Exhibit No.:	
Issues:	*Jurisdictional Allocation Factors; Revenue; Uncollectible Expense; Pensions; Prepaid Pension Asset; Other Post-Employment Benefits (OPEBs)*
Witness:	*Dana Eaves*
Sponsoring Party:	*MoPSC Staff*
Type of Exhibit:	*Direct Testimony*
Case No.:	*ER-2006-0315*
Date Testimony Prepared:	*June 23, 2006*

MISSOURI PUBLIC SERVICE COMMISSION

UTILITY SERVICES DIVISION

DIRECT TESTIMONY

OF

DANA E. EAVES

THE EMPIRE DISTRICT ELECTRIC COMPANY

CASE NO. ER-2006-0315

Jefferson City, Missouri
June 2006

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the matter of The Empire District Company of Joplin, Missouri for authority to file tariffs increasing rates for electric service provided to customers in Missouri service area of the Company.	))))	Case No. ER-2006-0315

AFFIDAVIT OF DANA E. EAVES

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

Dana E. Eaves, of lawful age, on his oath states: that he has participated in the preparation of the foregoing Direct Testimony in question and answer form, consisting of 16 pages to be presented in the above case; that the answers in the foregoing Direct 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.

Dana E. Eaves

Dana E. Eaves

Subscribed and sworn to before me this 22 day of June 2006.

Toni M. Charlton

TONI M. CHARLTON
Notary Public - State of Missouri
My Commission Expires December 28, 2008
Cole County
Commission #04474301

TONI M. CHARLTON NOTARY SEAL NOTARY PUBLIC STATE OF MISSOURI

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DANA E. EAVES

THE EMPIRE DISTRICT ELECTRIC COMPANY

CASE NO. ER-2006-0315

Q. Please state your name and business address.

A. Dana Eaves, 200 Madison Street, Jefferson City, Missouri 65102.

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

A. I am a Utility Regulatory Auditor for the Missouri Public Service Commission (Commission).

Q. Please describe your educational and employment background.

A. I graduated from Columbia College in May 1995 with a Bachelor of Science degree in Business Administration with an emphasis in Accounting. I commenced employment with the Commission Staff (Staff) in April 2001. Prior to employment with the Commission, I held the positions of Accountant with Midwest Block and Brick, Inc., Vice President of Operations with Practice Management Plus, a healthcare consulting firm, and Director of Finance with Capital City Medical Associates.

Q. What has been the nature of your duties while in the employment of this Commission?

A. I have conducted and assisted with the audits and examinations of the books and records of utility companies operating within the state of Missouri.

Q. Have you previously filed testimony before the Commission?

A. Yes. Please see Schedule 1, attached to my testimony, for the list of cases in which I have previously filed testimony. Included on Schedule 1 are the issues covered in some of my recent testimony filings.

Q. With reference to Case No. ER-2006-0315, have you made an investigation with respect to The Empire District Electric Company's (Empire, EDE or Company) rate change request?

A. Yes, with the assistance of other members of the Commission Staff (Staff).

Q. What areas did your investigation cover?

A. My investigation included the review and examination of the Company's filing, its supporting work papers and underlying financial reports and records. Information and data were further obtained through the issuance of data requests and conversations with Company personnel, and through the review of workpapers and other information generated from past Company cases, Commission Orders and Staff testimony on related issues in other utility company cases.

Q. What is your primary responsibility in this case?

A. My primary areas of responsibility in this case are allocations, revenue, billing costs, uncollectible expense, pension expense, prepaid pension asset and other post employment benefits (OPEBs).

Q. What is the purpose of your direct testimony?

A. The primary purpose of my direct testimony is to discuss the calculation and application of jurisdictional allocation factors within the Staff's Accounting

Schedules and to explain the following Staff adjustments contained in Accounting Schedule 10, Adjustments to Income Statement:

Revenue

Unbilled Revenue	S-1.1
Emissions Credits Sales	S-5.1
City Franchise Tax	S-1.4
Customer Growth	S-1.2
IEC Revenue	S-1.3
Pension Expense (FAS 87)	S-85.3
Additional FAS 87 Funding	S-85.4
OPEB Expense FAS 106	S-85.1

I will also address the Prepaid Pension Asset**,** Mo Regulated Asset FAS 87, and Regulated Asset associated with the additional funding reflected on Accounting Schedule 2, Rate Base.

EXECUTIVE SUMMARY

Q. Please summarize the various aspects of your areas and issues in this case.

A. My testimony addresses technical issues and the Staff proposed rate treatment relating to jurisdictional allocation factors, revenue, uncollectible expense, pensions, prepaid pension asset, other rate base pension assets, and other post-employment benefits.

Q. What are jurisdictional allocation factors?

A. Jurisdictional allocation factors are necessary because Empire provides retail electrical power in several states, including wholesale power to several municipalities. An allocation process is necessary to identify costs to specific state and federal jurisdictions.

Q. Please briefly describe the underlying influences that effect the proposed level of revenue in this case.

A. The proposed adjustments to revenue are to determine an appropriate revenue level that is representative of the test year. This is accomplished by proposing adjustments to revenue collected from customers that takes into consideration the effects of weather on customer usage, customer growth (new customers), emission credits and certain pass-through taxes collected from EDE customers.

Q. What rate treatment is the Staff proposing for pension expense (FAS 87) and related assets?

A. In the prior Case No. ER-2004-0570, the Commission approved a Stipulation And Agreement that, in part, dealt with future rate treatment of pension expenses and pension related regulatory assets. Contained within that agreement is an accounting mechanism to track booked pension expense since the last rate case and allow EDE to recover/give back in future rate proceedings the level of pension expenses booked in excess of/under its rate allowance in Case No. ER-2004-0570. Under this provision, EDE has accumulated $1,584,357 of pension costs as a regulatory asset which will be amortized over five years ($316,871) and included in expenses in this case. EDE made a contribution to its pension plan in the amount of $11,500,000 in the test year. The Staff is recommending that this amount be treated as a separate regulatory asset and the non-capital amount be amortized over five-years ($1,462,298) and included in the test year expense level.

The Staff is recommending the prior prepaid pension asset (carried over from the last case) will have an ending test year balance of $7,187,153 after the reduction relating to interest add back in the amount of $124,295.

Q. What is the Staff's proposed rate treatment for other post-employment benefits or OPEBs?

A. The Staff's OPEBs 106 expense amount is based on the use of the market-related value of assets and a five-year amortization of the five-year average balance of unrecognized gains and losses.

JURISDICTIONAL ALLOCATION FACTORS

Q. What jurisdictional allocation factors were used in this case?

A. The Missouri electric jurisdictional allocation factors used by the Staff in this case are presented on Schedule 2 attached to my direct testimony. Schedule 2 also provides a description of each allocation factor, how it was developed and its application within the Staff's Accounting Schedules.

Q. Why is it necessary to allocate costs in this case?

A. Empire provides retail electrical power in several states, including wholesale power to several municipalities, under the regulatory authority of the Federal Energy Regulatory Commission (FERC). Empire also provides retail gas service in Missouri. An allocation process is necessary to identify costs to specific state and federal jurisdictions.

Q. On Schedule 2, attached to your direct testimony, there is an allocation "on system" retail revenue and "on system" Operations and Maintenance (O&M) expense composite. What is meant by the term "on system".

A. "On system" retail revenue refers to the revenue generated through the application of approved (state and federal) tariffs. The allocation "on system" O&M expense composite is in reference to the expense associated with the "on system" retail revenue.

REVENUE

Q. Please explain the revenue adjustments you are sponsoring.

A. Income Statement adjustments S-1.1, S-4.2, S-4.1 and S-1.3, respectively, eliminate unbilled revenue, revenue received from the sale of emission credits and city franchise tax recorded during the test year ending December 31, 2005 in order to restate revenue on an as-billed tariff basis.

Q. Why was the adjustment to unbilled revenue necessary?

A. Unbilled revenue is an estimate recorded on the books of the Company to restate revenue from an as-billed basis to a calendar year basis for financial statements purposes. The Staff's adjustment S-1.1 adjusts the test year as-billed revenue to reflect normal weather and a 365-day year. Because Staff's calculation reflects a full 365-day-year of revenue, the test year recorded unbilled revenue must be eliminated or the adjusted level of revenue will reflect something other than a full year.

Q. Why was adjustment S-1.4 made to eliminate city franchise tax?

A. City franchise tax, often referred to as gross receipts tax (GRT), is not a revenue source designed to be collected through the application of a Commission-approved tariff. It is a tax imposed by a municipality that the Company is obligated to collect and remit to the municipality. Although there is no impact on earnings related to the city franchise tax (because the resulting revenue recorded by the

Company is offset by a corresponding charge to expense), Staff's revenue requirement should only reflect the revenue that will be generated through the application of approved Commission tariffs and be void of any impact related to non-tariff revenue such as city franchise tax.

Q. Please explain adjustment S-1.2 for customer growth.

A. Adjustment S-1.2 annualizes revenue to reflect customer growth for customers served under the Company tariff sheets for Residential Service - Schedule RG, Commercial Service – Schedule CB, Small Heating Service – Schedule SH, General Power Service – Schedule GP and Total Electric Building Service – Schedule TEB.

Q. How did you calculate your revenue growth adjustment for the customers served under the aforementioned tariffs?

A. The calculation of growth for each customer tariff class used the same methodology. The test year average annual as-billed weather-normalized revenue per customer for each tariff class was multiplied by the number of customers in the respective tariff class at March 31, 2006, the effective date of the tariff. The difference between the product of this calculation and the test year annual as-billed weather-normalized revenue is the adjustment for customer growth for that tariff class. Adjustment S-1.2 reflects the summary of the growth adjustments made for the tariff schedules RG, CB, SH, GP and TEB. The annual as-billed weather-normalized revenue for each tariff class was provided by Staff witness Curtis Wells of the Commissions Energy Department.

Q. How was the test year average annual as-billed weather-normalized revenue per customer calculated?

A. Each tariff class the weather-normalized revenue for each month, provided by Staff witness Janice Pyatte of the Commissions Energy Department, was divided by the average number of customers for the respective month. The test year annual average weather-normalized revenue per customer is the sum of the average weather-normalized revenue per customer calculated for each month of the test year. The average number of customers each month was the sum of the number of customers at the beginning of the month and the number of customers at the end of the month divided by two.

Q. Did the Staff make any adjustments to revenue for any of the other state jurisdictions besides Missouri?

A. No adjustment has been made to revenue for other state jurisdictions. However, a calculation using the same methodology referenced above to calculate revenue was performed to determine the impact of customer growth on the level of kWh sales in Missouri and other state jurisdictions. The impact of growth on kWh sales in Missouri and the other jurisdictions was provided to Staff witness David W. Elliott of the Commissions Energy Department, for inclusion in the fuel model to calculate the annualized level of fuel cost.

Q. Are the test year kWh sales for the large commercial and industrial classes typically adjusted to reflect normal weather?

A. No. The loads for large commercial and/or industrial customers are not considered weather sensitive and, therefore, no attempt is made to adjust for weather impacts.

Q. How does the Staff typically annualize large volume customer rate classes?

A. The Staff annualizes large volume customer rate classes based on a review of monthly consumption for each customer during the test year and update period.

Large customers require detailed study rather than generalized (average usage) adjustment for several reasons. When EDE adds a new large customer, that customer's usage is not reasonably estimated by simple reference to average usage levels for all other industrial customers. New large customers may have initially erratic load levels until stable patterns of demand are established. Other factors such as expansions, outages for unscheduled maintenance and market forces may play a role in unusual load fluctuations occurring in the test year. Specific analysis of individual large customers is required to deal with these concerns.

Q. Which Staff member will be sponsoring the adjustment relating to large customer annualizations?

A. This adjustment will be included in the testimony of Staff witness Wells.

Q. Please explain Adjustment S-1.3.

A. The purpose of this adjustment is to eliminate the revenue, collected during the test year, associated with the Company's Interim Energy Charge (IEC). This adjustment is further discussed in the direct testimony of the Staff Auditing witness Mark L. Oligschlaeger, of the Commissions Auditing Department.

Q. Has the Staff reviewed EDE's Other Revenues category?

A. Yes, the Staff has completed a review of the EDE's Other Revenues. These revenues include forfeited discounts and rents from property. The analysis of the Other Revenues included a review of these revenue levels over the last five years and through the update period. Based upon the Staff's review, the test year Other Revenues levels are representative of an annualized level of revenue for each respective category and, therefore, does not require an adjustment.

Q. Do you have any comment about any other revenue item?

A. Yes. The Staff has included the revenue from the sale of emission credits above-the-line in the Staff's Income Statement, Accounting Schedule 9. In accordance with the Clean Air Act Title IV regulations, the United States Environmental Protection Agency (EPA) must deduct two percent of each year's emission allowance allocation for Empire and other utility companies and put them up for auction. The proceeds from the auction of the emission credits are then remitted back to the owner of the emission credit allowance. The revenue included by the Staff of $139,000 in the Income Statement is Empire's 2005 proceeds from the EPA from the sale of the auctioned emission credit allowances is reflected by adjustment S-5.1.

Q. Is this treatment consistent with the Staff's treatment of emission credits in previous Empire cases?

A. Yes, it is.

UNCOLLECTIBLE EXPENSE

Q. Is the Staff proposing any adjustment to uncollectible expense?

A. No. Based on the Staff's review of the Company's expense accrual for uncollectible accounts and the history of actual accounts written off, before and during the test year, the Staff determined an adjustment to test year uncollectible expense was not warranted.

PENSION EXPENSE – FAS 87 and OPEB's EXPENSE – FAS 106

Q. What are Statement of Financial Accounting Standard (FAS) 87 and FAS 106?

A. FAS 87, *Employers' Accounting for Pensions*, and FAS 106, *Employers' Accounting for Postretirement Benefits (OPEBs) Other than Pensions,* are the Financial Accounting Standards Board (FASB) approved accrual accounting methods for financial statement recognition of annual pension cost and OPEBs over the service life of employees. Use of FAS 87 and FAS 106 accrual accounting methods is required under Generally Accepted Accounting Principles (GAAP) for financial reporting purposes. The assumptions used in the calculation of FAS 87 and FAS 106 are similar in many respects.

Q. On what basis is pension expense (FAS 87) reflected in the Company's rates?

A. The current treatment of pension expense is a direct reflection of the Stipulation And Agreement, approved by the Commission, from the Company's last general rate case, Case No. ER-2004-0570. This document contained provisions intended to ensure that the amount collected in rates by Empire was based on the FAS 87 cost recognized by the Company for financial reporting purposes.

Q. Under that Stipulation and Agreement how has EDE ensured that its FAS 87 costs are recovered through rates?

A. The Stipulation and Agreement in Case No. ER-2004-0570 at line 6 of Appendix A states:

> A regulatory asset or liability will be established on the Company's books to track the difference between the level of FAS 87 expense during the rate period and the level of pension expense built into

> rates for that period. If the FAS 87 expense during the period is more than the expense built into rates for the period, the Company will establish a regulatory asset. If the FAS 87 expense during the period is less than the expense built into rates for the period, the Company will establish a regulatory liability. If the FAS 87 expense becomes negative, a regulatory liability equal to the difference between the level of pension expense built into rates for that period and $0 will be established. Since this is a cash item, the regulatory asset or liability will be included in rate base and amortized over 5 years at the next rate case.

Attached to this testimony as Schedule 2 is Appendix A to the Stipulation And Agreement from Case No. ER-2004-0570.

Q. How does the Company's FAS 87 expense allowed in rates in the prior case compare to the ongoing level in the test year for this item?

A. The FAS 87 expense allowed in rates in the prior case was $4,057,810, (total Company-Electric) and the expense level during the test year was $6,241,323 (total Company-Electric). Since new rates from EDE's last rate proceeding did not go into effect until late March 2005, the Staff's tracking of this pension regulatory asset assumes a beginning point of April 1, 2005. Accordingly the Staff took three-fourths of the difference between the two numbers cited above, and placed that result in rate base as regulatory asset. After taking into account the O&M expense factor of 72.56% the amount is $1,041,178.

Q. Please explain adjustment S-85.3.

A. Adjustment S-85.3 is the annual amortization expense related to the FAS 87 regulatory asset previously discussed. This expense was calculated by taking the test year amount of FAS 87 pension expense, and deducting the amount included in rates for pension expense as directed in the prior case. The result has the appropriate expense and jurisdictional allocation factors applied and the difference is then subject to a five-year amortization to expense. This amortization of $208,236 has been allowed in expense in this case.

Q. Did the Company make a contribution to its pension trust fund during the test year?

A. Yes, the Company made an $11,500,000 (total Company) contribution to the plan late in 2005.

Q. Why did the Company make this contribution?

A. Per the Company's response to Staff Data Request No. 254, the Company's actuary recommended that a contribution in this amount be made because otherwise Empire's Accumulated Benefit Obligation pension amount would exceed the fair value of its pension plan assets. When this situation occurs, FAS 87 requires that a "minimum pension liability" be recorded by the Company, and a corresponding charge to "other comprehensive income" be made. The Stipulation And Agreement from Case No. ER-2004-0570 gave the Company the option of making this additional funding and receiving appropriate rate treatment in order to avoid this charge to other comprehensive income.

Q. What rate treatment is the Staff recommending for this additional contribution?

A. The Staff is recommending that the Company establish a separate regulatory asset to allow EDE the recovery of this additional funding. This regulatory asset, after applying appropriate expense and jurisdictional allocation factors, was placed in Accounting Schedule 2, Rate Base, in the amount of $7,311,488. The Staff is proposing to amortize this amount over five years, and Staff has included $1,462,298 as an expense in this case, represented by Adjustment S-85.4.

Q. Is the Staff proposing an adjustment to Empire's test year pension expense?

A. Yes. The Staff proposes applying the Empire actuary's assumed long-term rate of return of 8.50%, as stated in the Company's 2005 actuarial report, to the additional Missouri jurisdictional contribution made in the test year of $7.3 million, and reducing the test year expense by that amount of additional income available to the Company through its pension fund contribution. This treatment is appropriate as Missouri electric ratepayers will provide a return of and on the $7.3 million pension fund contribution amount, and deserve recognition of the current benefit such additional funding will have on reducing Empire's pension expense below the level that it would otherwise incur absent the contribution. The Staff is proposing a reduction to the Company's test year pension expense of $124,295 through this adjustment.

Q. Please explain the adjustment you are sponsoring to test year Other Post-Employment Benefits (OPEBs) expense.

A. Adjustment S-85.1 adjusts OPEB expense based on Financial Accounting Standard 106 (FAS 106).

Q. Why has the Staff based its adjustment on FAS 106?

A. The Commission is required by Missouri Law, Section 386.315, RSMo, passed in 1994, to allow rate recovery of OPEB expense as calculated under FAS 106 for ratemaking purposes. This statute also requires the use of an independent external funding mechanism for amounts collected in rates for this item.

Q. How has the Staff determined OPEBs expense in this case?

A. The Staff's FAS 106 expense amount is based on the use of the market related value of assets and a five-year amortization of the five-year average balance of unrecognized gains and losses. The use of market related value was adopted for ratemaking purposes in Empire's last rate case, Case No. ER-2005-0570 and a five-year amortization of the five-year average balance of unrecognized gains and losses have been used since Case No. ER-2001-299.

PREPAID PENSION ASSET

Q. What is a prepaid pension asset?

A. A prepaid pension asset is a "paper" asset that was created when expense recorded on the books in past years, based on the FAS 87 accrual method, was less than the actual cash contributions made at that time to the pension fund. In the case of Empire, FAS 87 expense for a number of years in the 1990s and early years of this decade was negative. So, although cash contributions have been zero, an asset is still reflected on its books because of the negative expense accrual.

Q. What ratemaking treatment for the prepaid pension asset is the Staff recommending?

A. As required by Stipulation And Agreement in Empire's last rate Case No. ER-2004-0570, the Staff is recommending that the balance of the prepaid pension asset as of December 31, 2005, be included in rate base. The prepaid pension asset is identified on Accounting Schedule 2 in the amount of $6,775,336 as of December 31, 2005.

Q. How did the Staff determine the prepaid pension asset balance it included in Accounting Schedule 2, Rate Base?

A. The balance of the prepaid pension asset was agreed upon as a result of Case No. ER-2004-0570, and reported on the books of the Company. Empire reduced the test year beginning balance of $13,973,827 by the amount of total FAS 87 expense, $6,241, 323, booked to electric operations as required by the Stipulation And Agreement in Case No. ER-2004-0570. The Staff then allocated the electric component of the adjusted prepaid pension asset to Missouri based on the composite “on system” O&M factor of 72.56%. The Staff then allocated this adjusted prepaid pension asset balance to Empire’s electric operations based on the test year electric operations as a percentage of total Company operations. The factor used for this allocation was 87.6215%.

Q. Does this conclude your direct testimony?

A. Yes, it does.

CASE PROCEEDING PARTICIPATION

DANA E. EAVES

PARTICIPATION		TESTIMONY
COMPANY	**CASE NO.**	**ISSUES**
Missouri Gas Energy (Gas)	GR-2004-0209	Direct – Cash Working Capital, Payroll, Payroll Taxes, Incentive Compensation, Bonuses, Materials and Supplies, Customer Deposits and Interest, Customer Advances and Employee Benefits Surrebuttal – Incentive Compensation
Aquila, Inc. d/b/a Aquila Networks-MPS (Electric)	ER-2004-0034	Direct - Payroll Expense, Employee Benefits, Payroll Taxes Rebuttal – Payroll Expense, Incentive Compensation, Employer Health, Dental and Vision Expense
Aquila, Inc. d/b/a Aquila Networks-L&P (Electric & Steam)	HR-2004-0024	Direct - Payroll Expense, Employee Benefits, Payroll Taxes
Aquila, Inc. d/b/a Aquila Networks-MPS & L&P (Natural Gas)	GR-2004-0072	Direct - Payroll Expense, Employee Benefits, Payroll Taxes Rebuttal – Payroll Expense, Incentive Compensation, Employer Health, Dental and Vision Expense
Osage Water Company	ST-2003-0562 WT-2003-0563	Direct - Plant Adjustment, Operating & Maintenance Expense Adjustments
Empire District Electric Company, The	ER-2002-0424	Direct - Cash Working Capital, Property Tax, Tree Trimming, Injuries and Damages, Outside Services, Misc. Adjustments
Citizens Electric Corporation	ER-2002-0297	Direct - Depreciation Expense, Accumulated Depreciation, Customer Deposits, Material & Supplies, Prepayments, Property Tax, Plant in Service, Customer Advances in Aid of Construction
UtiliCorp United Inc, d/b/a Missouri Public Service	ER-2001-672	Direct - Advertising, Customer Advances, Customer Deposits, Customer Deposit Interest Expense, Dues and Donations, Material and Supply, Prepayments, PSC Assessment, Rate Case Expense

Appendix A

The intent of this settlement is to:

A. ensure that the Company recovers the amount of the "prior prepaid pension asset" per the Stipulation and Agreement from the Company's last rate case, Case No. ER-2002-424, and to include this "prior prepaid pension asset" in rate base; and

B. ensure that the amount collected in rates is based on the FAS 87 cost recognized by the Company for financial reporting purposes, using the methodology described below in item 2; and

C. ensure that, once the amount in A has been collected in rates by the Company, all pension cost collected in rates is contributed to the pension trust; and

D. ensure that all amounts contributed by the Company to the pension trust per items 3 and 5 below are recoverable in rates; and

E. ensure that the Company will receive no more or less than the amount in A before the Company is required to fund the plan.

To accomplish these goals, the following items are agreed upon as part of this settlement:

1. The Company's FAS 87 cost will be recognized in rates and for financial reporting purposes.

2. FAS 87 cost will be calculated based on the following methodology:

   a. Market Related Value for asset determination, smoothing all asset gains and losses that occur on and after January 1, 2004.

   b. No 10% Corridor

   c. Amortization period of 10 years for unrecognized gains and losses. (With a 5 year MRV amortization - all gains/losses are reflected in 15 years.)

3) Any FAS 87 amount (as calculated above) which exceeds the Minimum ERISA contribution will reduce the prior prepaid asset currently recognized in rate base. When the prior prepaid pension asset currently recognized in rate base is reduced to zero, any amount of FAS 87 (as calculated above) which exceeds the minimum ERISA level must be funded.

4) In the case that FAS 87 expense becomes negative, the Company is ordered to set up a regulatory liability to offset the negative expense. In future years, when FAS 87 expense becomes positive again, rates will remain zero until the prepaid pension asset that was created by negative expense is reduced to zero. The regulatory

liability will be reduced at the same rate as the prepaid pension asset. This regulatory liability is a non-cash item and should be excluded from rate base in future years.

5) The Company will be allowed rate recovery for contributions made to the pension trust in excess of the FAS 87 expense for the following reasons: the minimum required contribution is greater than the FAS 87 expense level, avoidance of PBGC variable premiums, and avoidance of write-off of an existing prepaid pension asset (i.e. charge to other comprehensive income).

6) A regulatory asset or liability will be established on the Company's books to track the difference between the level of FAS 87 expense during the rate period and the level of pension expense built into rates for that period. If the FAS 87 expense during the period is more than the expense built into rates for the period, the Company will establish a regulatory asset. If the FAS 87 expense during the period is less than the expense built into rates for the period, the Company will establish a regulatory liability. If the FAS 87 expense becomes negative, a regulatory liability equal to the difference between the level of pension expense built into rates for that period and $0 will be established. Since this is a cash item, the regulatory asset or liability will be included in rate base and amortized over 5 years at the next rate case.

7) Any prepaid pension asset other than the amount accumulated from August 15, 1994 through December 1, 2002, currently being amortized, will not be included in rate base in any future case. The regulatory assets/liabilities identified in this settlement will address the inclusion of any rate base amounts.