Exhibit No.:
Issue(s): *Report on Revenue Requirement Direct Filing; Overview of Staff's Filing; Current and Deferred Income Tax; ADIT; Rate Case Expense Sharing*
Witness: *Keith D. Foster*
Sponsoring Party: *MoPSC Staff*
Type of Exhibit: *Direct Testimony*
Case No.: *GR-2021-0320*
Date Testimony Prepared: *January 24, 2022*

MISSOURI PUBLIC SERVICE COMMISSION

FINANCIAL & BUSINESS ANALYSIS DIVISION

AUDITING DEPARTMENT

DIRECT TESTIMONY

OF

KEITH D. FOSTER

THE EMPIRE DISTRICT GAS COMPANY, d/b/a LIBERTY (EMPIRE)

CASE NO. GR-2021-0320

Jefferson City, Missouri
January 2022

TABLE OF CONTENTS OF

DIRECT TESTIMONY OF

KEITH D. FOSTER

THE EMPIRE DISTRICT GAS COMPANY, d/b/a Liberty (Empire)

CASE NO. GR-2021-0320

DIRECT TESTIMONY

OF

KEITH D. FOSTER

THE EMPIRE DISTRICT GAS COMPANY,
d/b/a Liberty (Empire)

CASE NO. GR-2021-0320

Q. Please state your name and business address.

A. Keith D. Foster, 200 Madison Street, Suite 440, Jefferson City, MO 65101.

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

A. I am a Utility Regulatory Audit Supervisor for the Missouri Public Service Commission ("Commission").

Q. Please describe your educational background and work experience.

A. I have been employed by the Commission since January 2008. After a 27-year career in the Information Systems (IS) industry, I returned to college and earned a Bachelor of Science degree in Business Administration, major in Accounting from Columbia College. I graduated summa cum laude in October 2007.

Q. Have you previously filed testimony before the Commission?

A. Yes, numerous times. Please refer to Schedule KDF-d1, attached to this Direct Testimony, for a list of the audits in which I have assisted and filed testimony with the Commission.

Q. What knowledge, skills, experience, training and education do you have in the areas of which you are testifying as an expert witness?

A. I have received continuous training at in-house and outside seminars on technical ratemaking matters since I began my employment at the Commission. I have been employed by this Commission as a Regulatory Auditor for 14 years, and have submitted testimony on ratemaking matters numerous times before the Commission. I have performed and led rate audits and prepared miscellaneous filings as ordered by the Commission. In addition, I reviewed all exhibits and testimony on assigned issues, developed accounting adjustments, and issued positions which are supported by workpapers and written testimony. For cases that did not require prepared testimony, I prepared Staff Recommendation Memorandums. I have also been responsible for the supervision of other Commission employees in rate cases and other regulatory proceedings.

EXECUTIVE SUMMARY

Q. Please summarize your direct testimony in this proceeding.

A. I am sponsoring Staff's Direct Accounting Schedules in this proceeding. I also provide in this direct testimony an overview of Staff's revenue requirement determination. Staff has conducted a review of all the components (capital structure, return on rate base, rate base, operating revenues, and operating expenses) that determine The Empire District Gas Company's ("Empire") revenue requirement. In addition, I address Staff's positions on the issues of Current and Deferred Income Tax, Accumulated Deferred Income Tax (ADIT), and rate case expense cost sharing.

REVENUE REQUIREMENT DIRECT TESTIMONY

Q. Please briefly describe the direct testimony Staff has filed for this rate case.

A. Each Commission Staff's Direct Testimony is organized by the issues she or he are sponsoring providing an explanation or description of each specific area and Staff' adjustments to the test year ending December 31, 2020. The following table lists each

Commission Staff witness and the issues they are sponsoring and discussing in their respective Direct Testimony:

Staff Witness	Issues Sponsored
Bolin, Kimberly K.	Excess Accumulated Deferred Income Taxes (ADIT); Future Tax Tracker
Boustead, Kory J.	Energy Efficiency Programs; Low-Income Programs
Buttig, David T.	Depreciation
Glasgow, Scott J.	Credit Card Fees
Horton, Courtney	Cash Working Capital; Customer Advances; Customer Deposits and Interest Expense; Dues and Donations; Lease Expense; Materials & Supplies; Outside Services; Prepayments; Gas Storage; Payroll Benefits; Payroll, Payroll Taxes, and 401(k)
King, Contessa	Customer Service
McMellen, Amanda C.	Energy Efficiency Program Amortization; Low-Income Program Amortization
McNutt, Joel	Weather Normalization; Non-Transportation Retail Revenues
Newkirk, Caroline	Incentive Compensation; Bad Debt Expense; Other Revenues/Expenses; Corporate Allocations
Niemeier, Angela	Advertising Expense; Amortization Expense; Amortization Reserve; Plant-in-Service; Common Plant Allocation; Depreciation Reserve; Credit Card Fees; Injuries and Damages & Workers' Compensation Expense; Insurance Expense; Postage Expense; Property Tax Expense; PSC Assessment; Rate Case Expense; Right-of-Way (ROW) Clearing Expense; ROW Clearing Carrying Costs Amortization
Roling, Joseph P.	Transportation Customer Classes
Sarver, Ashley	Pensions and Other Post-Employment Benefits (OPEBs); Non-Labor Operations & Maintenance Normalization; Software Maintenance Expense; Capitalized Depreciation (Depreciation Clearing); Affiliate Transactions Audit
Stahlman, Michael L.	Weather Normalization Adjustment Rider
Won, Seoung Joun	Rate of Return

Staff may have a different or additional experts/witnesses for rebuttal or surrebuttal testimony as this case proceeds.

OVERVIEW OF STAFF'S RECOMMENDED REVENUE REQUIREMENT

Q. How does one determine the revenue requirement for a regulated utility?

A. The first step is to calculate the utility's cost of service.

Q. In its audit of Empire for Case No. GR-2021-0320, has Staff examined all of the components comprising the cost of service for Empire's gas operations in Missouri?

A. Yes.

Q. What are the cost-of-service components that comprise the cost of service for a regulated, investor-owned public utility?

A. The cost of service for a regulated, investor-owned public utility can be defined by the following formula:

Cost of Service = Cost of Providing Utility Service

or

$$COS = O + (V - D)R \quad \text{where,}$$

COS = Cost of Service

O = Operating Costs (Fuel, Payroll, Maintenance, etc.), Depreciation and Taxes

V = Gross Valuation of Property Required for Providing Service (including plant and additions or subtractions of other rate base items)

D = Accumulated Depreciation Representing Recovery of Gross Depreciable Plant Investment

V – D = Rate Base (Gross Property Investment less Accumulated Depreciation = Net Property Investment)

(V – D)R = Return Allowed on Rate Base

In the past, the terms "cost of service" and "revenue requirement" have sometimes been used interchangeably. However, in this rate case, Staff will use the term "revenue requirement" to instead only refer to the utility's necessary incremental change in revenues based on measurement of the utility's current total cost of service compared to its current revenue levels under existing rates.

Q. What is the objective of an audit of a regulated, investor-owned public utility for ratemaking purposes?

A. The objective of an audit is to determine the appropriate level of the components identified in my previous answer in order to calculate the revenue requirement for such a regulated utility. All relevant factors are examined and a proper relationship of revenues, expenses, and rate base is maintained. The process for making that revenue requirement determination can be summarized as follows:

(1) Selection of a test year. The test year income statement represents the starting point for determining a utility's existing annual revenues, operating costs, and net operating income. Net operating income represents the return on investment based upon existing rates. The test year approved by this Commission for Case No. GR-2021-0320 is the twelve months ending December 31, 2020. "Annualization," "normalization," and "disallowance" adjustments are made to the test year results when the unadjusted amounts do not fairly represent the utility's most current, ongoing, and appropriate annual level of revenues and operating costs. Annualization, normalization, and disallowance adjustments are explained in more detail later in this direct testimony.

(2) Selection of a "test year update period." A proper determination of revenue requirement is dependent upon matching the rate base, return on investment, revenues, and operating costs components at the same point in time. This ratemaking principle is commonly referred to as the "matching" principle. It is a standard practice in ratemaking in Missouri to utilize a period beyond the established test year in which to match the

major components of a utility's revenue requirement. By updating test year financial results to reflect information beyond the established test year, rates can be set based upon more current information. The update period approved by this Commission for this case is September 30, 2021.

(3) Selection of a "true-up date" or "true-up period." A true-up date generally is established when a significant change in a utility's cost of service occurs after the end of the test year update period, but prior to the operation-of-law date, and the significant change in cost of service is one the parties and/or Commission has decided should be considered for cost-of-service recognition in the current case. In this proceeding, Staff's position is that a true-up period is not necessary at this time.

(4) Determination of Rate of Return. A cost-of-capital analysis must be performed to allow Empire the opportunity to earn a fair rate of return on its net investment ("rate base") used in the provision of utility service. Staff witness Seoung Joun Won, PhD, of the Commission's Financial Analysis Department, has performed a cost-of-capital analysis which he explains and provides the results of his analysis in his direct testimony.

(5) Determination of Rate Base. Rate base represents the utility's net investment used in providing utility service, on which the utility is permitted the opportunity to earn a return. For its direct filing, Staff has determined Empire's rate base as of September 30, 2021, consistent with the end of the test year update period established for this case. Other rate base components reflect the last known balance as of September 30, 2021. Rate base includes plant-in-service (plant fully operational and used for service), cash working capital, materials and supplies, prepayments, fuel inventories, accumulated reserve for depreciation, accumulated deferred income tax, etc.

(6) Net Operating Income from Existing Rates. The starting point for determining net income from existing rates is the unadjusted operating revenues, expenses, depreciation, and taxes for the test year, which is the twelve-month period ending December 31, 2020, for this case. All of the utility's specific revenue and expense categories are examined to determine whether the unadjusted test year results require adjustments in order to fairly represent the utility's most current level of operating revenues and expenses. Numerous changes occur during the course of any year that will impact a utility's annual level of operating revenues and expenses. The December 31, 2020, test year has been adjusted to reflect the Staff's determination of the appropriate ongoing levels of revenues and expenses.

(7) Determination of Net Operating Income Required. The net income required for Empire is calculated by multiplying Staff's recommended rate of return by the rate base. Net income required is then compared to net income available from existing rates discussed in Item 6 above. The difference, when factored-up for income taxes, represents the incremental change in the utility's rate revenues required to cover its operating costs and to provide a fair return on investment used in providing gas service.

If a utility's current rates are insufficient to cover its operating costs and provide a fair return on investment, the comparison of net operating income required (Rate Base x Recommended Rate of Return) to net income available from existing rates (Operating Revenue less Operating Costs, Depreciation, and Income Taxes) will result in a positive amount, which would indicate that the utility requires a rate increase. If the comparison results in a negative amount, this indicates that the utility's current rates may be excessive.

Q. Please identify the types of adjustments that are made to unadjusted test year results in order to reflect a utility's current annual level of operating revenues and expenses.

A. The types of adjustments made to reflect a utility's current annual operating revenues and expenses are:

(1) Normalization adjustments. Utility rates are intended to reflect normal ongoing operations. A normalization adjustment is required when the test year reflects the impact of an abnormal event. One example of this type of adjustment that is made in all gas rate cases is Staff's revenue adjustments to normalize weather. Actual weather conditions during the test year are compared to 30-year "normal" values. The weather normalization adjustment restates the test year sales volumes and revenue levels to reflect normal weather conditions.

(2) Annualization adjustments. Annualization adjustments are required when changes have occurred during the test year, update and/or true-up period, which are not fully reflected in the unadjusted test year results. For example, Empire's employees received a wage increase in February or March 2021. Because Empire's test year is for the twelve months ended December 31, 2020, this increase is not reflected in its test year payroll totals. As a result, in its calculation of payroll expense, Staff used payroll rates in effect at the end of the update period, September 30, 2021. An adjustment to the test year was made to capture the financial impact of the payroll increase to reflect the annualized payroll expense in effect at September 30, 2021.

(3) Disallowance adjustments. Disallowance adjustments are made to eliminate costs in the test year results that are not considered prudent, reasonable, appropriate, and/or not of benefit to Missouri ratepayers and thus not appropriate for recovery from ratepayers. An example in this case is certain executive incentive compensation costs. In Staff's view, these costs are incurred to primarily benefit shareholder interests and it is not appropriate policy to pass these costs on to customers in rates, since these costs do not benefit

ratepayers. Therefore, these costs should be eliminated from the cost of service borne by ratepayers and Staff has proposed to disallow these costs from recovery in rates. Staff witness Caroline Newkirk addresses this in her direct testimony.

(4) Pro forma adjustments. Pro forma adjustments reflect the impact of items and events that occur subsequent to the test year and test year update period. These items or events significantly impact the revenue, expense, and rate base relationship and should be recognized to address the forward-looking objective of the test year. Caution must be exercised when including pro forma adjustments in a recommended cost of service to ensure that all items and events subsequent to the test year are also examined and any appropriate offsetting adjustments are included as well. In addition, some post-test year items and events may not have occurred yet and/or may not be capable of adequate quantification at the time of the case filing. As a result, quantification of pro forma adjustments may be more difficult than the quantification of other adjustments. As a consequence, use of a true-up audit that considers a full range of auditable items and events that occur subsequent to the test year, and also attempts to address the maintenance of the proper relationship among revenues, expenses, and investment at a consistent point in time is generally a superior approach than considering stand-alone pro forma adjustments for inclusion in the cost of service. Empire included pro forma adjustments to estimate the effect of the update period (ending September 30, 2021) on its proposed revenue requirement since Empire filed its rate case before the end of that period. It is Staff's understanding that, in filing its rebuttal testimony, Empire will file an updated revenue requirement containing the actual expenses and revenues incurred through September 30, 2021.

Q. What rate increase amount, based on what return on equity (ROE) percentage, did Empire request from the Commission in this case?

A. Empire requested that its annual revenues be increased by approximately $1.36 million based on an ROE of 10.00%.

Q. Please describe Staff's direct case revenue requirement filing in this proceeding.

A. The results of Staff's audit of Empire's rate case request can be found in the Staff's filed Accounting Schedules and is summarized on Accounting Schedule 1, Revenue Requirement. This Accounting Schedule shows that Staff's recommended revenue requirement for Empire in this proceeding is $1,013,214 based upon a mid-point recommended rate of return (ROR) of 6.85%. Staff is recommending a mid-point ROE of 9.50% with a range of 9.25% to 9.75% as calculated by Staff witness Seoung Joun Won, PhD. Staff's revenue requirement at low and high is $896,987 to $1,128,579 based upon a ROR range of 6.72% to 6.99%.

Q. What items are included in the Staff's recommended rate base in this case?

A. All rate base items were determined as of the update period ending date September 30, 2021, either through a balance on Empire's books as of that date or a 13-month average balance ending on June 30, 2021. Items in the Staff's rate base include: Plant-in-Service, Accumulated Depreciation Reserve, Cash Working Capital, Materials and Supplies, Prepayments, Investment in Stored Gas, Over/Undercollected Amortizations, Customer Deposits, Unamortized Pension and OPEBs Tracking Liabilities, and the ADIT reserve.

Q. What are the significant income statement adjustments Staff made in determining Empire's revenue requirement for this case?

A. A summary of the Staff's significant income statement adjustments follows:

Operating Revenues

Retail revenues were adjusted for the elimination of Purchased Gas Adjustment (PGA) revenue, unbilled revenue and, gross receipts taxes. Revenues were also adjusted to reflect the update period and weather normalization. Other gas revenues were adjusted for large company annualization.

Operating Expenses

- Payroll, Payroll Taxes and Employee Benefit Costs
- Payroll expense annualized for all known wage increases through September 30, 2021, and changes in employee levels through September 30, 2021.
- Payroll taxes consistent with the payroll annualization.
- Incentive compensation and restricted stock awards disallowances.
- Employee benefits including pensions and OPEBs.
- Other Non-Labor Expenses.
- Rents and Leases.
- Insurance Expense.
- Property Tax Expense.
- Uncollectible Expense.
- Corporate Allocations.
- Rate case expense adjustment.
- Disallowance of certain dues and donations and miscellaneous expenses.
- Income Taxes.
- Depreciation Expense.

Q. How do the various members of Staff contribute to a combined work product?

A. All of the Staff auditors, including myself, relied on the work from numerous other Staff members in calculating a revenue requirement for Empire in this case. Weather normalized sales and the recommended rate of return are some examples of data and analysis supplied to the Auditing Department as inputs into the Staff's revenue requirement cost of-service calculation. Each Staff member who contributed in calculating Staff's revenue requirement has submitted direct testimony in this case discussing the issues for which they were assigned and her or his recommendation. Signed affidavits and the qualifications for all Staff members who are responsible for issues addressed in Staff's direct testimony in this rate proceeding are attached to each Staff member's testimony.

Q. What are the biggest differences between the rate increase request filed by Empire and the Staff revenue requirement recommendations being filed in this proceeding?

A. From the Staff's perspective, there are two primary revenue requirement differences.

- Return on Equity (ROE) and Capital Structure – Issue Value – ($1.1 million). As previously stated, Empire's return on equity recommendation is 10.00%, while the Staff has developed a mid-point recommendation of 9.50%. The difference between Empire's recommended ROE and capital structure and Staff's recommended mid-point for ROE and capital structure is approximately $1.1 million in revenue requirement, with Empire having the higher revenue requirement value.

- Amortization of Over-Accrued Depreciation Reserve – Issue Value – ($1,867,820). Empire is proposing to amortize, over seven years, approximately $13 million of accrued depreciation reserves that Empire considers over-accrued. Staff is not proposing to amortize any over-accrued depreciation reserve amounts at this time. The difference between Staff and Empire's depreciation reserve balances is $1,867,820 with Staff having the higher revenue requirement value.

There are other significant differences between Staff and Empire, based upon their respective direct filings. However, these items are less significant than the differences discussed above.

Q. Is it possible that significant differences exist between Staff's revenue requirement positions and those of other parties besides Empire in this proceeding?

A. Yes. However, the other parties are filing their prepared direct testimony, if any, concurrently with the Staff's direct filing. Until Staff has a chance to examine the direct testimony of the other parties, it is impossible for Staff to determine what differences exist and how material they may be.

Q. Please identify the Staff experts/witnesses responsible for addressing each area where there is a known and significant difference between Staff and Empire as addressed above in this direct testimony.

A. The Staff experts/witnesses for each listed issue are as follows:

Issue	**Staff Witness**
Return on Equity	Seoung Joun Won, PhD
Depreciation Reserve	David T. Buttig, PE

Q. When will the Staff be filing its customer class cost of service and rate design direct testimony and report in this proceeding?

A. Staff's customer class cost of service and rate design direct testimony and report, including schedules, will be filed on February 15, 2022.

CURRENT AND DEFERRED INCOME TAX EXPENSE

Current Income Taxes

Q. Please explain the calculation of current income tax expense in this case.

A. Current income tax for this case has been calculated by Staff consistent with the methodology used in The Empire District Electric Company's most recent rate case, Case No. ER-2021-0312. Adjustments are made to net income to compute the current income tax expense. These adjustments are effectuated by taking adjusted net income and either adding to or subtracting from the net income various timing differences to obtain net taxable income for ratemaking purposes. (The term "timing differences" refers to the differences in time when certain costs can be deducted for purposes of determining financial statement net income and taxable income, respectively.) The adjustments are the result of various financial statement ("book") and tax timing differences as well as their implementation under separate tax ratemaking methods: flow-through versus normalization. The resulting net taxable income for ratemaking is then multiplied by the appropriate federal and state tax rates to obtain the current provision for income taxes. Staff used the current federal tax rate of 21 percent and the state income tax rate of 4 (four) percent, in calculating Empire's income tax liability. The difference between the calculated current income tax provision and the per book income tax provision is the current income tax provision adjustment.

Q. What are the tax timing differences Staff used to calculate current income tax?

A. The tax timing differences used in calculating taxable income for computing current income tax are as follows:

Add Back to Operating Income Before Taxes:

Book Depreciation Expense
Non-Deductible Expense – Non-deductible meals and dues
Contributions In Aid of Construction
Book Amortization

Subtractions from Operating Income:

Interest Expense – Weighted Cost of Debt times Rate Base
Tax Depreciation – Straight-Line
Tax Depreciation – Excess

Deferred Income Taxes

Q. Please explain deferred income tax expense as it relates to this case.

A. When a tax timing difference is reflected for ratemaking purposes in the deferred tax adjustment consistent with the timing used in determining taxable income for the calculation of current income tax payable to the IRS, the timing difference is given a "flow-through" treatment.

When a current year timing difference is deferred and recognized for ratemaking purposes consistent with the timing used in calculating pre-tax operating income in the financial statements, then that timing difference is given "normalization" treatment for ratemaking purposes. Deferred income tax expense for a regulated utility reflects the tax impact of "normalizing" tax timing differences for ratemaking purposes. Current IRS rules for regulated utilities essentially require normalization treatment for the timing difference related to accelerated depreciation.

For most utilities, it is necessary to break out a utility's tax depreciation into two separate components: tax straight-line depreciation and excess tax depreciation. Tax straight-line depreciation is different from book straight-line depreciation due to the different tax basis of property allowed under the tax code. Excess tax depreciation differs from straight-line book depreciation due to the higher depreciation rates allowed in the early years of an asset's life under the current tax code as compared to "straight-line" book depreciation rates. To calculate excess tax depreciation, Staff used the total tax depreciation amount included in Empire's filing in this case. Most tax basis differences were eliminated for assets placed into service after 1986 due to the Tax Reform Act (TRA) enacted that year.

ACCUMULATED DEFERRED INCOME TAXES (ADIT)

Q. Please explain Accumulated Deferred Income Taxes (ADIT).

A. Empire's ADIT represents, in effect, a net prepayment of income taxes by customers prior to tax payment by Empire. For example, because Empire is allowed to deduct depreciation expense on an accelerated basis for income tax purposes, the amount of depreciation expense used as a deduction for income taxes purposes by Empire is considerably higher than the amount of depreciation expense used for ratemaking purposes. This results in what is referred to as a "book-tax timing difference," and creates a deferral of income tax reserves to the future. The net credit balance in the ADIT account's reserve represents a source of cost-free funds to Empire. Therefore, Empire's rate base is reduced by the ADIT balance to avoid having customers pay a return on funds that are provided cost-free to Empire. Generally, deferred income taxes associated with all book-tax timing differences created through the ratemaking process should be reflected in rate base. As it has done in prior Empire rate cases, Staff has decided to take this approach in calculating the ADIT rate base offset amount in this case.

Q. What are some of the ADIT components included in Staff's rate base offset?

A. The deferred tax impact associated with the past tax timing differences reflected in Staff's rate base offset include amounts associated with the following major components: Accelerated Depreciation, Gas Inventory Adjustment, Uncollectibles, Regulatory Liabilities and Tax Gross-up, FAS 158, Capital Lease, Contributions in Aid of Construction, and Regulatory Assets.

RATE CASE EXPENSE COST SHARING

Q. Briefly describe rate case expense.

A. Rate case expense is a sum of the incremental costs a utility incurs in preparing and filing a rate case. In the instant case, Empire has incurred expenses in conjunction with outside consultants. Staff witness Angela Niemeier addresses the issue of rate case expense in more detail in her direct testimony in his case.

Q. Does Staff recommend the sharing of rate case expense as it has previously in rate cases of other Missouri-regulated utilities?

A. Yes. Staff recommends assigning Empire's discretionary rate case expense to both ratepayers and shareholders based upon a 50/50 split over three years and a full recovery of the depreciation study over five years. This allocation was utilized by the Commission in the Spire Missouri Inc. ("Spire Missouri") rate cases, Case Nos. GR-2017-0215 and GR-2017-0216; and in the last The Empire District Electric Company rate case, Case No. ER-2019-0374.

Q. On what basis does Staff make this recommendation?

A. Staff's recommended cost sharing methodology is based on the following rationale:

1) Rate case expense sharing creates an incentive and eliminates a disincentive on the utility's part to control rate case expenses to reasonable levels.
2) Both ratepayers and shareholders benefit from the rate case process. The ratepayer is receiving the opportunity to be provided safe and adequate service at a just and reasonable rate and the shareholder is receiving an opportunity to receive an adequate return on investment.
3) It is fair and equitable to expect shareholders to carry a reasonable portion of the rate case burden.

4) There is a high probability that some recommendations advocated by utilities through the rate case process will ultimately be found by the Commission to not be in the public interest.

Q. Please expound on your previous definition of rate case expense as it relates to Staff's cost sharing recommendation.

A. Rate case expense is defined as all incremental costs incurred by a utility directly related to an application to change its general rate levels. These applications are usually initiated by the utility, but rate case expenses may also be incurred as a result of the filing of an earnings complaint case by another party. The largest amounts of rate case expenses usually consist of costs associated with use of outside witnesses, consultants, and external attorneys hired by the utility to participate in the rate case process.

Generally, utility management has a high degree of control over rate case expense. Attorneys, consultants, and other services can either be provided by in-house personnel or can be acquired from an outside party. Rate case expenses subject to a sharing mechanism do not include internal labor costs as these are included in the cost of service through the payroll annualization and are not incremental expenses resulting from the rate case process. These costs are fully paid for by ratepayers.

Q. Has the Commission addressed rate case expense sharing in any docket other than in a rate case filing?

A. Yes. In 2011, the Commission established Case No. AW-2011-0330 to investigate current rules and practices regarding recovery of rate case expense by Missouri utility companies. Both of the options of sharing rate case expense 50/50 and sharing based on the percentage ordered rate increase versus requested the rate increase sought by the utility were discussed in that report.

Q. Has the Commission ordered cost sharing of rate case expense in any other rate cases?

A. Yes. The Commission ordered a sharing of Kansas City Power & Light Company's[1] (KCPL) rate case expenses in its Report and Order in Case No. ER-2014-0370:

> The Commission finds that in order to set just and reasonable rates under the facts of this case, the Commission will require KCPL shareholders to cover a portion of KCPL's rate case expense. One method to encourage KCPL to limit its rate case expenditures would be to link KCPL's percentage recovery of rate case expense to the percentage of its rate increase request the Commission finds just and reasonable. The Commission determines that this approach would directly link KCPL's recovery of rate case expense to both the reasonableness of its issue positions and the dollar value sought from customers in this rate case.
>
> The Commission concludes that KCPL should receive rate recovery of its rate case expenses in proportion to the amount of revenue requirement it is granted as a result of this Report and Order, compared to the amount of its revenue requirement rate increase originally requested. This amount should be normalized over three years. The Commission also finds that it is appropriate to require a full allocation to ratepayers of the expenses for KCPL's depreciation study, recovered over five years, because this study is required under Commission rules to be conducted every five years. [Footnotes omitted][2]

The footnote omitted in the above reference further clarifies the Commission's conclusions concerning recovery of rate case expenses:

> It is understood that some of the issues litigated in this case do not directly affect the overall revenue requirement granted by the Commission; but it is also clear that the vast majority of litigated issues do have a direct or indirect impact on the revenue requirement. Accordingly, percentage sharing is a reasonable approach to correlating recovery of rate case expense to the relationship between the amount of litigation that benefited both ratepayers and shareholders and that which benefited only shareholders.[3]

[1] KCPL has changed names since this case, and is now doing business as Evergy Missouri Metro, Inc.

[2] *Report and Order*, Case No. ER-2014-0370 page 72.

[3] *Report and Order*, Case No. ER-2014-0370 page 72, Footnote 251.

More recently, in the Spire Missouri rate cases, the Commission ordered a 50/50 split of rate case expenses:

> Therefore, it is just and reasonable that the shareholders and the ratepayers, who both benefited from the rate case, share in the rate case expense. The Commission finds that in order to set just and reasonable rates under the specific facts in this case, the Commission will require Spire Missouri shareholders to cover half of the rate case expense and the ratepayers to cover half with the exception of the cost of customer notices and the depreciation study.[4]

Q What does Staff recommend the Commission conclude in this instant case?

A. Staff examined the facts and circumstances in Empire's filing and recommends the Commission order a 50/50 sharing of rate case expense.

Q. Does this conclude your prepared direct testimony in this proceeding?

A. Yes, it does.

---

[4] *Report and Order,* Case Nos. GR-2017-0215 and GR-2017-0216, page 52.

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of The Empire District Gas Company's d/b/a Liberty Request to File Tariffs to Change its Rates for Natural Gas Service	)))	Case No. GR-2021-0320

AFFIDAVIT OF KEITH D. FOSTER

STATE OF MISSOURI	)	
	)	ss.
COUNTY OF COLE	)	

COMES NOW KEITH D. FOSTER and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing *Direct Testimony of Keith D. Foster*; and that the same is true and correct according to his best knowledge and belief.

Further the Affiant sayeth not.

KEITH D. FOSTER

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 20th day of January 2022.

D. SUZIE MANKIN
Notary Public - Notary Seal
State of Missouri
Commissioned for Cole County
My Commission Expires: April 04, 2025
Commission Number: 12412070

D Suzie Mankin
Notary Public

Schedule KDF-d1 - Keith D. Foster

Summary of case participation:

Case/Tracking Number	Company Name - Issue
QW-2008-0010	**Tri-States Utility, Inc**. - Property Taxes; Fuel & Electricity Expense; Telephone Expense; Rent Expense; Plant in Service; Depreciation Schedule, Reserve, Rates, and Expense; Transportation Expense; Chemicals Expense; Waste Disposal; Insurance Expense; Contractual Services; Bad Debt Expense; Miscellaneous Expenses
WR-2008-0311	**Missouri-American Water Company** - Advertising & Promotional Items; Dues and Donations; Cash Working Capital; Plant in Service; Depreciation Expense; Depreciation Reserve; Franchise Tax; Property Taxes; Fuel & Electricity Expense; Telephone Expense; Postage Expense; Purchased Water; Prepayments; Materials & Supplies; Customer Advances; Contributions in Aid of Construction (CIAC)
WR-2009-0098	**Raytown Water Company** - Materials & Supplies; Prepayments; Customer Deposits; Revenues; Insurance Expense; Utilities Expense; Directors Fees; Office Supplies Expense; Postage Expense; Laboratory Fees; Transportation Expenses; Rate Case Expense; Regulatory Commission Expense
GO-2009-0302	**Missouri Gas Energy** - Infrastructure Service Replacement Surcharge (ISRS)
SA-2009-0319	**Mid-MO Sanitation, LLC** – Certificate Case; All Revenue and Expenses; Plant in Service; Depreciation Reserve; Other Rate Base Items
GR-2009-0355	**Missouri Gas Energy** – Payroll, Payroll Taxes, 401(k), and Other Employee Benefit Costs; Incentive Compensation and Bonuses; Medical and Dental Expense; Bad Debt Expense; Rate Case Expense; Pension Expense; FAS106/OPEBs; Prepaid Pension Asset (PPA); Franchise Tax Expense; Income Tax Expense
SR-2010-0095	**Mid-MO Sanitation, LLC** – Full Audit of All Revenue and Expenses; Plant in Service; Depreciation Reserve; Other Rate Base Items
ER-2010-0130	**Empire District Electric** – Fuel and Purchased Power; Fuel Inventories; Gas Stored Underground; Off-System Sales; Transmission Revenue; Payroll, Payroll Taxes, and 401(k) Benefit Costs; Incentive Compensation; Maintenance Normalization Adjustments

Schedule KDF-d1 - Keith D. Foster

WR-2010-0304	**Raytown Water Company** – Revenues; Rate Case Expense; Regulatory Commission Expense; Utilities Expense; Purchased Water; Insurance Expense; Laboratory Fees; Communication Expense; Transportation Expense
GO-2011-0003	**Missouri Gas Energy** - Infrastructure Service Replacement Surcharge (ISRS)
ER-2011-0004	**Empire District Electric** – Fuel and Purchased Power; Fuel Inventories; Gas Stored Underground; Maintenance Normalization Adjustments; Miscellaneous Revenues (SO2 Allowances and Renewable Energy Credits); Operations and Maintenance (O&M) Expenses for Iatan 2 and Plum Point; Transmission Revenue; Entergy Transmission Contract; Reconciliation
WR-2011-0337	**Missouri-American Water Company** – Belleville Lab Allocations; Chemical Expense; Corporate and District Allocations; Fuel & Electricity Expense; Service Company Management Fees; Business Transformation Program; Reconciliation
WR-2012-0300	**Empire District Electric (Water)** – Plant-in-Service; Depreciation Reserve; Depreciation Expense; Materials and Supplies; Property Tax Expense; Customer Advances; Operations and Maintenance (O&M) Adjustment
WM-2012-0335	**Moore Bend Water Company** – Acquisition Case – Plant-in-Service; Depreciation Reserve; Depreciation Expense
ER-2012-0345	**Empire District Electric** – Fuel and Purchased Power; Fuel Inventories; Gas Stored Underground; Maintenance Normalization Adjustments (Operations and Maintenance Expense); Operations and Maintenance (O&M) Expense Trackers for Iatan 2, Iatan Common, and Plum Point; Entergy Transmission Contract; Reconciliation
WR-2013-0461 SR-2013-0459	**Lake Region Water & Sewer** – Executive Management Fees; Current Income Taxes; Deferred Income Taxes; Payroll and Benefits; Payroll Taxes; Allocation Factors; Sludge Removal; Accounting Fees; Legal Fees (Other Than Rate Case Expense); Billing Expense; Outside Services; Travel & Entertainment Expense; Transportation Expense
GR-2014-0086	**Summit Natural Gas** – Acquisition Costs; Affiliate Transactions; Fuel Expense; Property Taxes; Other Miscellaneous Expenses; Income Taxes; Deferred Taxes; and Reconciliation
WA-2015-0049 SA-2015-0107	**Branson Cedars Resort** – Certificate Case - All Revenue and Expenses; Plant in Service; Depreciation Reserve; Other Rate Base Items

WA-2015-0108	**Missouri-American Water Company (Redfield Water)** – Acquisition Case – Plant-in-Service; Depreciation Reserve; Depreciation Expense
WO-2015-0077	**Woodland Manor Water Company** – Acquisition Case – Plant-in-Service; Depreciation Reserve; Depreciation Expense; CIAC; Customer Deposits
WR-2015-0192	**Ozark International, Inc.** – Plant-in-Service; Depreciation Reserve; Depreciation Expense; CIAC; Customer Deposits; Chemicals Expense; Legal Expense; Office Expense; Postage; Water Testing Expense; Gas & Oil Expense
ER-2016-0023	**Empire District Electric** – Fuel and Purchased Power; Fuel Inventories; Gas Stored Underground; Software Maintenance Expense; Corporate Allocations; Outside Services; Iatan and Plum Point Carrying Costs
WR-2017-0110 SR-2017-0109	**Terre Du Lac Utilities Corporation** – Maintenance Expense; Rate Case Expense; Internet Service Expense; Telephone Expense; Payroll and Benefits; Payroll Taxes; Outside Services; Mileage Expense
WR-2017-0285 SR-2017-0286	**Missouri-American Water Company** – Central Lab Allocations; Corporate, Service Company, and Jurisdictional Allocations; Hydrant Painting; Income Taxes; Main Break Expense
HR-2018-0341	**Veolia Energy Kansas City** – Plant in Service; Accumulated Deferred Income Taxes; Fuel Expense; Consumables Expense; Insurance Expense; Outside Services; Property Taxes.
GO-2019-0115 GO-2019-0116	**Spire Missouri** – Infrastructure Service Replacement Surcharge (ISRS)
SA-2019-0334	**Missouri-American Water Company (Hillers Creek Sewer)** – Acquisition Case – Lead Auditor
SA-2020-0132	**Missouri-American Water Company (Clinton Estates Sewer)** – Acquisition Case – Lead Auditor
SA-2020-0067	**Liberty Utilities (Saver's Farm Sewer)** – Acquisition Case – Lead Auditor
ER-2019-0374	**Empire District Electric** – Accumulated Deferred Income Tax (ADIT); Current and Deferred Income Tax; Southwest Power Pool (SPP) Revenues and Expenses; Corporate Allocations; Corporate Expenses.
WM-2020-0156	**Liberty Utilities (Missouri Water), LLC (Empire District Electric (Water))**– Acquisition Case – Lead Auditor

Schedule KDF-d1 - Keith D. Foster

ER-2020-0311	**Empire District Electric** – FAC Case
WR-2020-0344 SR-2020-0345	**Missouri-American Water Company** – Pensions & OPEBs; Defined Contribution Plan (DCP) Expense; Accumulated Deferred Income Taxes (ADIT); Income Taxes
SA-2021-0120	**Missouri-American Water Company (City of Taos Sewer)** – Acquisition Case – Lead Auditor
WA-2021-0116	**Missouri-American Water Company (Table Rock Estates Water)** – Acquisition Case – Lead Auditor
SR-2021-0372	**Mid-MO Sanitation, LLC** – Lead Auditor
WO-2021-0343	**Missouri-American Water Company** – Infrastructure Service Replacement Surcharge (ISRS)
ET-2020-0259	**Empire District Electric** – Community Solar Application
ER-2021-0312	**Empire District Electric** - Accumulated Deferred Income Tax (ADIT); Current and Deferred Income Tax; Southwest Power Pool (SPP) Revenues and Expenses; Low Income Pilot Program (LIPP) Amortization; Plant in Service Accounting (PISA) Amortization.