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Issues: Pension, OPEBs, SERP  
Witness: James A. Fallert  
Type of Exhibit: Rebuttal Testimony  
Sponsoring Party: The Empire District  
Electric Company  
Case No.: ER-2019-0374  
Date Testimony Prepared: March 2020

**Before the Public Service Commission  
of the State of Missouri**

**Rebuttal Testimony**

**of**

**James A. Fallert**

**on behalf of**

**The Empire District Electric Company  
a Liberty Utilities Company**

**March 2020**



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JAMES A. FALLERT  
THE EMPIRE DISTRICT ELECTRIC COMPANY  
BEFORE THE  
MISSOURI PUBLIC SERVICE COMMISSION  
CASE NO. ER-2019-0374

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REBUTTAL TESTIMONY  
OF  
JAMES A. FALLERT  
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1 **I. INTRODUCTION**

2 **Q. PLEASE STATE YOUR NAME, BUSINESS AFFILIATION, AND BUSINESS**  
3 **ADDRESS.**

4 A. My name is James A. Fallert. I am doing business as James Fallert Consultant LLC and  
5 my business address is 3507 Burgundy Way Dr., St. Louis, MO 63129.

6 **Q. ON WHOSE BEHALF IS YOUR REBUTTAL TESTIMONY PRESENTED?**

7 A. The Empire District Electric Company, a Liberty Utilities company (“Liberty-Empire” or  
8 the “Company”).

9 **Q. ARE YOU THE SAME JAMES A. FALLERT THAT SUBMITTED DIRECT**  
10 **TESTIMONY ON BEHALF OF LIBERTY-EMPIRE IN THIS CASE IN AUGUST**  
11 **2019?**

12 A. Yes.

13 **II. PURPOSE OF TESTIMONY**

14 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY IN THIS**  
15 **CASE?**

16 A. The purpose of this testimony is to respond to Staff’s direct case in regard to pensions,  
17 OPEBs, and SERP. Staff’s witness in regard to these matters is Ashley Sarver.

1 **Q. ARE YOU SPONSORING ANY SCHEDULES IN CONNECTION WITH YOUR**  
2 **TESTIMONY?**

3 A. Yes. I am sponsoring Rebuttal Schedule JAF – 1.

4 **III. ONGOING PENSION AND OPEB EXPENSE**

5 **Q. HOW DID LIBERTY-EMPIRE DETERMINE THE APPROPRIATE AMOUNT**  
6 **OF ONGOING PENSION AND OPEB EXPENSE FOR ITS DIRECT FILING?**

7 A. The ongoing expense amounts were based on the most recent available 2019 regulatory  
8 expense amounts as calculated by the Company’s actuary, CBIZ Cottonwood.

9 **Q. PLEASE EXPLAIN WHAT YOU MEAN BY REGULATORY EXPENSE**  
10 **AMOUNTS?**

11 A. When The Empire District Electric Company was acquired by Liberty Utilities, the  
12 accounting rules required that certain pension and OPEB balances be eliminated as part  
13 of the acquisition accounting. However, these balances should remain in place for  
14 regulatory purposes. As a result, CBIZ Cottonwood provides two actuarial valuations.  
15 One valuation is based on acquisition accounting and is used for external financial  
16 reporting purposes. The second valuation is done as if the acquisition did not occur and  
17 is used for regulatory purposes. The Company’s direct filing was based on the valuation  
18 for regulatory purposes.

19 **Q. WHAT WAS THE BASIS FOR STAFF’S DIRECT CASE?**

20 A. Staff used the acquisition accounting amounts for 2018 rather than regulatory accounting  
21 amounts. It appears that there may have been some confusion regarding the appropriate  
22 valuation to be used, and this should be corrected by Staff. Additionally, Staff’s use of  
23 2018 amounts should be updated to 2019.

1 **IV. TEST YEAR EXPENSE**

2 **Q. HOW DID STAFF DETERMINE TEST YEAR EXPENSE USED IN ITS**  
3 **ADJUSTMENT?**

4 A. Staff pulled test year expense amounts for FERC 926 accounts and applied an allocation  
5 percent to determine Missouri test year expense.

6 **Q. WAS THIS AN APPROPRIATE METHODOLOGY?**

7 A. At one time, this methodology would have worked. However, a recent change to the  
8 accounting rules requires that non-service pension and OPEB costs that were previously  
9 charged to FERC account 926 must now be charged to FERC account 426 instead.  
10 Staff's methodology needs to be updated to recognize this change, and Staff needs to  
11 include the FERC 426 accounts.

12 **Q. DO YOU HAVE ANY CONCERNS WITH THE ALLOCATION PERCENTAGE**  
13 **PROPOSED BY STAFF AS IT RELATES TO TEST YEAR PENSION**  
14 **ACCOUNTS?**

15 A. Yes. Staff is recommending an allocator of 87.91% (O&M expense composite rate) to  
16 general ledger account 926149. However, this account is specifically used to capture the  
17 amortization expense of the FAS87 Missouri Regulatory Asset and therefore should be  
18 direct assigned to Missouri at 100%. In addition, Company witness Sheri Richard  
19 discusses in greater detail other issues related to Staff's proposed allocation rates.

20 **V. SERP**

21 **Q. HOW DID LIBERTY-EMPIRE CALCULATE SERP EXPENSE FOR ITS**  
22 **DIRECT FILING?**

1 A. The ongoing expense amount included in the Company's filing was based on the  
2 actuarial calculations of expense provided by CBIZ Cottonwood. These  
3 calculations were done in a manner consistent with the calculation of ongoing  
4 FAS 87 pension and OPEB expense.

5 **Q. HOW DID STAFF DETERMINE ONGOING SERP EXPENSE?**

6 A. Rather than use the actuarially determined annual expense amount provided by  
7 CBIZ Cottonwood, Staff followed its long-standing approach of basing recovery  
8 on actual payments made from the plan. Staff used a 5 year average of SERP  
9 payments to determine its proposed rate recovery.

10 **Q. WHAT REASONING DOES STAFF PROVIDE FOR BASING SERP RATE**  
11 **RECOVERY ON PAYMENTS RATHER THAN ACTUARIALLY DETERMINED**  
12 **EXPENSE?**

13 A. On page 69 of its Cost of Service Report, Staff notes that the SERP is a non-qualified  
14 plan. Beginning at line 7, Staff states "In a non-qualified plan, the expense is not 'pre-  
15 funded' and only the amounts paid to beneficiaries are tax deductible. Therefore, Staff's  
16 policy has been to limit utilities' rate recovery of this item to actual benefit payments to  
17 employees, if reasonable."

18 **Q. PLEASE COMMENT.**

19 A. It is not at all unusual for expense items used to determine rates to vary from the tax  
20 deductions related to those items. One only has to look at the numerous deferred tax  
21 items listed in any case to verify this observation. The methodology to single out SERP  
22 expense to be accounted for differently is inconsistent with other Staff proposed  
23 adjustments and not a well-supported approach.

1 **Q. WHY IS BASING SERP RECOVERY ON EXPENSE PREFERABLE TO A**  
2 **PAYMENT BASIS?**

3 A. The expense amount is independently determined by the company's actuary. It is  
4 consistent with the calculation of similar items (qualified pensions and OPEBs). The  
5 recognition of SERP on an expense basis, rather than a payment basis, more closely  
6 matches the benefits provided to customers.

7 **Q. DO YOU HAVE ANY ADDITIONAL COMMENTS REGARDING STAFF'S**  
8 **CALCULATION OF NORMALIZED SERP FOR INCLUSION IN RATES?**

9 A. Yes. This item is best recovered on an expense basis due to the reasons expressed above.  
10 However, if the Commission decides to continue to use a payment basis for this item,  
11 then certain changes should be made to Staff's calculation of the payment basis amount.

12 **Q. PLEASE CONTINUE.**

13 A. Staff determined normalized expense by averaging SERP payments over the past 5 years  
14 and then applying an allocation percent to that average. The Company has no issue with  
15 the calculation of the 5 year average. However, the allocation percent used by Staff  
16 needs adjustment.

17 **Q. PLEASE EXPLAIN.**

18 A. Staff's allocation of total SERP cost to Missouri expense is based on the percentage of  
19 total ongoing FAS 87 pension cost to the portion of this cost allocated to Missouri  
20 expense. This methodology is problematic because it applies an allocation percentage  
21 developed for one category of expense (qualified FAS 87 pension expense) to a  
22 completely different category (non-qualified SERP expense). It would be much more  
23 appropriate to use an allocation percentage directly applicable to SERP.

1 **Q. HAVE YOU QUANTIFIED THE EFFECT OF YOUR PROPOSED CHANGE TO**  
2 **STAFF'S ALLOCATION METHOD?**

3 A. Yes. The proposed methodology using SERP-specific activity increases the allocation  
4 percentage from 33.03% included in Staff's adjustment to 82.15%. The quantification is  
5 included as Rebuttal Schedule JAF-1.

6 **Q. PLEASE EXPLAIN WHY THIS DIFFERENCE IS SO SUBSTANTIAL.**

7 A. Recent changes to the accounting rules specify that only the service cost component of  
8 net periodic pension cost can be allocated to capital accounts. The qualified FAS 87 cost  
9 used for Staff's allocation calculation includes a significant service cost component,  
10 which results in an allocation to capital and therefore lower allocation to expense. There  
11 is no longer any service cost component to Liberty-Empire's SERP costs which results in  
12 no allocation to capital and hence a higher allocation to expense.

13 **VI. TRACKER BALANCES**

14 **Q. DO YOU HAVE ANY COMMENTS REGARDING THE TRACKER BALANCES**  
15 **INCLUDED IN STAFF'S ADJUSTMENT?**

16 A. Yes. Two adjustments to Staff's balances are necessary.

17 **Q. PLEASE DESCRIBE THE FIRST ADJUSTMENT.**

18 A. The balance for account 182359 as of September 30, 2019 included in Staff's adjustment  
19 is too high. Staff rolled forward from March 31, 2016 (the date of balances cited in the  
20 Stipulation and Agreement from Case No. ER-2016-0023). It appears that activity for  
21 the month of April 2016 was inadvertently excluded from the calculation, and a few of  
22 the subsequent months had incorrect signs.

23 **Q. WHAT IS THE IMPACT OF THIS CORRECTION?**



1 A. The September 30, 2019 balance for account 182359 included in the pension tracker  
2 should be reduced from \$1,855,037 to \$894,410.

3 **Q. PLEASE DESCRIBE THE SECOND ADJUSTMENT.**

4 A. In September 2019, \$47,256 was reclassified from account 254111 to account 182358.  
5 Staff's adjustment included the effect of this entry on account 254111, but Staff did not  
6 include account 182358. The balance in account 182358 should be included, which  
7 increases the OPEB tracker balance by \$47,256.

8 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY IN THIS**  
9 **PROCEEDING?**

10 A. Yes.

Allocation of SERP Cost to Missouri Expense, if based on Payment Basis

**Staff Calculation:**

5 Year average of SERP Payments		\$ 519,132
Ongoing FAS 87 Pension Expense Allocated to Missouri	1,275,179	
Ongoing FAS 87 Pension Cost on a Acquisition Basis	<u>3,860,754</u>	
Allocation percentage		<u>33.03%</u>
Normalized Expense		\$ 171,466

**Corrected Calculation:**

5 Year average of SERP Payments		\$ 519,132
SERP Expense Allocated to Missouri	882,283	
Total 2019 SERP Expense per CBIZ	<u>1,074,024</u>	
		<u>82.15%</u>
Normalized Expense		<u>\$ 426,454</u>
Increase in Revenue Requirement		<u><u>\$ 254,988</u></u>

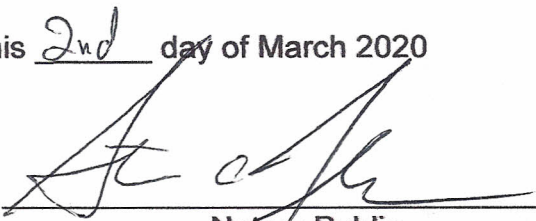
**AFFIDAVIT OF JAMES FALLERT**

STATE OF MISSOURI            )  
  ) ss  
COUNTY OF ST. LOUIS        )

On the 2nd day of March, 2020, before me appeared James A Fallert, who, being by me first duly sworn, states that he is doing business as James Fallert Consultant LLC and acknowledges that he has read the above and foregoing document and believes that the statements therein are true and correct to the best of his information, knowledge and belief.

  
\_\_\_\_\_  
James A. Fallert

Subscribed and sworn to before me this 2nd day of March 2020

  
\_\_\_\_\_  
Notary Public

My commission expires: 9/25/2020

STEVEN C FUCHS  
Notary Public - Notary Seal  
State of Missouri, St Louis County  
Commission Number 16962162  
My Commission Expires Sep 25, 2020