Exhibit No.:	______________
Issue(s):	Other
Witness/Type of Exhibit:	Robinett/Surrebuttal
Sponsoring Party:	Public Counsel
Case No.:	EO-2018-0092

SURREBUTTAL TESTIMONY

OF

JOHN A. ROBINETT

Submitted on Behalf of the Office of the Public Counsel

EMPIRE DISTRICT ELECTRIC COMPANY

CASE NO. EO-2018-0092

** **

Denotes Confidential Information that has been redacted

March 13, 2018

PUBLIC VERSION

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

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

AFFIDAVIT OF JOHN A. ROBINETT

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

John A. Robinett, of lawful age and being first duly sworn, deposes and states:

1. My name is John A. Robinett. I am a Utility Engineering Specialist for the Office of the Public Counsel.

2. Attached hereto and made a part hereof for all purposes is my surrebuttal testimony.

3. I hereby swear and affirm that my statements contained in the attached testimony are true and correct to the best of my knowledge and belief.

John A. Robinett
John A. Robinett
Utility Engineering Specialist

Subscribed and sworn to me this 13th day of March 2018.

NOTARY PUBLIC NOTARY SEAL STATE OF MISSOURI

JERENE A. BUCKMAN
My Commission Expires
August 23, 2021
Cole County
Commission #13754037

Jerene A. Buckman
Jerene A. Buckman
Notary Public

My Commission expires August 23, 2021.

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SURREBUTTAL TESTIMONY
OF
JOHN A. ROBINETT
THE EMPIRE DISTRICT ELECTRIC COMPANY

CASE NO. EO-2018-0092

Q. What is your name and what is your business address?

A. John A. Robinett, P.O. Box 2230, Jefferson City, Missouri 65102.

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

A. I am employed by the Missouri Office of the Public Counsel ("OPC") as a Utility Engineering Specialist.

Q. Are you the same John A. Robinett that filed rebuttal testimony on behalf of the OPC in this proceeding?

A. Yes.

Q. What is the purpose of your surrebuttal testimony?

A. I respond to the rebuttal testimony of Midwest Energy Consumers Group's ("MECG") witness Mr. Greg R. Meyer related to various uncertainties of the cost of the wind generation Empire is proposing. I respond to the rebuttal testimony of Renew Missouri, Advocates' witness Mr. James Owen related to coal ash and Asbury expenditures as well as the accounting for the remaining undepreciated plant balance of Asbury. Finally, I discuss Empire's request to book a regulatory asset for the unrecovered balance of the Asbury facility due to early retirement as discussed by Staff witness Mark L. Oligschlaeger and MECG witness Greg R. Meyer.

<u>Bid Price Uncertainty</u>

Q. Mr. Meyer discusses the responses to Empire's request for proposals ("RFP") for building wind farms at page 4 lines 12-18 of his rebuttal testimony. Has Empire reviewed the bids?

A. Yes, but to OPC knowledge Empire has not yet selected any bids or awarded any contracts.

Q. Are there any other uncertainties that the OPC believes the Commission should be aware of related to the bids made in response to the RFP?

A. Yes. President Trump recently proposed tariffs on steel and aluminum imports to the United States. This adds an uncertainty regarding the cost of the wind turbines and, therefore, potentially, the costs of building the wind farms.

Q. Has the wind industry released any statements regarding the potential impacts of President Trump's proposed 25% tariff on steel imports?

A. Yes. American Wind Energy Association CEO Tom Kierman released the following Statement on March 2, 2018 after President Trump announced his proposed tariff on steel and aluminum imports:

> Steel tariffs will decrease competition and trade, ultimately making capital-intensive energy infrastructure projects more expensive by adding cost for U.S. manufacturers along the supply chain. If implemented, this trade policy would run counter to the Administration's goal of U.S. energy dominance and harm the U.S. manufacturing workers supporting the wind industry's rapid growth.[1]

Q. Did OPC asked Empire whether President Trump's proposed steel import tariff would impact its plan?

A. Yes. OPC issue data request no. 8547 to Empire on March 7, 2018, seeking detail on the impact of the proposed 25% tariff on steel imports on the bids received for the wind project. Empire's responses to the data request are due by March 19, 2018. At this time OPC is waiting on Empire's responses.

Q. Has OPC reviewed Empire's RFP and the bids Empire received in response to it?

A. Yes. OPC reviewed the bids Empire received for the wind projects at Empire's attorney's office. OPC is concerned that the steel tariff may affect the bids to build the wind project.

Q. Why?

A. Empire's RFP includes the following terms:

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[1] www.awea.org/steeltriffs

**[2]

In its review of the bids received, OPC could not discern whether this 25% tariff on steel imports was or was not contemplated by the bidders when they submitted their offers. Heightened by comments from the American Wind Energy Association discussing cost increases in the supply chain, OPC is concerned that prices could rise above Empire's initial estimate of the costs of the wind generation and reduce Empire's estimated benefit of its plan.

Q. When will OPC know who Empire selects as the winning bidder(s) for building Empire's wind project?

A. OPC does not know, but according to the RFP that is provided as Attachment TNW-1 to the direct testimony Empire witness Mr. Timothy N. Wilson:

**

**[3]

Q. Is Empire asking the Commission to approve its plan ** **?

A. Yes, it is. Not only will the Commission ** **.

<u>**Environmental Cost Uncertainty**</u>

Q. Mr. Owen from Renew Missouri Advocates includes a table at page 7 of his rebuttal testimony which provides the avoided costs related to Empire's Asbury facility that

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[2] Direct Testimony of Empire Witness Timothy N, Wilson, Attachment TNW-1, Page 21 of 24.
[3] Direct Testimony of Empire Witness Timothy N, Wilson, Attachment TNW-1, Page 20 of 24.

Empire provided in response to Sierra Club data request 1-03. Does that table depict Empire's avoided environmental costs for Asbury?

A. Yes, in part. As described by Mr. Owen, Empire provided Sierra Club with the following table of budgeted costs that it would incur to comply with the coal combustion residual rule:

Table 1: Response to Sierra Club data request 1-03

Budget	Scope	2018	2019	2020	2021
PA0034	Ash Landfill	5,783,000			
PA0035	Ash Conveyance System	13,018,000			
PA0038R	Ash Impoundment Closure (Retirement Dollars)	5,102,000			12,810,000

Budget items PA0034 and PA0035 are costs that Empire would not incur if Empire retires the Asbury facility in April of 2019 as described in its proposal in this case. Budget item PA0034 is the construction of a new ash landfill cell while PA0035 is a dry ash conveyance system for the new landfill.

Q. Will Empire incur any of the costs in the above table regardless of whether or not Empire retires Asbury in 2019?

A. Yes. Budget item PA0038R is the closure of the existing ash impoundment that Empire must perform whether or not Empire retires Asbury in 2019.

Q. Did Empire include all three of these budget items in its cost study as potential savings if it retires Asbury in 2019?

A. It is unclear. Empire witnesses Mertens and McMahon both discuss the potential savings of $20 million to $30 million from avoiding environmental compliance costs by retiring Asbury; however, budget items PA0034 and PA0035 fall short of the estimates provided by both Empire witnesses for avoided capital costs at Asbury.

Q. Is the Environmental Protection Agency ("EPA") reviewing its coal combustion residual ("CCR") rule?

A. Yes. In fact the EPA issued the first of two proposals for revising the 2015 rule on March 1, 2018. In its press release regarding this proposed rule, EPA Administrator Scott Pruitt stated the following: "Today's coal ash proposal embodies EPA's commitment to our state partners by providing them with the ability to incorporate flexibilities into their coal ash permit programs based on the needs of their states."[4]

EPA estimates this proposed rule would save the regulated community between $31 million and $100 million per year. The proposed rule revision includes more than a dozen changes to the 2015 final CCR rule, which established minimum national standards regulating the location, design, and operation of existing and new CCR landfills and surface impoundments at more than 400 coal-fired power plants nationwide.

The proposal includes:

- A change to allow a state regulatory program to establish alternative risk-based groundwater protection standards for constituents that do not have an established maximum contaminant level (MCL), rather than the use of background levels, as are currently required. The proposal also requests public comment on whether a facility may be allowed to establish alternative risk-based standards using a certified professional engineer or other means, subject to EPA oversight.
- A request for comment on whether the current deadlines for groundwater monitoring and analysis remain appropriate in light of the new legal authorities and potential regulatory changes.
- A request for public comment on modifying the location restrictions and associated deadlines concerning construction or operation of a CCR landfill or surface impoundment in certain areas.
- Changes to allow states to establish alternative requirements for how facilities respond to and remediate releases from CCR landfills and surface impoundments.

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[4] https://www.epa.gov/newsreleases/epa-proposes-first-two-rules-amend-coal-ash-disposal-regulations-saving-100m-year.

- Comment on allowing states to determine when an unlined surface impoundment that is leaking may undertake corrective action rather than be forced to stop receiving CCR and close.
- The addition of boron to the list of constituents for which facilities would need to perform assessment monitoring.
- Streamlined administrative procedures that a facility may comply with if there is a non-groundwater release that can be addressed within 180 days. EPA also requests comment on whether this time period is appropriate.
- Modification of the performance standard for vegetative slope protection to protect against erosion and failure of a surface impoundment.
- A change to the closure provisions to allow the use of coal ash during the closure process and to allow non-CCR waste to continue to be placed in a CCR surface impoundment that is subject to closure.[5]

Q. Does it matter that the EPA is reviewing its coal combustion residual rules and making proposals that may place compliance criteria under the control of states?

A. Yes. The EPA provided in its statement regarding the first of two proposals related to its coal combustion residual rule that it could "save the utility sector up to $100 million per year in compliance costs." If control of coal combustion residuals is given to states, the costs for compliance may decline due and there may be an extension of the time for utilities to comply.

Q. What does this recently EPA released proposal related to the CCR mean for Empire's plan?

A. Empire may have overstated its environmental compliance costs. If Empire's environmental compliance costs decrease or the date by which Empire must comply is extended, then the "potential savings" Empire claimed in its direct case would diminish.

<u>Asbury Regulatory Asset</u>

Q. What is Staff's position on the creation of a regulatory asset for Empire's proposed premature retirement of Asbury?

[5] https://www.epa.gov/newsreleases/epa-proposes-first-two-rules-amend-coal-ash-disposal-regulations-saving-100m-year

A. Staff witness Mark L. Oligschlaeger states at page 7 lines12-15 of his rebuttal testimony that:

> Staff is not opposed to Empire's request for creation of an Asbury regulatory asset in the event that asset is retired within the timeframe assumed in this application (i.e., 2019). However, this position is contingent on several conditions proposed by Staff, which will be discussed later in this testimony.

Mr. Oligschlaeger continued by saying:

> As is discussed in the rebuttal testimony of other Staff witnesses, Staff has serious reservations regarding Empire's overall plan of action advocated in this proceeding regarding its future generating resources. Notwithstanding these reservations, creation of a regulatory asset upon Asbury's retirement would allow the Commission more flexibility to review various options for direct or indirect ratemaking treatment of the remaining investment in Asbury that may be offered by Empire, Staff, or other parties in Empire's next general rate proceeding following the retirement. Also, approval of Empire's requested regulatory asset accounting for Asbury's unrecovered investment would better ensure that Empire's ratepayers continue to receive appropriate credit for any recovery in rates of a return of and on Asbury provided to Empire after the asset is retired but prior to Empire's next Missouri general rate proceeding.[6]

Q. Does OPC share Staff's position?

A. No.

Q. Why not?

A. In 2014 in Case No. ER-2014-0351, Empire asked the Commission, and was granted recovery from customers of approximately $124 million Empire incurred to install an air quality control system at Asbury to comply with environmental requirements to allow Empire to keep running Asbury. As part of that case the projected useful life of Asbury was extended by five years from 2030 to 2035, with minor investments expected after 2014 to achieve the 2035 projected retirement date.

Now <u>less than three years later</u> Empire is proposing to retire Asbury as early as the end of 2018, as discussed in Empire's generation fleet savings analysis. Empire is seeking

[6] Rebuttal Testimony of Staff Witness Mark L. Oligschlaeger, page 7 line 18 through page 8 line 5.

regulatory treatment that requires Empire's retail customers to continue to pay for Asbury after they will no longer be receiving any benefit or power from Asbury. Those customers have been paying for improvements to Asbury made in 2014 that Empire recently promised its customers and the Commission would be providing those customers with electrical energy and capacity until 2035, with minor future investments. It would be imprudent for Empire's customers to pay a return of and on for a facility they will no longer be receiving a benefit from and that is no longer fully operational and used for service, and which is no longer used and useful.

Q. Are there any additional reasons?

A. Yes as I discussed in my rebuttal testimony, along with the addition of the AQCS equipment in 2014, Empire also upgraded the Asbury turbine which improved the efficiency of the plant. As part of its last Fuel Adjustment Clause prudence review of Empire (Case No. EO-2017-0065), OPC asked in its data request No. 8503 for an explanation of the experienced monthly heat rate decline at Asbury since the AQCS system came into service in 2014. Empire provided the following narrative:

> Monthly heat rates at Asbury have decreased since the addition of the AQCS because of other projects that were completed concurrently to the AQCS equipment, such as a turbine upgrade, boiler balanced draft conversion and cooling tower fill replacement.
>
> The turbine upgrade involved replacing the rotors and inner cylinders of both the high pressure and low pressure turbines. Redesigned blading and steam path improvements allow the turbine to produce more energy with the same steam flow as the original turbine. The increase in output more than offset the increases in auxiliary load from the AQCS, resulting in a permanent decrease in heat rate.
>
> As a result of the addition of the AQCS, it was necessary to convert the boiler at Asbury from forced draft to balanced draft operation. During the conversion, new, smaller rotors were installed in the forced draft fans, reducing their energy consumption. Also, the balanced draft conversion included a large number of modifications to the boiler structure, which required the entire boiler to be stripped of insulation. During reinstallation of the insulation, an additional inch of insulation was installed, reducing heat losses from the boiler.

> Finally, the fill material in the cooling tower was replaced. Over time, cooling tower fill becomes restricted or plugged with sediment and biological growth. Replacing the fill in the cooling tower improved water-to-air contact in the tower, lowering cooling water temperatures and condenser backpressure, which also improves turbine efficiency.[7]
>
> The addition of AQCS equipment alone traditionally decreases a generating unit's efficiency; however, in addition to the AQCS project Empire performed other projects that not only improved efficiency enough to cover efficiency losses for the AQCS but improved Asbury's efficiency to the most efficient level since Empire was granted a fuel adjustment clause.[8]

Q. Is OPC aware of any other jurisdictions that have addressed Empire's proposal to prematurely retire Asbury and create a regulatory asset to allow Empire to fully recover both a return of and a return on Empire's investment in Asbury?

A. Yes. Kansas' Citizens' Utility Ratepayer Board ("CURB") utilized an outside consultant from The Columbia Group, Inc., Ms. Andrea C. Crane, in Kansas Commerce Commission ("KCC") Docket No. 18-EPDE-184-PRE. Ms. Crane addresses concerns and recommendations similar to OPC's related to Empire's proposal for this proposed regulatory asset for Asbury.

Q. What is CURB recommending to the KCC?

A. CURB recommends that the KCC deny Empire's request to establish a regulatory asset for Asbury.

Q. Why?

A. CURB cited 3 essential reasons for denial.

> [First,] Utility rates should reflect only those costs that are necessary for the provision of safe and reliable utility service. … Second, the Company's proposal to recover a return of, as well as return on, the Asbury facility is an attempt to shift risk from shareholders to ratepayers. … Third, much of the stranded cost relates to investment in Asbury undertaken over the past few years.[9]

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[7] Empire Response to OPC data request 8503 in Case No. EO-2017-0065.
[8] See Rebuttal Testimony of OPC witness John A. Robinett in Case No., page 7 confidential heat rate graph
[9] KCC Docket No. 18-EPDE-184-PRE, Direct Testimony of Andrea C. Crane on Behalf of The Citizens' Utility Ratepayer Board, page 31.

Q. Does OPC recommend that the Commission approve Empire's plan to retire Asbury in 2019 and create a regulatory asset that would allow Empire to fully recover both a return of and return on its investment in Asbury?

A. No. Retirement of Asbury is not in Empire's customers' best interests, and it would be imprudent for Empire to retire the facility. Empire's customers are being asked to pay for Asbury whether or not it continues to operate. Ratepayers should not be asked to foot the bill for what Empire has not collected from them through rates for its investment in Asbury. If Empire retires Asbury in 2019, Empire's customers would not be receiving the benefit of Asbury operating through 2035 after they just started paying for the completion of an approximately $124 million dollar construction of an Air Quality Control System in 2014 and other upgrades to improve the efficiency of the plant which is a substantial part of the current Asbury net book value of approximately $212 Million as of December 31, 2017.

Q. Does this conclude your surrebuttal testimony?

A. Yes, it does.