

Exhibit No.:
Issues: Advertising Expense;
Customer Advances;
and EEI Dues
Witness: Brooke M. Richter
Sponsoring Party: MoPSC Staff
Type of Exhibit: Surrebuttal Testimony
Case No.: ER-2014-0351
Date Testimony Prepared: March 24, 2015

MISSOURI PUBLIC SERVICE COMMISSION

**REGULATORY REVIEW DIVISION
UTILITY SERVICES - AUDITING**

SURREBUTTAL TESTIMONY

OF

BROOKE M. RICHTER

THE EMPIRE DISTRICT ELECTRIC COMPANY

CASE NO. ER-2014-0351

Jefferson City, Missouri
March 2015

~~Staff~~ Exhibit No. 221
Date 4-14-15 Reporter XF
File No. ER-2014-0351

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1 **SURREBUTTAL TESTIMONY**

2 **OF**

3 **BROOKE M. RICHTER**

4 **THE EMPIRE DISTRICT ELECTRIC COMPANY**

5 **CASE NO. ER-2014-0351**

6 Q. Please state your name and business address.

7 A. Brooke M. Richter, Governor Office Building, 200 Madison Street,
8 Jefferson City, MO 65101.

9 Q. By whom are you employed and in what capacity?

10 A. I am employed by the Missouri Public Service Commission (“Commission”)
11 as a Utility Regulatory Auditor I in the Auditing Unit of the Utility Services Department,
12 Regulatory Review Division of the Commission Staff (“Staff”).

13 Q. Are you the same Brooke M. Richter that was responsible for certain sections
14 of Staff’s Revenue Requirement Cost of Service Report (“Staff Report”) in this rate
15 proceeding for The Empire District Electric Company (“Empire” or “Company”)?

16 A. Yes, I am.

17 Q. What is the purpose of your surrebuttal testimony?

18 A. In this testimony, I respond to Empire witness Kelly S. Walters’ request to
19 recover the full amount of advertising expense incurred by the Company in the test year.
20 I will also respond to Empire witness Bryan S. Owens’ request to use the account balance for
21 customer advances as of December 31, 2014 versus using a 13 month average. Lastly, I will
22 respond to Empire witness W. Scott Keith’s request that Empire recover Edison Electric
23 Institute (EEI) dues incurred in the test year.

1 **EXECUTIVE SUMMARY**

2 Q. Please briefly summarize your surrebuttal testimony pertaining to this rate
3 case.

4 A. In this testimony, I will first address the issue of advertising expense and the
5 reasons why Staff does not believe that the series of ads referenced in Ms. Walters' rebuttal
6 testimony at page 11 should be included in the cost of service.

7 Additionally, I will address Staff's recommendation regarding Empire's level of
8 customer advances that should be included in this case. Empire decreased its customer
9 advances by a significant amount on December 31, 2014, which is the end of the true-up
10 period for this case.

11 Lastly, I will address Staff's position concerning Empire's EEI membership dues.
12 Absent further information from Empire, and an effort by the Company to quantify both the
13 alleged ratepayer and shareholder benefits associated with EEI membership, Staff is opposed
14 to inclusion of any amount of EEI annual dues expense in customer rates.

15 **ADVERTISING EXPENSE**

16 Q. Did Staff review Kelly S. Walters' Schedules KSW-1 and KSW-2 attached to
17 her rebuttal testimony relating to the advertising expense issue in this case?

18 A. Yes.

19 Q. What information does Schedules KSW-1 and KSW-2 entail?

20 A. Schedules KSW-1 and KSW-2 are apparently intended to inform Empire's
21 customers of basic information concerning the utility itself, such as it being investor-owned,
22 the number of customers and employees Empire has. The schedules also contain information
23 concerning environmental regulations and what the Company is doing in response to such

1 regulations. It also informs customers on renewable energy matters, and various
2 improvements the Company has made to better serve their customers.

3 Q. Do Schedules KSW-1 and KSW-2 directly relate to the campaign ads the Staff
4 disallowed for advertising expense?

5 A. No. Staff disallowed the advertising expense associated with two campaign
6 ads referenced in my direct testimony and a related radio ad, because the ads appeared to
7 be promotional in nature. These ads promote use of Empire's electricity by comparing the
8 cost of electricity for a home using 1,000 kilowatt hours of energy (\$120 per month, or about
9 \$4 a day) to the price of a fast food meal, a specialty coffee, or a gallon of gas.

10 Ms. Walters claims that the ads in question are "designed to inform and educate
11 Empire's customers about the value of our product." After reviewing Ms. Walters'
12 testimony and attached schedules, and upon further reflection, Staff believes these series of
13 ads could also be considered institutional in nature. One of the purposes of this ad is to foster
14 a better opinion on the part of ratepayers regarding the Company, and the benefits of such
15 advertising primarily accrue to Empire and not to its customers.

16 Both the cost of promotional and institutional ads have historically been disallowed
17 by the Commission. In making its recommendation of the allowable level of Empire's
18 advertising expense, Staff relied on the principles that the Commission determined were
19 appropriate in KCPL Case No. EO-85-185, et al. The Commission recognized five
20 categories of advertisements, and specified rate treatment for each of the following
21 categories:

- 22 1. General: informational advertising that is useful in the
23 provision of adequate service;
- 24 2. Safety: advertising which conveys the ways to safely use
25 electricity and to avoid accidents;

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- 1 3. Promotional: advertising used to encourage or promote the use
- 2 of electricity;
- 3 4. Institutional: advertising used to improve the company's
- 4 public image; and,
- 5 5. Political: advertising associated with political issues.

6 The Commission adopted these categories of advertisements and provided the rationale that a
7 utility's revenue requirement should: 1) always include the reasonable and necessary cost of
8 general and safety advertisements; 2) never include the cost of institutional or political
9 advertisements; and 3) include the cost of promotional advertisements only to the extent that
10 the utility can provide cost-justification for the advertisement.

11 Following this guidance, Staff's adjustment excludes promotional and institutional
12 advertising expenses from recovery in rates.

13 Q. Can Staff provide a transcript of the radio advertisement that is being
14 discussed?

15 A. Yes. The following was taken from a media file the Company provided for the
16 advertisement:

17 At Empire, we are here for you at the flip of a switch, every minute of
18 every day. We deliver energy to keep your home comfortable,
19 powered technology, and light up our community at night. What's the
20 value of a product that does so much? A few dollars will buy a fast
21 food meal, a premium coffee, or a gallon of gas. For about the same
22 price, you can power your entire home for a day, that's value. Empire:
23 reliable energy and service, every day.

24 Q. Why does staff believe this advertisement should be disallowed?

25 A. Staff believes this advertisement fails to provide any information to the public
26 for the provision of safe and adequate electric service and should be excluded from rates.

1 **CUSTOMER ADVANCES**

2 Q. Has Staff received additional information from the Company since the time of
3 the Staff's direct filing clarifying the reasons for the significant reduction in the amount of
4 customer advances as of December 2014?

5 A. Yes.

6 Q. Based on this additional information, is Staff in agreement with the Company?

7 A. Yes. After reading Mr. Owens' rebuttal testimony and reviewing the
8 additional information, Staff is in agreement that the significant deduction for December
9 2014 represents an ongoing decrease in the balance of the customer advances account. Staff
10 now agrees to use the year-end balance for the True-up period ending December 31, 2014 in
11 its true-up accounting schedules.

12 **EEI DUES**

13 Q. What standard does the Staff apply to assess whether any portion of annual
14 EEI dues should be included in customer rates?

15 A. Staff's current standard for EEI dues is the same one set forth by the
16 Commission in Case No. ER-82-66 Kansas City Power & Light Company ("KCPL"), and
17 subsequent Commission rate case orders. Staff's recommendation to disallow the entire
18 amount of EEI dues stems from the Company's failure to quantify these benefits between the
19 shareholders and the ratepayers as ordered in Case No. ER-82-66. The Report and Order
20 issued in that case states:

21 KCPL included \$105,000 of its EEI dues in Missouri jurisdictional
22 cost of service...The Staff and Office of Public Counsel oppose
23 recovery of this expense from the ratepayers on two levels. First, both
24 contend that EEI is a lobbying organization whose primary objective is
25 to promote shareholder interests, and therefore the expense should be

1 disallowed. Second, both question the existence of benefits accruing to
2 the ratepayers from EEI activities...The Commission still believes the
3 question is one of benefit to the ratepayer. In the instant case there
4 appears to be some possible benefit, but until the Company can better
5 quantify the benefit and activities that were the casual factor of the
6 benefit, the Commission must disallow EEI dues as an expense. The
7 Commission also points out that the Company needs to develop some
8 method of allocating expenses between its shareholders and the
9 ratepayers once the benefits and activities leading thereto have been
10 adequately quantified.

11 Q. Does Mr. Keith provide a quantification of the benefits from EEI membership
12 accruing to its ratepayers and shareholders, respectively, as part of his rebuttal testimony?

13 A. No. Mr. Keith only makes general assertions that Empire's EEI membership
14 benefits its customers.

15 Q. Mr. Keith makes a reference to the Commission's ratemaking standard for
16 inclusion of EEI dues in customer rates as being "almost thirty years old." Is the age of this
17 standard a relevant consideration in this case?

18 A. No, not in the Staff's view. To the Staff's knowledge, the general function of
19 EEI as an industry association representing investor-owned electric utilities has not changed
20 in the "almost thirty years" referenced by Mr. Keith. Further, the Staff is aware that one of
21 the functions of EEI is to currently engage in lobbying activities on behalf of the electric
22 utility industry, as it was in the early to mid-1980s. The Staff believes the existence of these
23 lobbying activities was a key factor that led the Commission to set forth the standard used to
24 judge the appropriateness of inclusion of EEI dues in customer rates.

25 Q. What data did Staff ask the Company for through data requests in regard to
26 alleged benefits obtained through EEI membership?

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1 A. The Staff asked for a detailed description of the services that are provided by
2 EEI, a percentage of billings for each service or benefit from EEI, and how the ratepayers are
3 benefitted from each service provided.

4 Q. Did the Company provide Staff all of this information?

5 A. No. The Company responded to Staff's data request by listing the uses of EEI
6 membership to the Company, such as staying current with changes in regulation,
7 environmental and other, industry safety concerns, industry financial trends, trends in energy
8 efficiency, etc. The Company did not provide Staff with information concerning how the
9 ratepayers specifically benefitted from each service provided. Later, the Company did
10 provide an update to this data request. In that update, the Company provided a "Draft
11 Schedule of Expenses" for the year ending December 31, 2014 which gave a percentage of
12 billings for membership dues: lobbying, public and media relations, and advertising.
13 However, the total of these items only total to 16%. The Company did not provide any
14 information as to how the rest of the 84% of the expenses was used, how customers allegedly
15 benefit from this portion of EEI annual dues, or whether some parts of these expenses were
16 used towards directly or indirectly as part of the lobbying efforts of EEI. Staff then
17 submitted a follow up data request, asking for additional information regarding the remaining
18 84% of the itemized sections of the membership dues. In response, all the Company
19 provided the Staff was a document entitled "2015 Core Dues Budget" which did not correlate
20 to the previous document provided.

21 Staff also submitted an additional data request to the Company regarding EEI
22 activities, requesting the costs associated with employees attending training, seminars, and

1 materials under EEI sponsorship which are not paid out of the annual dues amount. The
2 Company has objected to this data request and has failed to provide the requested costs.

3 Q. How does Empire pay for the costs of employees attending training, seminars,
4 and materials under EEI sponsorship?

5 A. From information received in previous Empire rate case audits, as well as
6 from audits of other Missouri electric utilities, Staff's understanding is that Empire pays
7 separate "registration fees" to EEI in order to attend meetings for these trainings, seminars,
8 and materials.

9 Q. In this case, has Staff proposed to disallow any of these costs associated with
10 training, seminars, or materials under EEI sponsorship?

11 A. No.

12 Q. Does this conclude your surrebuttal testimony?

13 A. Yes.

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 BROOKE M. RICHTER

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)


Brooke M. Richter, of lawful age, on her oath states: that she has participated in the preparation of the foregoing Surrebuttal Testimony in question and answer form, consisting of 8 pages to be presented in the above case; that the answers in the foregoing Surrebuttal Testimony were given by her; that she has knowledge of the matters set forth in such answers; and that such matters are true and correct to the best of her knowledge and belief.



Brooke M. Richter

Subscribed and sworn to before me this 24th day of March, 2015.

D. SUZIE MANKIN
Notary Public - Notary Seal
State of Missouri
Commissioned for Cole County
My Commission Expires: December 12, 2016
Commission Number: 12412070



Notary Public