Exhibit No.:	
Issues:	*SWPA Payment; Ice Storm Amortization Rebasing; SO2Allowances; Fuel/Purchased Power and True-up*
Witness:	*Mark L. Oligschlaeger*
Sponsoring Party:	*MoPSC Staff*
Type of Exhibit:	*Surrebuttal Testimony*
File No.:	*ER-2011-0004*
Date Testimony Prepared:	*April 28, 2011*

MISSOURI PUBLIC SERVICE COMMISSION

UTILITY SERVICES DIVISION

SURREBUTTAL TESTIMONY

OF

MARK L. OLIGSCHLAEGER

THE EMPIRE DISTRICT ELECTRIC COMPANY

FILE NO. ER-2011-0004

Jefferson City, Missouri
April 2011

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Q. Please state your name and business address.

A. Mark L. Oligschlaeger, P.O. Box 360, Suite 440, Jefferson City, MO 65102.

Q. Have you previously filed testimony in this proceeding?

A. Yes, I previously filed direct testimony in this proceeding.

Q. What is the purpose of your surrebuttal testimony?

A. The purpose of this testimony is to address the rebuttal testimony of Mr. L. Jay Williams of The Empire District Electric Company ("Empire" or "Company") and the rebuttal testimony of The Office of Public Counsel (OPC) witness Mr. Ted Robertson, both concerning the Southwest Power Administration (SWPA) Payment issue; the rebuttal testimony of OPC witness Shawn Lafferty on the issue of Ice Storm Amortization Rebasing; the rebuttal testimony of Empire witness W. Scott Keith on the issue of the SO2 Allowances; and to address the rebuttal testimony of Empire witnesses Todd W. Tarter and Mr. Keith on the related subjects of Fuel/Purchased Power Expense and True-up.

EXECUTIVE SUMMARY

Q. Please summarize your surrebuttal testimony in this proceeding.

A. Concerning the issue of SWPA payment, I will describe Staff's changes in position on this matter resulting from our review of the Company's and OPC's rebuttal testimony filings on this topic.

Concerning the issue of ice storm amortization rebasing, I will explain Staff's position that it would not be appropriate to adjust the current five-year amortization period for these costs.

Concerning the issue of SO2 allowances, I will state that Staff has accepted Empire's proposal for rate treatment of these accumulated allowance proceeds.

On the topic of fuel and purchased power expense, I will explain Staff's intention to incorporate, as appropriate, certain known and measurable changes to Empire's adjusted level of fuel and purchased power past November 30, 2010 expense in the true-up audit. I will also explain our current position on Empire's request to recover costs associated with a new natural gas storage contract.

<u>SWPA PAYMENT</u>

Q. What is the SWPA reimbursement payment issue in this case?

A. As is explained more fully in Staff's Cost of Service Report, Empire has recently received a payment from the SWPA in excess of $26 million to compensate it for future economic damages attributable to a federal law that imposes capacity restrictions in future years at the Company's Ozark Beach hydroelectric facility. These capacity restrictions are projected to take effect starting in 2016. It is currently expected that the SWPA payment will be fully taxable to Empire in the Company's 2010 federal income tax return.

Q. What is Staff's recommended treatment of this issue?

A. Staff now recommends that rate base reflect the full difference between Empire's expected cash payment of taxes associated with the SWPA payment and the amount of any ratepayer contribution included in this case towards these taxes. Staff has modified its case to reflect this full amount in its rate base. Staff also recommends charging income taxes associated with the SWPA payment to ratepayers in direct proportion to the inclusion of the SWPA payments as an offset to expense in future years

Q. What position does Empire witness Williams take in his rebuttal testimony regarding the tax implications of the SWPA payment?

A. Mr. Williams supports Staff's recommendation in its direct filing to spread the impact of the SWPA payment for income tax purposes over three years, but objected to Staff's similar treatment of only including one-third of the deferred tax asset associated with the SWPA tax timing difference in rate base. He asserts that the full amount of the deferred tax impact of the SWPA tax timing difference should be included in Empire's rate base.

Q. Does Staff now agree that the full amount of the deferred tax impact of the SWPA tax timing difference should be included in Empire's rate base?

A. Yes. Staff has modified its case to reflect this full amount in its rate base.

Q. What is OPC witness Robertson's position on the ratemaking implications of the SWPA payment?

A. Mr. Robertson appears generally to support Staff's positions on this issue, but objects to the current reflection of this tax timing difference in Empire's income tax calculation. Mr. Robertson provides several reasons for this position, including some uncertainty regarding the ultimate tax treatment to be afforded this payment by the Internal Revenue Service.

Q. What is your reaction to Mr. Robertson's points concerning the SWPA issue?

A. Mr. Robertson is persuasive in his argument that the tax timing difference associated with the SWPA should not be currently reflected in Empire's case. Staff now accepts the OPC position on SWPA taxes and is recommending normalizing this tax timing difference for rate purposes.

Q. What is the impact of normalizing the SWPA payment tax timing difference for ratemaking purposes?

A. Normalization of this tax timing difference entails charging income taxes associated with the SWPA payment to ratepayers in direct proportion to the inclusion of the SWPA payments as an offset to expense in future years. Because no amount of this payment is being flowed back to customers in Staff's case, no amount of income tax expense associated with this item is included in Staff's case either.

Q. Why is Staff changing its position in the matter of the SWPA tax timing difference?

A. Staff concurs with the arguments raised on this point in Mr. Robertson's rebuttal testimony. In addition, Staff believes normalization of the SWPA payment tax difference better matches the cash flow aspects of the both receipt of the SWPA payment and payment of income taxes associated with the SWPA reimbursement. At this time, Empire enjoys the cash flow benefit of the $26 million SWPA payment in entirety; none of this amount has been passed on to customers. It is then appropriate to have Empire pay the taxes due on this item out of the SWPA funds it has received, and include as an addition to rate base the deferred tax asset associated with this current tax payment. As Empire's customers pay in rates for the taxes associated with the SWPA payment in future cases, then the deferred tax asset will be ratably reduced and eventually eliminated from rate base.

Q. Please summarize Staff's current position on the SWPA payment issue.

A. The Missouri jurisdictional portion of the SWPA payment should continue to be included in rate base as an offset. The current tax timing difference associated with this item should be normalized for rate purposes, with the associated deferred tax asset also included in Empire's rate base. Customers should be responsible for reimbursement of the income taxes due for the SWPA payment over the same period of time that the benefits of the payment are flowed to customers in the future.

ICE STORM AMORTIZATION REBASING

Q. What is the background of the ice storm amortization rebasing issue raised by OPC in this proceeding?

A In January 2007, and again in December 2007, the Empire electric service territory suffered from devastating ice storms that caused millions of dollars of damages to Empire and its customers. In Case No. ER-2008-0093, Empire sought rate recovery of these ice storm damages. In accord with past precedent for treatment of utility costs resulting from natural disasters such as ice storms, the parties to that rate proceeding entered into a stipulation and agreement that allowed Empire recovery of its ice storm costs through separate five-year amortizations of the costs of each ice storm, but without rate base treatment of the unamortized storm cost balances. The Commission subsequently approved the stipulation and agreement containing these amortization provisions.

Q. What are "amortizations?"

A. "Amortizations" are accounting and ratemaking devices that spread over multiple years abnormally high costs or revenues associated with an event that was incurred within a single year. The costs associated with extraordinary events such as natural disasters are frequently subject to amortization treatment. The Commission has normally ordered five-year amortization periods in setting rates for the costs associated with natural disasters.

Q. By the terms of the ice storm amortization stipulation in Case No. ER-2008-0093, did Empire have the opportunity to recover in rates the entire nominal amount of its incurred ice storm costs?

A. No. Staff has long held the position that proper accounting and ratemaking practices require a utility to begin charging an amortization to expense shortly after the event giving rise to the amortization occurs. In this regard, Staff has objected to proposals by utilities to delay booking amortization expense in order to synchronize the beginning point of amortizations for financial statement purposes with the effective date of new rates ordered by the Commission in a rate proceeding. As part of the ice storm amortization stipulation in Case No. ER-2008-0093 it was agreed that the January 2007 ice storm amortization was to begin in February 2007, and the December 2007 ice storm was to begin in January 2008. Since Empire's new rates resulting from Case No. ER-2008-0093 were not implemented until August 2008, the terms of the ice storm stipulations required Empire to charge a significant amount of the ice storm costs to expense without an opportunity to recover these costs in its rates.

Q. What is the issue being raised by OPC witness Lafferty in this case regarding the ice storm amortizations?

A. In his rebuttal testimony, Mr. Lafferty advocates "rebasing" the five-year amortization periods previously stipulated for these ice storm costs so that, instead of ending in January 2012 and December 2012, respectively, the periods would instead be ordered to continue for four years from the effective date of rates resulting from this rate proceeding, with the annual amortization expense amount correspondingly reduced. The intent of OPC's proposal, if adopted, would be to extend the amortization periods out to the projected date of Empire's next rate proceeding.

Q. What is the rationale for OPC's "rebasing" proposal?

A. The apparent rationale is to prevent Empire from benefiting from an earnings "windfall" when it ceases charging ice storm amortization expense on its books in 2012, if Empire's rates were unchanged at that time.

Q. Does Staff believe this concern is valid?

A. Not in these circumstances. Consistent with its position that it is not appropriate to synchronize the starting point for the ice storm amortization periods with new rates, Staff likewise asserts that it is not good policy to attempt to synchronize the ending date for amortizations with the expected effective date of new rates for future rate cases. Amortizations should not subject to continuous jockeying to adjust previously ordered extraordinary cost amortization periods, with the idea of either attempting to maximize or minimize the utility's total recovery in rates of amortization expense. Staff recommends that once an amortization period is ordered by the Commission, the appropriate policy is to maintain that period until its expiration.

Q, If Staff's position on this issue is accepted, isn't OPC correct that Empire will benefit from an earnings windfall in 2012?

A. All other things being equal, Empire will experience an increase in earnings of approximately $3.7 million in 2012 when both ice storm amortizations expire on its books, and if its rates at that time continue to reflect both amortizations. However, of course, all other things are never equal, and there will be a myriad of factors affecting Empire's earnings in 2012 and beyond, for better or worse. The pertinent question is whether the expiration of the amortizations will allow Empire to experience a sustained period of excess earnings. Without an ability to predict Empire's cost of service into the future a year or more ahead, there is no way to answer that question. Staff recommends that the Commission not take rate actions now that are premised upon unknown and unknowable circumstances a year or more in the future.

Q. What does the Commission need to include in its Report and Order to effectuate the Staff's recommendation on this issue?

A. Staff recommends the Commission order no change in the current amortization schedule for Empire's ice storm costs.

SO2 ALLOWANCE AMORTIZATION

Q. What does Empire witness Keith recommend in his rebuttal testimony in regard to Empire's accumulated deferred SO2 allowance proceeds?

A. Because SO2 allowance proceeds now are flowed to customers through Empire's fuel adjustment clause (FAC), there is no existing mechanism to flow to customers Empire's previous balance of SO2 proceeds accumulated prior to the FAC implementation. Accordingly, Mr. Keith recommends that these proceeds flow back to customers over a four-year period through an amortization.

Q. What is Staff' s position on this proposal?

A. This proposal is acceptable to Staff, and we have adjusted our case to reflect one-fourth of Empire's accumulated balance of SO2 allowance proceeds as an offset to expense.

Q. What does the Commission need to include in its Report and Order to effectuate the Staff's recommendation on this issue?

A. Staff recommends the Commission order a four-year amortization of Empire's pre-FAC SO2 proceeds.

FUEL/PURCHASED POWER EXPENSE & TRUE-UP

Q. On pages 5-9 of his rebuttal testimony, Empire witness Tarter states that the Staff should have reflected certain changes to its fuel/purchased power expense that occurred subsequent to the end of the test year update period in its case. Similarly, at pages 15-16 of Empire witness Keith's rebuttal testimony, he states that the Staff has omitted certain cost changes affecting the Company's fuel and purchased power expense from its case, and that these items should be included in a true-up audit. Do you agree on these points?

A. We agree that these changes are appropriate to consider in a true-up proceeding. In its true-up audit, the Staff will consider known and measurable changes to the Company's fuel and purchased power expense for the period December 1, 2010 to March 31, 2011, to the extent the changes are auditable and prudently incurred.

Q. Why did the Staff not reflect any of these items in its direct case?

A. The *Joint Recommendation on Certain Procedural Matters ("Joint Agreement")* filed on November 15, 2010, and subsequently approved by the Commission, called for a test year of the 12 months ended June 30, 2009, and an update period ending November 30, 2010 for this proceeding. The *Joint Agreement* stated that no party anticipated the need for a true-up at that time. In accordance with the *Joint Agreement*, the Staff put together its case using a cut-off of November 30, 2010, with the exception of incorporating a non-union, non-executive salary increase in its case that was paid by Empire in

December 2010. While the *Joint Agreement* specifically provided for inclusion of this pay increase in Empire's case, no mention was made of potential fuel/purchased power expense changes occurring after November 30, 2010.

Q. Has Empire subsequently requested a true-up audit?

A. Yes, on April 5, 2011. The Staff later stated it would not oppose a true-up audit in this proceeding, and such an audit was ordered by the Commission on April 19, 2011.

Q. Both Mr. Tarter and Mr. Keith reference in their rebuttal testimonies the fact that Staff has not included a new natural gas storage contract in its case. Why has Staff not included the contract in its case?

A. As of this date, Staff has not seen adequate cost/benefit documentation to support the inclusion of the contract in Empire's cost of service. However, since this contract did not go into effect until April 1, 2011, the end of the true-up period in this case, Staff will continue to review this matter and present its ultimate recommendation on this issue in the true-up phase of this proceeding.

Q. What does the Commission need to include in its Report and Order to effectuate the Staff's recommendation on this issue?

A. Absent a true-up recommendation to the contrary, Staff recommends the Commission not include the new natural gas storage contract in its determination of Empire's revenue requirement.

Q. Does this conclude your surrebuttal testimony?

A. Yes, it does.

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of The Empire District Electric Company of Joplin, Missouri for Authority to File Tariffs Increasing Rates for Electric Service Provided to Customers in the Missouri Service Area of the Company	))))	File No. ER-2011-0004

AFFIDAVIT OF MARK L. OLIGSCHLAEGER

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

Mark L. Oligschlaeger, of lawful age, on his oath states: that he has participated in the preparation of the foregoing Surrebuttal Testimony in question and answer form, consisting of 10 pages to be presented in the above case; that the answers in the foregoing Surrebuttal Testimony were given by him; that he has knowledge of the matters set forth in such answers; and that such matters are true and correct to the best of his knowledge and belief.

Mark L. Oligschlaeger

Mark L. Oligschlaeger

Subscribed and sworn to before me this 28th day of April, 2011.

Nikki Senn

Notary Public

NIKKI SENN
Notary Public - Notary Seal
State of Missouri
Commissioned for Osage County
My Commission Expires: October 01, 2011
Commission Number: 07287016