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Development Considerations
Witness: Martin Hyman
Sponsoring Party: Missouri Department of Economic
Development – Division of Energy
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Case Nos.: EO-2018-0092

MISSOURI PUBLIC SERVICE COMMISSION

THE EMPIRE DISTRICT ELECTRIC COMPANY

CASE NO. EO-2018-0092

REBUTTAL TESTIMONY

OF

MARTIN R. HYMAN

ON

BEHALF OF

MISSOURI DEPARTMENT OF ECONOMIC DEVELOPMENT

DIVISION OF ENERGY

Jefferson City, Missouri

February 7, 2018

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

In the Matter of the Application of The)
Empire District Electric Company for) **File No. EO-2018-0092**
Approval of Its Customer Savings Plan)

AFFIDAVIT OF MARTIN HYMAN

STATE OF MISSOURI)
) **ss**
COUNTY OF COLE)

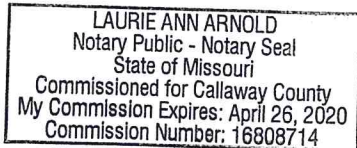
Martin R. Hyman, of lawful age, being duly sworn on his oath, deposes and states:

1. My name is Martin R. Hyman. I work in the City of Jefferson, Missouri, and I am employed by the Missouri Department of Economic Development as a Planner III, Division of Energy.
2. Attached hereto and made a part hereof for all purposes is my Rebuttal Testimony on behalf of the Missouri Department of Economic Development – Division of Energy.
3. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct to the best of my knowledge.



Martin R. Hyman

Subscribed and sworn to before me this 6th day of February, 2018.





Notary Public

My commission expires: 4/24/20

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1 **I. INTRODUCTION**

2 **Q. Please state your name and business address.**

3 A. My name is Martin R. Hyman. My business address is 301 West High Street, Suite 720,
4 PO Box 1766, Jefferson City, Missouri 65102.

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

6 A. I am employed by the Missouri Department of Economic Development – Division of
7 Energy (“DE”) as a Planner III.

8 **Q. Please describe your educational background and employment experience.**

9 A. In 2011, I graduated from the School of Public and Environmental Affairs at Indiana
10 University in Bloomington with a Master of Public Affairs and a Master of Science in
11 Environmental Science. There, I worked as a graduate assistant, primarily investigating
12 issues surrounding energy-related funding under the American Recovery and
13 Reinvestment Act of 2009. I also worked as a teaching assistant in graduate school and
14 interned at the White House Council on Environmental Quality in the summer of 2011. I
15 began employment with DE in September of 2014. Prior to that, I worked as a contractor
16 for the U.S. Environmental Protection Agency to coordinate intra-agency modeling
17 discussions.

18 **Q. Have you previously filed testimony before the Missouri Public Service Commission**
19 **(“Commission”) on behalf of DE or any other party?**

20 A. Yes. Please see Schedule MRH-Reb1 for a summary of my case participation.

1 **II. PURPOSE AND SUMMARY OF TESTIMONY**

2 **Q. What is the purpose of your Rebuttal Testimony in this proceeding?**

3 A. The purpose of my testimony is to provide general support for The Empire District Electric
4 Company's ("Empire" or "Company") proposed "Customer Savings Plan," as well as to
5 provide recommendations to address some of the economic development impacts of the
6 Customer Savings Plan. DE does not take a position on Empire's requested accounting
7 treatment regarding the Asbury plant or on the use of tax equity financing.

8 **Q. What did you review in preparing this testimony?**

9 A. I reviewed the Company's filings in this case, as cited below, in addition to other materials.

10 **III. OVERVIEW OF COMPANY PROPOSAL**

11 **Q. Please describe the Company's proposed Customer Savings Plan.**

12 A. Empire proposes to add as much as 800 MW of wind generation in or near its service
13 territory using a tax equity partnership structure, as well as to retire its Asbury coal-fired
14 generation facility to avoid environmental compliance investments;¹ these investments in
15 Asbury are related to requirements under the U.S. Environmental Protection Agency's
16 ("EPA") coal combustion residuals ("CCR") rule and Effluent Limitations Guidelines
17 ("ELG").² According to the Company, the Customer Savings Plan will allow the Company
18 to partake in Production Tax Credits on a timely basis and save customers \$325 million

¹ Missouri Public Service Commission Case No. EO-2018-0092, *In the Matter of the Application of The Empire District Electric Company for Approval of Its Customer Savings Plan*, Direct Testimony of Christopher D. Krygier, October 31, 2017, pages 5-6, lines 14-16 and 1-5.

² Missouri Public Service Commission Case No. EO-2018-0092, *In the Matter of the Application of The Empire District Electric Company for Approval of Its Customer Savings Plan*, Direct Testimony of James McMahon, October 31, 2017, Direct Attachment JM-2, page 3.

1 over 20 years,³ based on Company modeling.⁴ This modeling showed savings from the use
2 of tax equity financing, as well as from avoiding the fuel and operations and maintenance
3 costs involved in operating the Asbury plant⁵ and from obviating the need for upgrades
4 related to the CCR rule and the ELG.⁶ As part of its filing, Empire requests the creation of
5 a regulatory asset for the undepreciated balance remaining on the Asbury facility.⁷

6 **Q. How did Empire model demand-side management (“DSM”) programs when**
7 **evaluating options for its Customer Savings Plan?**

8 A. The Company included a DSM portfolio in all of the plans that it analyzed.⁸ Empire
9 characterizes the modeled DSM as the “reasonable achievable potential” (i.e., the Realistic
10 Achievable Potential, or “RAP”) portfolio, as well as the portfolio adopted following
11 Empire’s most recent rate case, ER-2016-0023.⁹

12 **Q. What rate impacts are projected from the Customer Savings Plan?**

13 A. For residential customers in Missouri, Empire estimates a \$0.0093 per kWh decrease in
14 rates on average over a 20-year period; in fact, all classes would experience some degree
15 of rate impact decrease on average over the same period of time.¹⁰ Empire’s testimony does
16 indicate a slight increase in rate impacts in 2020 and 2021 for most classes (excluding Feed
17 Mill and Grain Elevator Service in 2021), as well as a slight increase in 2022 for
18 Miscellaneous Service customers and slight increases in 2022 and 2023 for transmission

³ EO-2018-0092, Krygier Direct, page 5, lines 11-13.

⁴ See EO-2018-0092, McMahan Direct.

⁵ *Ibid*, pages 38-39, lines 9-14 and 1-2.

⁶ *Ibid*, A Direct Attachment JM-2, pages 2-3.

⁷ EO-2018-0092, Krygier Direct, page 6, lines 19-20 and page 7, lines 7-9.

⁸ EO-2018-0092, McMahan Direct, page 20, lines 3-5.

⁹ *Ibid*, page 24, lines 9-11.

¹⁰ Missouri Public Service Commission Case No. EO-2018-0092, *In the Matter of the Application of The Empire District Electric Company for Approval of Its Customer Savings Plan*, Direct Testimony of Gregory E. Macias, October 31, 2017, page 12, line 1.

1 customer Praxair, Inc.,¹¹ however, the Company has indicated that it is not certain if a rate
2 increase would occur due to the Customer Savings Plan.¹²

3 **Q. Are there any reliability concerns associated with the Customer Savings Plan?**

4 A. No, according to the Company.¹³ Empire states that it, "... expects the accredited capacity
5 for the new wind generation to replace a large part of the capacity lost if Asbury is
6 retired,"¹⁴ that the Company has other types of resources that it can dispatch,¹⁵ and that the
7 Southwest Power Pool's Integrated Marketplace also supports reliable service.¹⁶ In fact,
8 the Southwest Power Pool has demonstrated the capability to reliably adjust to large
9 amounts of wind energy on its system.¹⁷

10 **Q. You noted that the Asbury plant would need additional investment to comply with**
11 **EPA's CCR rule if it were to continue running. Has the EPA proposed the**
12 **reconsideration of parts of that rule?**

13 A. Yes, although the EPA may not fully finish its reconsideration before December of 2019.¹⁸
14 Unless the rule is stayed, it could still apply to the Asbury plant, as Empire states that, "...
15 Asbury will be prohibited from placing any CCR in its existing surface impoundments after

¹¹ *Ibid*, Direct Attachment GEM-2, page 1.

¹² Missouri Public Service Commission Case No. EO-2018-0092, *In the Matter of the Application of The Empire District Electric Company for Approval of Its Customer Savings Plan*, Empire Response to Joint Motion Requesting Local Public Hearing, January 3, 2018, page 4.

¹³ Missouri Public Service Commission Case No. EO-2018-0092, *In the Matter of the Application of The Empire District Electric Company for Approval of Its Customer Savings Plan*, Direct Testimony of Blake A. Mertens, October 31, 2017, page 17, lines 1-3.

¹⁴ *Ibid*, page 16, lines 21-23.

¹⁵ *Ibid*, page 17, lines 3-7.

¹⁶ *Ibid*, lines 7-10.

¹⁷ Southwest Power Pool. 2017. "SPP sets North American record for wind power." February 13. <https://www.spp.org/about-us/newsroom/spp-sets-north-american-record-for-wind-power/>.

¹⁸ United States Court of Appeals for the District of Columbia Circuit Docket No. 15-1219, *Utility Solid Waste Activities Group, et al., Petitioners, v. United States Environmental Protection Agency, et al., Respondents*, Status Report, November 15, 2017, pages 7-8.

1 April 2019.”¹⁹ Given the time and cost involved in the necessary environmental
2 compliance upgrades before the deadline – and the time by which Empire must act on wind
3 tax incentives²⁰ – the Company cannot delay a decision on the Customer Savings Plan
4 based on an uncertain regulatory outcome.

5 **Q. Has the EPA postponed implementation of the ELG?**

6 A. Yes. The EPA postponed some of the initial compliance dates under the ELG until late
7 2020.²¹ However, although Empire indicates in its filing that compliance with the ELG
8 would have required an investment of approximately \$13.0 million,²² that investment
9 would also contribute to compliance with the CCR rule;²³ as noted above, EPA may not
10 finish reconsidering the CCR rule in time to affect Empire’s investment decisions.

11 **Q. Did Empire consider keeping the Asbury plant online and acquiring new wind**
12 **resources?**

13 A. Yes; however, under the base conditions analyzed by the Company, keeping Asbury online
14 and acquiring new wind resources would cost \$75 million more than building the wind
15 resources while retiring Asbury.²⁴

¹⁹ EO-2018-0092, Mertens Direct, page 14, lines 12-13.

²⁰ *Ibid*, page 15, lines 1-10.

²¹ U.S. Environmental Protection Agency. 2017. *Effluent Guidelines*. “Steam Electric Power Generating Effluent Guidelines – 2015 Final Rule.” <https://www.epa.gov/eg/steam-electric-power-generating-effluent-guidelines-2015-final-rule>.

²² EO-2018-0092, McMahon Direct, Direct Attachment JM-2, page 20.

²³ Response to Data Request DED-DE No. 207.

²⁴ EO-2018-0092, McMahon Direct, page 37, lines 5-8.

1 **IV. DIVISION OF ENERGY'S RESPONSE**

2 **Q. Does DE support the Company's proposal?**

3 A. Generally, yes, subject to the recommendations described below. Empire's proposal can
4 reduce costs to customers, reduce reliance on out-of-state coal use, provide environmental
5 benefits, and, under the right circumstances, support state and local economic development.
6 DE's recommendations can support better economic outcomes for areas near the Asbury
7 plant in the event that the Commission approves the Company's Customer Savings Plan.
8 DE does not take a position on Empire's requested accounting treatment regarding the
9 Asbury plant or on the use of tax equity financing.

10 **Q. Should Empire keep the Asbury plant open because of recent environmental**
11 **compliance investments?**

12 A. Not necessarily. If the use of the Asbury facility does not result in lower costs to customers,
13 it is difficult to justify keeping the plant in operation. Such previous investments in
14 environmental compliance represent "sunk costs" in economic terms, meaning that they
15 are not relevant to future decision-making about the Asbury plant's operations. Regardless
16 of whether these costs may be recovered through rates in the future, Empire should not
17 keep the Asbury facility operating if doing so cannot be justified on an economic basis, nor
18 if its continued operations require additional capital investments related to environmental
19 compliance. As noted above, Empire has stated that keeping the Asbury facility in service
20 along with the construction of new wind resources would not result in the lowest cost
21 portfolio under base conditions; the lowest cost option involves the construction of wind
22 and the retirement of the Asbury facility.

1 **Q. Is DE's only interest in Empire's proposal that it provides the least-cost option?**

2 A. No. While customer rate and bill impacts are important, it is also crucial that the
3 Company's ratepayers receive value for their contributions to Empire's system
4 investments. The Company's acquisition of additional wind energy (and the retirement of
5 the Asbury facility) is not only the least-cost option, but the choice that provides customers
6 with increased portfolio diversification, additional environmental benefits, and, under
7 certain circumstances, economic benefits. These economic benefits will result from
8 reduced revenue requirements (and rates) paid by Empire's customers, as well as from the
9 construction and operation of wind facilities in Missouri (if such facilities are, in fact,
10 constructed in Missouri). The plant's closure provides an opportunity to redeploy or retrain
11 employees in the energy jobs of the future, potentially using skills that they already have.

12 **Q. How will the retirement of the Asbury facility have positive environmental impacts?**

13 A. Retiring the Asbury facility will eliminate the emissions associated with the plant's
14 operation, such as carbon dioxide, sulfur oxides, nitrogen oxides, particulate matter,
15 volatile organic compounds, carbon monoxide, ammonia, and mercury and other air
16 toxics,²⁵ thereby improving air quality in the area of the plant.

17 In addition, the Missouri Department of Natural Resources states on a list of impaired
18 waters under the Clean Water Act that the Asbury facility is a source of pollution for
19 Blackberry Creek.²⁶ The retirement of the Asbury plant could contribute to improved water
20 quality in this creek.

²⁵ See response to Data Request DED-DE No. 201 and the accompanying "Attachment DE 201_2016 ASBURY
EIQ."

²⁶ Missouri Department of Natural Resources. 2018. "2018 Section 303(d) Listed Waters."
<https://dnr.mo.gov/env/wpp/waterquality/303d/docs/2018-303d-list-cwc-approved-1-4-2018.pdf>. Page 1.

1 **Q. Generally, are there business customers and localities that are interested in additional**
2 **renewable energy use?**

3 A. Yes. The Missouri Comprehensive State Energy Plan (“CSEP”) notes the emergence of
4 corporate interest in renewable energy with the creation of the Corporate Renewable
5 Energy Buyers’ Principles (“Buyers’ Principles”). These Buyers’ Principles have been
6 signed by Walmart, Target, Bloomberg, General Motors, IKEA, Procter & Gamble, Intel,
7 Sprint, and many other companies. The CSEP states that, “Efforts to help Missouri
8 utilities further diversify their portfolios and increase options for renewable power
9 purchasing coupled with low energy prices will ensure our businesses are well positioned
10 to meet future competition.”²⁷ The CSEP further notes that, “As major companies adopt
11 corporate responsibility and renewable purchasing requirements, Missouri businesses will
12 need to be prepared to respond to customer demands to remain competitive. Even
13 government entities such as local cities with emissions reduction targets and the U.S.
14 Department of Defense have established sustainability goals.”²⁸ As recently as August of
15 2016, support for renewable energy was communicated through letters from interested
16 companies (General Mills, General Motors, Kellogg’s, Nestle, Procter & Gamble, Target,
17 Unilever, General Electric, and Owens Corning).²⁹

²⁷ Missouri Department of Economic Development – Division of Energy. 2015. *Missouri Comprehensive State Energy Plan*. <https://energy.mo.gov/sites/energy/files/MCSEP.pdf>. Page 178.

²⁸ *Ibid*, page 185.

²⁹ Missouri Public Service Commission Case No. EA-2016-0358, *In the Matter of the Application of Grain Belt Express Clean Line LLC for a Certificate of Convenience and Necessity Authorizing it to Construct, Own, Operate, Control, Manage and Maintain a High Voltage, Direct Current Transmission Line and an Associated Converter Station Providing an Interconnection on the Maywood-Montgomery 345kV Transmission Line*, Direct Testimony of Michael P. Skelly on Behalf of Grain Belt Express Clean Line LLC, August 30, 2016, Schedule MPS-3.

1 In the Company’s case, Empire has attempted to contact representatives of several
2 companies, in addition to meeting with legislators and other government officials. The
3 Company has stated that, “Generally speaking, the feedback for the proposed projects has
4 been well received.”³⁰

5 Based on the preceding discussion, increasing the Company’s use of renewable energy
6 generation will show current and prospective business customers that Empire’s service
7 territory is moving towards providing renewable energy options. This transition will also
8 support future local decisions to increase the use of renewable energy.

9 **Q. Are other utilities increasing their investments in renewable energy?**

10 A. Yes. Kansas City Power and Light Company (“KCP&L”) and KCP&L Greater Missouri
11 Operations Company (“GMO”) have both announced accelerated retirement of fossil fuel-
12 fired generation units due to lower net present value of revenue requirement results.^{31,32}
13 The preferred plan in Union Electric Company d/b/a Ameren Missouri’s (“Ameren
14 Missouri”) most recent triennial Integrated Resource Plan filing includes the addition of
15 700 MW or more of wind generation in three years, as well as 100 MW of solar generation
16 over ten years.³³ Although the 700 MW wind addition is characterized as meeting
17 Renewable Energy Standard requirements and, “... and contribut[ing] toward the

³⁰ Response to Data Request MEGC 1-20.

³¹ Missouri Public Service Commission Case No. EO-2017-0229, *In the Matter of the 2017 Integrated Resource Plan Annual Update for Kansas City Power & Light Company*, Kansas City Power & Light Company (KCP&L) Integrated Resource Plan 2017 Annual Update, June 1, 2017, pages 67-68.

³² Missouri Public Service Commission Case No. EO-2017-0230, *In the Matter of the 2017 Integrated Resource Plan Annual Update for KCP&L Greater Missouri Operations Company*, KCP&L Greater Missouri Operations Company (GMO) Integrated Resource Plan 2017 Annual Update, June 1, 2017, pages 67-68.

³³ Missouri Public Service Commission Case No. EO-2018-0038, *In the Matter of Ameren Missouri’s 2017 Utility Resource Filing Pursuant to 4 CSR 240 – Chapter 22*, 2017 Integrated Resource Plan, 1. Executive Summary, September 25, 2017, page 9.

1 continued transition of the generation fleet,”³⁴ Ameren Missouri also states that, “The
2 potential exists to add even more wind generation in the coming years as a result of
3 improving technology and economics, as well as renewable energy initiatives with large
4 customers.”³⁵ In fact, Ameren Missouri recently submitted a proposed tariff to allow large
5 customers to purchase wind energy,³⁶ and filed to intervene in the present Empire case.³⁷
6 KCP&L and GMO filed rate cases (Case Nos. ER-2018-0145 and ER-2018-0146,
7 respectively) in which they propose renewable energy and subscriber solar initiatives. City
8 Utilities of Springfield recently added enough wind energy to its portfolio to meet 25
9 percent of its electric energy needs³⁸ at a lower cost than the utility’s other purchased
10 power.³⁹ Utilities throughout Missouri are exploring opportunities to increase the use of
11 renewable energy.

12 **Q. Are the DSM programs in Empire’s filing accurately characterized?**

13 A. No. DE disagrees with Empire’s characterization of the DSM programs stipulated to in
14 ER-2016-0023. The DSM programs in that stipulation were a result of settlement
15 negotiations (as acknowledged by the Company),⁴⁰ not a RAP program portfolio analyzed
16 by the utility. Although DE disagrees with Empire’s characterization of its DSM portfolio,

³⁴ *Ibid.*

³⁵ *Ibid.*, page 2.

³⁶ Missouri Public Service Commission Case No. ET-2018-0063, *In the Matter of the Application of Union Electric Company d/b/a Ameren Missouri for Approval of 2017 Green Tariff*, Application of Union Electric Company d/b/a Ameren Missouri for Approval of Its Renewable Choice Program and for Accounting Authority, November 27, 2017.

³⁷ Missouri Public Service Commission Case No. EO-2018-0092, *In the Matter of the Application of The Empire District Electric Company for Approval of Its Customer Savings Plan*, Ameren Missouri’s Application for Intervention, November 22, 2017.

³⁸ City Utilities of Springfield, MO. “The New Frontier: Wind Power.” January 31, 2017.
<https://www.cityutilities.net/2017/01/31/frontier-wind/>.

³⁹ Brosseau, Kadee. 2016. “More wind energy will soon power Springfield.” KY3. September 25.
<http://www.ky3.com/content/news/More-wind-power-will-soon-power-Springfield-394747411.html>.

⁴⁰ EO-2018-0092, McMahon Direct, page 25, lines 6-9.

1 DE supports Empire’s Customer Savings Plan proposal, along with the suggestions stated
2 below; the proposal could provide many benefits to customers.

3 **V. ADDITIONAL ECONOMIC DEVELOPMENT CONSIDERATIONS**

4 **Q. How does Empire plan to address the current employees at the Asbury facility?**

5 A. As of the time of Empire’s filing, there were 55 employees at the facility.⁴¹ The Company
6 has indicated that these employees will not be involuntarily terminated, will be offered
7 other employment at Empire (but may need to relocate), and will receive training
8 opportunities.⁴² However, employees that relocate will not be compensated for the costs of
9 relocation, and employees could experience salary decreases in their new positions.⁴³

10 **Q. What is the potential economic development impact of reassigning these employees?**

11 A. The relocation of up to 55 employees could have impacts on area communities, since these
12 employees spend part of their earnings in local economies. The employees could also be
13 negatively impacted by having to spend money for relocation, as well as by potential salary
14 decreases.

15 **Q. Are there other potentially negative economic development impacts that would result
16 from retiring the Asbury plant?**

17 A. Yes. The Company pays property taxes on its assets. While the Company states as part of
18 a data request response that, “Property taxes assessed/paid to the State of Missouri and its
19 subdivisions are not necessarily specific to individual properties for investor owned
20 utilities,” Empire estimates that Asbury’s assets accounted for approximately \$2,759,000

⁴¹ Missouri Public Service Commission Case No. EO-2018-0092, *In the Matter of the Application of The Empire District Electric Company for Approval of Its Customer Savings Plan*, Direct Testimony of David R. Swain, October 31, 2017, page 14, line 21.

⁴² Response to Data Request DED-DE No. 200 (Public).

⁴³ Response to Data Request DED-DE No. 200.1.

1 of the Company's 2016 property taxes. The Company also indicates that, "... income taxes
2 cannot be distinctly identified for purposes of the Asbury plant operations," that the
3 Company, "... submit[s] State withholding taxes as it relates to personal deductions of
4 employees ...," and that, "Empire remitted approximately \$19,256 in use taxes to the State
5 of Missouri during 2017."⁴⁴

6 The loss of these tax revenues will affect state and local budget decisions. For example, to
7 the extent that school districts rely on property taxes from the plant, schools near the plant
8 may receive less revenue. This could be somewhat offset by any changes in population in
9 these school districts due to the closure of the Asbury plant.

10 **Q. Does DE have any suggestions related to Empire's proposal and its potential economic**
11 **development impacts on local communities?**

12 A. Yes. To address the concerns noted above, DE suggests actions such as the following:

- 13 1. Empire could pay for the full cost of employee relocation if an employee relocates
14 within the state of Missouri to continue working for Empire or its affiliates;
- 15 2. The Company should strive to provide displaced employees with opportunities to enter
16 positions at Empire or its affiliates with no reduction in salaries, or, in the alternative,
17 should offer retraining for another career;
- 18 3. Empire could work with the Division of Workforce Development to sponsor retraining
19 opportunities for plant employees that seek employment outside of Empire or its
20 affiliates, as well as to residents of the communities affected by the Asbury plant
21 closure;

⁴⁴ Initial response and supplemental response to Data Request DED-DE No. 205.

- 1 4. Empire could provide a one-time contribution to local school districts to both mitigate
2 the effects of lost property tax revenues and allow these districts to revise their budgets;
3 and,
4 5. The Company should pursue available federal funding opportunities for assisting
5 communities surrounding coal-fired power plants, to the extent applicable.

6 **VI. CONCLUSIONS**

7 **Q. Please summarize your conclusions and the positions of DE.**

8 A. DE generally supports the Company's proposed Customer Savings Plan, although DE takes
9 no position as to the accounting treatment of the remaining value of Asbury's assets or on
10 the use of tax equity partnership financing. DE also recommends certain actions that would
11 mitigate potential negative economic impacts due to the Asbury plant's closure.

12 **Q. Does this conclude your Rebuttal Testimony in this case?**

13 A. Yes.