executive retirement program is designed to restore the retirement benefits not covered by the executives due to the cap on compensation required by ERISA that is included in Empire's pension program. SERP costs are expensed as they are paid and are not sourced from the pension fund. The exclusions to Empire's SERP costs taken by OPC and Staff should be rejected, as they understate the ongoing costs associated with Empire's SERP in Empire's electric revenue requirement.

Brad P. Beecher (Rebuttal, pp. 11-12)

5. Bad Debt Expense: What level of Bad Debt Expense should be included in rates?

Empire's Response: An average of actual Missouri jurisdictional write-offs compared to the Missouri jurisdictional retail sales of electricity was calculated for the five years ending June 30, 2015. This resulted in a five-year ratio of bad debt expense of 0.5299 percent. This ratio is applied to the normalized retail sales revenue developed for this rate case to arrive at an adjusted bad debt expense of $2,429,407. This adjusted level of ongoing bad debt expense was then compared to the bad debt expense recorded in Staff's final accounting schedules in ER-2014-0351, to arrive at a Missouri jurisdictional adjustment of $175,681.

The Commission should reject OPC's proposal to use a three-year ratio, and should order the use of the five-year average method described in Staff's Report for the determination of the bad debt expense ratio.

Bryan S. Owens (Direct, pp. 20; Rebuttal, pp. 15-16)

6. **Demand Side Management ("DSM") Programs:** What DSM programs should Empire offer after the effective dates of rates from this case?

Empire's Response: The programs should not be modified or expanded. Empire currently has an Integrated Resource Plan ("IRP") on file with the Commission. The preferred plan in the IRP, which is the lowest cost alternative for Empire's customers, does not include any DSM programs. As such, Empire should not be ordered to offer any DSM programs and should not be ordered to make a filing under the Commission's MEEIA rules.

W. Scott Keith (Direct, p. 12; Rebuttal, pp. 13-14; Surrebuttal, pp. 7-8)

7. **Low-Income Weatherization:** (a) Should there be an increase to the amount of weatherization funds Empire collects in base rates? (b) Should there be an evaluation of Empire's weatherization program, and, if so, what should be the scope of the evaluation?

Empire's Response: (a) Empire requests an increase of $25,000 per year, for a total annual budget of $250,000, to be collected by Empire through base rates.

(b) No position.

W. Scott Keith (Direct, p. 11; Surrebuttal, pp. 5-7)

8. **Incentive Compensation Expense:** (a) What level of cash incentives based on performance goals should be included in the cost of service? (b) Should executive stock awards be included? (c) Should "Lightning Bolts" be included?

Empire's Response: (a) $1,985,585 should be included in the cost of service; the proposed disallowances should be rejected. Empire's overall compensation philosophy is conservative compared to Empire's peer group, with total compensation for Empire targeted at the 25th percentile of a comparable industry peer group. The program is designed with consideration of

best industry practices and, as such, the cash incentive (at risk) compensation expense associated with performance measures should be included in cost of service. No cash incentive awards are payable to an executive officer unless performance is above the threshold, or minimum, level of expected performance.

Staff's proposed elimination of the variable or at-risk compensation incorrectly assumes such awards are not part of reasonable and prudent total compensation. Each component of Empire's variable compensation is essential to complete the executive's reasonable and prudent total compensation package. Variable compensation is "at risk", and standards, in the form of performance criteria, are necessary in order to determine what portion of the compensation is earned. This approach is consistent with the approach utilized by Empire's peer group companies and the utility industry in general. Executive compensation could be designed so that all compensation is in base salary, while still having base salaries that are in line with the total salaries of Empire's peer group companies, but Empire does not believe such a compensation design approach would best serve its customers or Empire's shareholders as well as the compensation program Empire currently has in place.

As with compensation for executive employees, Empire follows best practices in its compensation structure for non-executive salaried employees by linking the Company's performance management systems with how employees are paid. This is achieved by allocating a percentage, or fixed amount, of an employee's compensation to a variable pay program tied directly to the attainment of goals and objectives set forth by management and aligned with Empire's overall vision, goals, and key business strategies. These goals and objectives are above the regularly expected results of the non-executive salaried employee's position, and, when achieved, add benefit to the Company's customers.

(b) Yes, executive stock awards should be included in cost of service. Each component of Empire's variable compensation is essential to complete the executive's reasonable and prudent total compensation package.

(c) Yes, "Lightning Bolt" program costs should be included in cost of service; the proposed disallowance should be rejected. The Lightning Bolt program is not an incentive program, but a reward program for non-executive salaried employees who went above and beyond their duties and work hours, but who do not earn overtime. The program is a vehicle available to the Company to compensate and show appreciation to salaried individuals who do not earn overtime for working beyond their normal hours during prolonged projects. Payments made under the Lightning Bolt program are closely related to Empire's cost of service and should properly be included in test year expense.

Brad P. Beecher (Rebuttal, pp. 2-9)

9. Merger Payroll Adjustment: Should there be a disallowance of payroll expense related to the pending merger with Algonquin utilities?

Empire's Response: No. The disallowance proposed by Staff should be rejected. The pending merger is an isolated event – it does not represent an ongoing activity for Empire, and, as such, should not be reflected in the ongoing rates Empire charges for electric service. Also, the only individuals involved in the merger activity during the test-year are salaried employees. Empire has not incurred any incremental payroll costs during the test year as a result of the pending merger. In other words, there is no additional payroll cost related to the merger included in Empire's as-filed rate case. Incremental costs associated with the merger, such as travel expenses, are being captured by Empire and recorded in non-operating accounts, to ensure that they do not directly impact the Company's requested revenue requirement. Third, the Staff's ongoing payroll

costs included in Empire's revenue requirement already exclude significant amounts of executive pay for what Staff has defined as "shareholder activities." At the very least, Staff's proposed merger disallowance would represent a double disallowance for this activity.

Brad P. Beecher (Rebuttal, pp. 10-11)

10. Depreciation: (a) What depreciation rates should be approved in this case? (b) Are Staff's adjustments with respect to Empire's "stopped depreciation" accounts appropriate? (c) Are Staff's adjustments with respect to Empire's Riverton Reserve Deficiency appropriate?

Empire's Response: (a) As shown in Schedule TJS-2, attached to the Direct Testimony of Empire witness Sullivan, Empire should be authorized to implement the depreciation expense rates shown in Column E of Table 5-1 for Empire's production plant and Column O of Table 6-1 for Empire's mass property accounts. The recommended depreciation rates for Empire's production facilities are based on the remaining life formula, and the depreciation rates for all other facilities (mass property accounts) are based on the whole life formula. The requested depreciation rates result in a decrease in annual depreciation expense of $913,943, based on plant in service at June 30, 2015.

Also, Empire should be authorized to amortize the undepreciated portion of its investment in the recently retired Riverton Units 7 and 8 and Riverton combustion turbine Unit 9 and the cost of decommissioning Riverton Units 7, 8, and 9 over a five-year period. The recommended five-year amortization of the undepreciated portion of Empire's investment in Riverton Units 7 and 8 and the decommissioning costs associated with the Riverton Units 7 and 8 are equal to $2,135,793 annually, and the undepreciated portion of Empire's investment in Riverton Unit 9 and its associated decommissioning costs are equal to $162,898 annually.

Combining the decrease in depreciation expense associated with changes in depreciation rates of $913,943, with the requested amortization of Riverton Units 7, 8 and 9 costs of $2,298,681, results in an overall increase in total depreciation and amortization of $1,384,748.

(b) No. Staff's proposed adjustments should be rejected.

(c) No. Staff's proposed adjustments should be rejected.

Thomas J. Sullivan (Direct, Rebuttal, Surrebuttal)

11. Riverton 12: (a) What is the appropriate Riverton 12 O&M Tracker base level? (b) What accounts should be included in the tracker? (c) What level of O&M expense should be included in the cost of service for Riverton 12?

Empire's Response: (a) The base should be $3.9 million, on a Missouri jurisdictional basis. The base should be increased to this amount, since the unit's operations are projected to increase due to combined cycle operation versus operation as a simple cycle, peaking unit.

(b) Empire, OPC, and Staff agree that the maintenance tracker put in place as part of Empire's last rate case, Case No. ER-2014-0351, should be continued. The tracker currently covers expenses associated with a long-term maintenance contract with Siemens to perform maintenance on the Riverton Unit 12 combustion turbine. This tracker should be expanded to include all Riverton O&M expenses and not just those associated with the Siemens maintenance contract.

(c) The level of O&M expense should be increased from the level set in Empire's last rate case by $823,269, on a total company basis, for expenses unrelated to the long-term maintenance contract with Siemens, to a total amount of $2,188,625, total company. This represents 100% of the non-labor O&M expenses at the Riverton plant. Empire's proposal is based on projections for a combined cycle unit operations derived from State Line Combined Cycle historical O&M data,

a unit that has been in operation for nearly 15 years. Basing O&M on historical averages at the Riverton plant, as Staff did in this case, does not make sense.

John M. Woods (Direct, pp. 3-7; Rebuttal, pp. 2-4)

12. Cost of Removal and State Flow-Through: (a) Should an adjustment be made for cost of removal issues related to prior years? (b) Should an adjustment be made related to state income tax flow through for prior years?

Empire's Response: No. Staff's proposed adjustments (disallowance) of previously flowed through tax benefits of costs of removal and state income tax expense should be rejected.

L. Jay Williams (Rebuttal, pp. 2-4; Surrebuttal, pp. 1-6)

13. Cost of Capital: (a) What is the appropriate value for Return on Equity ("ROE") that the Commission should use in setting Empire's Rate of Return? (b) What capital structure should the Commission use to determine the rate of return? (c) What is the appropriate value for embedded cost of debt?

Empire's Response: (a) An appropriate and reasonable ROE range for Empire is 9.9-10.6 percent, and Empire is requesting that an ROE of 9.9 percent be used for the setting of Empire's rate of return in this case.

(b) The below capital structure should be used to determine Empire's rate of return in this case. Empire's filing is based upon the Company's anticipated consolidated capital structure at December 31, 2015. This structure was derived by utilizing the June 30, 2015, balances with three specific adjustments.

Pro Forma Capital Structure:	% of Total	Cost Rate	Weighted Return on Tariffs Filed
Long-term Debt	50.99%	5.35%	2.730%
Common Equity	49.01%	9.9%	4.852%
Short-term Debt	0.00%	0.58%	0.000%
Total	100.00%		7.582%

(c) The cost of debt should be as shown above. Staff's proposed disallowance should be rejected.

Dr. James H. Vander Weide (Direct, Rebuttal, Surrebuttal)

Robert W. Sager (Direct, Rebuttal)

14. Production Cost Model: What is the appropriate base amount of fuel expense to include in rates?

Empire's Response: $0.02688 per kWh is the appropriate base amount of fuel expense to include in rates. The existing FAC base factor, established in Case No. ER-2014-0351, is $0.02684 per kWh. This is a difference of $0.00004 per kWh or about 0.15%. A summary of the model run to help rebase the FAC can be found as Schedule TWT-9, and a comparison of the existing and proposed FAC base factor is included as Schedule TWT-10.

Todd W. Tarter (Direct, pp. 16-22; Rebuttal, pp. 2-8)

15. Special Contract Revenues: Should Empire's other Missouri retail customers be held harmless of the revenue impact of the interruptible bill credits Empire offers to its Special Contract customer?

Empire's Response: No. The proposed adjustment (disallowance) should be rejected. The interruptible bill credit for Praxair is a capacity payment, allowing Empire to access this capacity during periods when situations on the grid dictate its use. Since the vast majority of the Praxair

load is interruptible, there is very little need for future firm capacity associated with Praxair in Empire's IRP planning horizon.

W. Scott Keith (Rebuttal, pp. 11-12; Surrebuttal, pp. 4-5)

16. Class Cost of Service and Rate Design: (a) What, if any, revenue neutral interclass shifts are supported by Class Cost of Service studies? (b) What, if any, revenue neutral interclass shifts should be made in designing the rates resulting from this case? (c) What, if any, changes to the residential customer charge are supported by Class Cost of Service studies? (d) What, if any, changes to the residential customer charge should be made in designing the rates resulting from this case? (e) How should revenue requirement related to energy efficiency programs be allocated to the customer classes? (f) How should any revenue requirement increase be implemented in this case? (g) Should the Commission open a working docket so the parties to this case can discuss the implementation of revised block rate designs for Empire's residential customers? (h) What, if any, changes to the General Power, SC-P and Large Power customer, demand and energy rate elements should be made in designing the rates resulting from this case?

Empire's Response: (a) – (f), (h) Empire accepts Staff's overall allocation of the increase in the revenue requirement in this case, along with Staff's proposed increase in the customer charge for residential customers and the revenue neutral shift in the revenue requirement from the General Power rate class to the residential class.

(g) No, the Commission should not open a working docket to study Empire's rate design. Rate design and the various issues associated with it should be addressed in a rate case. A separate docket to discuss rate design would only result in more costs for Empire and its customers.

W. Scott Keith (Direct, pp. 7-11; Rebuttal, pp. 10-11; Surrebuttal, p. 4)

17. Trackers: (a) Should the Vegetation Management Tracker balance be included in rate base? (b) Should the May 2011 Tornado Deferrals Tracker balance be included in rate base? (c) Should the Carrying Costs Tracker balance for Iatan 1, Iatan 2 and Plum Point be included in rate base? (d) Should the O&M Tracker balance for Iatan 1, Iatan 2 and Plum Point Tracker balance be included in rate base? (e) Should the Pension Tracker balance be included in rate base? (f) Should the OPEBs Tracker balance be included in rate base? (g) Should the SWPA Capacity Loss Reimbursement Tracker balance be included in rate base? (h) Should the PeopleSoft software deferred balance be included in rate base?

Empire's Response: (a) Yes. The Commission should approve the rate base recovery of the unamortized regulatory asset associated with the vegetation management tracker, consistent with Staff's position in this case and consistent with the Commission's practice in each Empire rate case since the vegetation management tracker was established.

(b) Yes. The Commission should order that the unamortized balance associated with the tornado deferral be included in rate base. The exclusion of these costs from Empire's rate base, as proposed by Staff and OPC, will deny Empire a return on the investment it has made in the system to restore electric service and result in an immediate understatement of Empire's cost of service in Missouri. This is unfair and is at odds with the Commission's order originally authorizing the deferral of the tornado related costs, including additional carrying cost.

(c) Yes. The Commission should order that the unamortized balance associated with the Carrying Costs Tracker balance for Iatan 1, Iatan 2 and Plum Point be included in rate base.

(d) Yes. The Commission should approve the rate base recovery of the unamortized regulatory asset associated with the O&M Tracker, consistent with Staff's position in this case and

consistent with the Commission's practice in each Empire rate case since the O&M Tracker was established.

(e) Yes, the Pension Tracker balance should be included in rate base.

(f) Yes. The Commission should approve the rate base recovery of the unamortized regulatory asset associated with the OPEB tracker, consistent with Staff's position in this case and consistent with the Commission's practice in each Empire rate case since the OPEB tracker was first established.

(g) Yes. The Commission should approve the rate base treatment of the unamortized regulatory liability associated with the SWPA tracker, consistent with Staff's position in this case and consistent with the Commission's practice in each Empire rate case since the SWPA tracker was established.

(h) Yes, the PeopleSoft software deferred balance should be included in rate base.

Bryan S. Owens (Rebuttal, pp. 6-15)

18. Allocations: (a) Should there be an adjustment to allocate corporate costs to Empire's affiliate EDI? (b) Should there be an adjustment to allocate corporate costs to Empire's water department? (c) What is the appropriate way to calculate A&G expenses for Empire's water department? (d) Should the Commission approve the Cost Allocation Manual ("CAM") submitted by Empire for Commission approval on August 23, 2011, or otherwise take action on Empire's CAM in Case No. AO-2012-0062, or should the Commission direct Empire to adopt the CAM proposed by Office of Public Counsel in this case?

Empire's Response: (a) – (b) No. The adjustments proposed by Staff regarding the allocation of corporate overhead costs (water department - E-137 and E-138; fiber operations - E-58) should be rejected. Each of these proposed Staff adjustments reduces Empire's revenue

requirement in the current electric rate case. In total, Staff adjustments E-137 and E-138 related to Empire's water department reduce Empire's total electric revenue requirement $445,103. In total, Staff's adjustment E-58 related to Empire's fiber affiliate operation reduces Empire's electric revenue requirement $1,236,182. Each of these Staff adjustments has flaws, and the Commission should not accept them as filed by Staff.

(c) Empire agrees with Staff that some of Empire's corporate costs could be further assigned to Empire's water department, although the level of corporate cost that should be allocated to Empire's water department is much lower than the $445,000 recommended by the Staff in adjustments E-137 and E-138. For example, using Empire's CAM, and expanding the existing formula used to drive common costs, the water department would see an increase in common corporate cost of around $97,000 annually, and Empire's electric department would see a corresponding decrease of the same amount. On a Missouri electric jurisdictional basis, this would amount to an annual decrease in costs of $86,000. Given the number of water customers Empire serves, this lower level of common cost allocation of $97,000 is more reasonable than the $445,000 proposed by Staff, which would drive up costs to Empire's Missouri water customers by over $105 per year per customer.

(d) No action on Empire's CAM should be taken in this case, and Empire incorporates herein by reference its Motion to Strike. Empire believes it would be appropriate to allow Empire sufficient time to review Staff's proposed CAM in the CAM docket, File No. AO-2012-0062, and allow Empire, Staff, and OPC additional time to continue working on a CAM that is acceptable to all parties. However, if the Commission believes it has sufficient information before it at this time to approve a CAM for Empire, Empire requests that the Commission take up its application which

initiated the CAM proceeding and issue an order approving the CAM submitted by Empire on August 23, 2011.

W. Scott Keith (Rebuttal, pp. 2-10)

19. Accumulated Deferred Income Tax: (a) Should the FAS123 deferred tax asset for stock based compensation be included in rate base? (b) Should the deferred tax asset for alternative minimum tax ("AMT") be included in rate base?

Empire's Response: Yes, the FAS 123 deferred tax asset should be included in rate base, as should the deferred tax asset for AMT.

FAS 123 is an accounting pronouncement related to accounting for stock based compensation, and the related deferred tax represents a book deduction for which there has not yet been a tax deduction. A tax benefit has not yet been received.

AMT is tax liability required to be paid in addition to regular income tax liability. It is essentially a required tax prepayment for which a credit is allowed in future periods. AMT represents a required cash prepayment or additional outlay of capital and should, therefore, increase rate base.

L. Jay Williams (Rebuttal, pp. 4-5)

20. Natural Gas Hedging Policy: Should Empire continue hedging for natural gas?

Empire's Response: Yes. The Commission should not order any change in Empire's hedging practices as part of this rate case. It is Empire's belief that any prudent hedging program's primary function should be risk management, rather than market gains. However, within its framework of achieving risk management, Empire has also put a focus on avoiding the adverse impacts of rising prices when possible. An example of how Empire is achieving this balance is found when looking at the amounts hedged in the December 31, 2015 Gas Position Summary

("position report"). The volumes hedged in the position report for years 2017, 2018, 2019, & 2020 are nearly at the minimum requirements as required by Empire's Energy Risk Management Policy ("RMP"). If Empire's strategy was solely to create "price predictability," as OPC witness Riley alleges on page 6 of his rebuttal testimony, Empire's end of the year 2015 hedge percentages would not be hugging the minimum guidelines as denoted in the Company's RMP. Empire has recognized that the market was trending downward and made a conscious effort to react to the market while still remaining within the RMP guidelines, thereby ensuring a price mitigation strategy with an additional focus on minimizing cost.

Blake A. Mertens (Surrebuttal, pp. 1-11)

Respectfully submitted,

BRYDON, SWEARENGEN & ENGLAND P.C.

By:

/s/ Diana C. Carter______________

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CERTIFICATE OF SERVICE

I hereby certify that the above and foregoing document was filed in EFIS, notifying all counsel of record of the filing, and that a copy of the same was sent via electronic mail on this 20th day of May, 2016, to all counsel of record.

/s/ Diana C. Carter______________