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Amanda C. McMellen
Rebuttal Testimony
File Nos. EO-2022-0040 & EO-2022-0193

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Issue(s):	*Financing Issues*
Witness:	*Amanda C. McMellen*
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Date Testimony Prepared:	*May 13, 2022*

MISSOURI PUBLIC SERVICE COMMISSION

FINANCIAL AND BUSINESS ANALYSIS DIVISION

AUDITING DEPARTMENT

REBUTTAL TESTIMONY

OF

AMANDA C. McMELLEN

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

CASE NOS. EO-2022-0040/EO-2022-0193

Jefferson City, Missouri
May 2022

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REBUTTAL TESTIMONY OF

AMANDA C. McMELLEN

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REBUTTAL TESTIMONY

OF

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

CASE NOS. EO-2022-0040/EO-2022-0193

Q. Please state your name and business address.

A. My name is Amanda C. McMellen, P.O. Box 360, Suite 440, Jefferson City, MO 65102

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

A. I am employed by the Missouri Public Service Commission ("Commission") as a Utility Regulatory Audit Unit Supervisor.

Q. Please describe your educational background and work experience.

A. I graduated from the DeVry Institute of Technology in June 1998 with a Bachelor of Science degree in Accounting. I commenced employment with the Commission Staff in June 1999.

Q. Have you previously filed testimony before the Commission?

A. Yes, numerous times. Please refer to Schedule ACM-r1, attached to this rebuttal testimony, for a list of the major 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 over 20 years, and have submitted testimony on ratemaking matters numerous times before the Commission. I have also been responsible for the supervision of other Commission employees in rate cases and other regulatory proceedings.

EXECUTIVE SUMMARY

Q. What is the purpose of your rebuttal testimony?

A. In this testimony, I will address The Empire District Electric Company, d/b/a Liberty (Liberty) witness Karen S. Hall's direct testimony concerning the securitization request regarding the Winter Storm Uri extraordinary costs. I will also address Liberty witnesses Charlotte T. Emery and Frank C. Graves' direct testimonies concerning the securitization request regarding the early retirement of the Asbury Plant (Asbury).

WINTER STORM URI

Q. Does Staff believe that the costs incurred by Liberty for Winter Storm Uri should be securitized as allowed in RSMo. Section 393.1700 (the "Securitization Statute")?

A. Yes. Staff believes that the prudent costs incurred by Liberty for Winter Storm Uri are just, reasonable and in the public interest. Therefore, these extraordinary costs qualify and should be recovered through the Securitization Statute.

Q. Does Staff have any changes to the costs and recovery period proposed by Liberty for Winter Storm Uri securitization?

A. Yes. Staff has made the following changes (with the Staff witness responsible noted):

- Deferred legal costs – Staff decreased legal fees based on updated allocation information provide by Liberty (McMellen).
- Carrying Cost for Incurred Costs – Staff changed the proposed interest rate from the WACC of 6.77% to the variable monthly short-term debt rate used in Fuel Adjustment Clause (FAC) calculations. (McMellen)
- FAC 95/5 Split – Removed 5% of incurred cost and associated carrying charges based on the FAC 95/5 split. (Bolin and Mastrogiannis)
- Riverton 11 - Disallowance for Riverton 11 node. (Hull)
- Revenues – Staff reduced the Winter Storm Uri securitization balance to reflect an abnormally high level of revenues collected from customers during the period of the storm. (McMellen and Lange)
- Recovery Period - Staff used a 13 year recovery period based on the analysis from Staff's consultant (McMellen and Davis)

Q. What is Staff's current estimate for costs to be recovered by Liberty through the cost of bonds to be issued for Winter Storm Uri?

A. Staff's current estimate of costs to recover through the issuance of bonds for Winter Storm Uri is $193,378,314 as of December 31, 2021. As shown in Table 1 below, the current estimate includes the costs incurred by Liberty, with the adjustments explained above, accrued carrying costs, deferred legal costs, and estimated up-front financing costs for issuing the bonds. The estimated costs to be included in the bond financing are as follows:

Table 1: Staff's Current Estimate of Storm Uri Bond Issuance Costs

Description of Cost	**Current Estimate**
Costs Incurred by Liberty	$178,485,852
Accrued Carrying Costs	$11,212,773
Deferred Legal Costs	$140,121
Up-Front Financing Costs	$3,539,568
Total	$193,378,314

Q. What interest rate did Liberty use in calculating the carrying costs associated with costs Liberty incurred for Winter Storm Uri?

A. Liberty witness Ms. Hall in her direct testimony on page 4, lines 17-20 stated as follows:

> Since Liberty incurred the costs, it has applied a carrying charge based on its Weighted Average Cost of Capital ("WACC"), which the Commission set at 6.77% in Case No. ER-2019-0374.

Q. Does Staff agree with Liberty's use of the WACC from Case No. ER-2019-0374 of 6.77% to calculate Liberty's carrying costs associated with the costs incurred for Winter Storm Uri?

A. No. In Staff's opinion, using the WACC of 6.77% is not appropriate for calculating these carrying costs. If Liberty had sought recovery of these costs in the FAC case as is normally done, the carrying costs would have been calculated based on FAC monthly variable short-term debt rates. Therefore, Staff recommends that the short-term debt rate (.30% monthly or 3.58% annually) that normally is used in FAC filings to be used as well for purposes of calculating carrying costs on the Winter Storm Uri securitized balance.

Q. What did Liberty include for up-front financing costs associated with securitizing the costs Liberty incurred for Winter Storm Uri?

A. Liberty witness Ms. Hall in her direct testimony on page 5, lines 4-6 stated as follows:

> The upfront financing costs total approximately $3.6 million and include estimated fees to the Company's legal and structuring advisors, consultants, underwriting fees, auditing fees, and others as well [as] rating and filing fees necessary to secure the bonds. [sic]

Based on Ms. Hall's Table 1 on page 6 of her testimony, the upfront costs are $3,638,534.

Q. What is Staff's calculation of the current estimated up-front financing costs?

A. Staff's included $3,539,568 for the current estimated up-front financing costs

Q. What interest rate and recovery period is Staff assuming regarding the Winter Storm Uri securitization bonds?

A. Based on the analysis provided by Mr. Davis, Staff's position is that using a 4.00% interest rate and recovery period of 13 years is the most beneficial to the customers.

Q. Why is it necessary to make the adjustment to remove excess revenues from the Winter Storm Uri securitization balance?

A. Winter Storm Uri was a unique, unusual and non-recurring event and those extraordinary costs will be recovered through the securitization process. There were also additional (excess) revenues received by Liberty during this event. Liberty has already received the benefit of these revenues and that gain to Liberty resulting directly from Winter Storm Uri should be offset against the securitization costs. Staff witness Sarah L.K. Lange discusses how Staff quantified the excess revenues received by Liberty during the Winter Storm Uri period in her rebuttal testimony in this proceeding.

RETIREMENT OF ASBURY

Q. Does Staff believe that the prudent costs incurred by Liberty for the early retirement of Asbury should be securitized as allowed in RSMo. Section 393.1700 (the "Securitization Statute")?

A. Yes. Staff believes that the prudent costs incurred by Liberty for early retirement of Asbury are just, reasonable and in the public interest. Therefore, these extraordinary costs qualify and should be recovered through the Securitization Statute.

Q. Does Staff have any changes to the costs and recovery period proposed by Liberty for Asbury retirement securitization?

A. Yes. Staff has made the following changes (with the Staff witness responsible noted):

- Asbury AAO Liability – Staff included the Return on Asbury balance. (McMellen)
- Carrying Cost for Incurred Costs – Staff changed the proposed interest rate from the WACC of 6.77% to the long-term debt rate as of February 2022 used in FAC calculations. (McMellen)
- Rate Components – Staff included January and February 2020 Asbury costs and benefits in its calculation of the Asbury AAO asset and liability. (McMellen)
- ADIT – Staff calculated the net present value of the Asbury accumulated deferred income tax (ADIT) net liability in accordance with the Missouri securitization statute. (Bolin)
- Decommissioning – Staff made an adjustment to reflect net salvage. (Bolin)
- Asset Retirement Obligation (ARO) – Staff removed all estimated ARO costs. (Bolin)
- Recovery - Staff used a 13 year recovery period based on the analysis from Staff's consultant (McMellen and Davis)

Q. What is Staff's current estimate for costs to be recovered by Liberty through the cost of bonds to be issued for Asbury?

A. Staff's current estimate of costs to recover through the issuance of bonds for Asbury is $68,998,093. As shown in Table 2 below, the current estimate includes the unrecovered capital costs incurred by Liberty, with the adjustments explained above, accrued carrying costs, deferred legal costs, and estimated up-front financing costs for issuing the bonds. The estimated costs to be included in the bond financing are as follows:

Table 2: Staff's Current Estimate of Asbury Bond Issuance Costs

Description of Cost	**Current Estimate**
Costs Incurred by Liberty	$64,120,101
Accrued Carrying Costs	$1,987,723
Up-Front Financing Costs	$2,890,269
Total	$68,998,093

Q. What interest rate did Liberty use in calculating the carrying costs associated with costs Liberty incurred for Asbury?

A. Liberty witness Ms. Emery in her direct testimony on page 15, lines 11-13 stated as follows:

> Since Liberty has incurred or anticipates incurring these costs, the Company has applied a carrying charge based on its Weighted Average Cost of Capital ("WACC"), which the Commission set at 6.77% in Case No. ER-2019-0374.

Q. Is this an accurate representation of how Liberty calculated its proposed accrued carrying costs?

A. No. When calculating their accrued carrying costs, Liberty actually used the pre-tax rate of 8.10% from Case No. ER-2019-0374, not the 6.77% as stated above.

Q. Does Staff agree with using the WACC from Case No. ER-2019-0374 of 6.77% to calculate Liberty's carrying costs associated with the costs incurred for Asbury?

A. No. In Staff's opinion, using the most current (February 2022) long- term debt rate of 4.65% is more appropriate due to the relatively short period of time the carrying costs are proposed to be applied (May – December 2022).

Q. If the Commission decides to use the WACC to calculate the accrued carrying costs, what rate does Staff believe is appropriate?

A. Staff believes the actual WACC rate of 6.77%, not the pre-tax rate, is the most appropriate to share these costs between shareholders and ratepayers if the Commission decides the WACC rate is more appropriate.

Q. What did Liberty include for up-front financing costs associated with costs Liberty incurred for Asbury?

A. These amounts, totaling $3,287,122 can be found in Liberty witness Emery's direct testimony in Table CTE-1 on page 16.

Q. What is Staff's calculation of the current estimated up-front financing costs?

A. Staff's included $2,890,269 for the current estimated up-front financing costs based on Staff's adjustments mentioned above.

Q. What interest rate and recovery period is Staff assuming regarding the Asbury securitization bonds?

A. Based on the analysis provided by Mr. Davis, Staff's position is that using a 4.00% interest rate and recovery period of 13 years is the most beneficial to the customers.

Q. Please explain the background of the Asbury regulatory asset and liability.

A. Asbury's last day of generating power was December 12, 2019 in the midst of a general rate case (Case No. ER-2019-0374). The total financial impact of the early retirement of Asbury were unknown at the time. In that case, the *Global Stipulation and Agreement* listed specific rate elements that were to be tracked by Liberty to reflect the impact of the closure of Asbury, based on the criteria set forth in the agreement, beginning January 1, 2020.

Most of the AAO regulatory asset consists of the unrecovered costs for that generating station as of the time of its retirement.

The rate components included in the AAO liability are the return on the unrecovered Asbury investment, depreciation expense, all non-fuel/non-labor operating & maintenance expenses, property taxes and non-labor Asbury retirement/decommissioning costs.

Q. Did Liberty include all of these rate components in its proposed net balance of costs to be securitized?

A. No. Liberty omitted the return on Asbury regulatory liability component from its proposed balance of costs to be securitized.

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

A. Staff recommends that the return on Asbury component of the regulatory liability be used to offset Liberty's net balance of costs to be securitized. This inclusion appropriately recognizes that Liberty customers have been paying a full return on Asbury in rates since the unit was effectively retired in December 2019, and that this amount should be returned to customers. Omitting this component from the securitized balance would put Liberty in the position of potentially recouping in rates all costs not recovered associated with Asbury since its retirement without crediting customers for the Asbury cost recovery in rates it has received since its retirement.

Q. Did Staff include the rate components for January and February 2020 in its calculation of the Asbury AAO Liability?

A. Yes. As previously stated in my surrebuttal testimony in Case No. ER-2021-0312[1], Staff's opinion is the Asbury AAO appropriately started on January 1, 2020 based on the fact that Asbury's last day of generating power was December 12, 2019.

Q. Please summarize the direct testimony of Liberty witness Mr. Graves.

A. Mr. Graves recommends that Liberty be allowed to recover all costs regarding the retired Asbury plant through the securitization case. As stated on page 43 of his direct testimony,

> all prudently undertaken investments should be fully recoverable from customers, even if the underlying assets should at some point prove less economic than was originally intended.

Q. Does Staff agree with Mr. Graves?

A. As a general matter of policy, no. In Liberty's most recent general rate case, Case No. ER-2021-0312, Staff recommended that Liberty be allowed to recover a return of, but not on, the retired Asbury investment in order to achieve some sharing of the cost responsibility for the unrecovered portion of the costs. This position is discussed in more detail in the rebuttal testimony of Staff witness Mark L. Oligschlaeger in Case No. ER-2021-0312 (the attachments have been omitted for brevity), which is attached as Schedule ACM-r2 to my testimony.

Q. Is Staff opposed to requiring Liberty customers to pay a return on the unrecovered portion of its Asbury investment in the specific context of this securitization case?

A. No. The rate of return based upon current securitized utility tariff bond rates that customers would be responsible for through a securitization case is expected to be much lower than the weighted average cost of capital return that might have been required of

[1] Surrebuttal testimony of Amanda C. McMellen page 2, lines 11 through 22.

customers for the Asbury retired investment in a general rate case. With that point in mind, securitizing Asbury unrecovered costs appears to be fair and equitable approach to setting Liberty customer rates in regard to unrecovered Asbury investment into the future.

Q. Does Liberty believe customers will receive savings/benefits by securitizing the Winter Storm Uri and Asbury costs?

A. Yes. Liberty witness Ms. Hall states in her direct testimony starting on page 9, line 19 through page 10 line 17, that the customers will receive cost savings/benefits of \$65.6 million in nominal dollars (or \$42.9 million on a net present value basis) by securitizing the Winter Storm Uri costs. Liberty witness Ms. Emery states in her direct testimony starting on page 19, line 22 through page 21 line 5, that the customers will receive cost savings/benefits of \$48.3 million in nominal dollars (or \$32.1 million on a net present value basis) by securitizing the Asbury costs.

Q. Does Staff agree with Liberty witnesses Ms. Hall's and Ms. Emery's calculation of the savings/benefits of securitizing the Winter Storm Uri and Asbury costs?

A. No. Based on the analysis provided by Staff's consultant and witness in this case, Mark Davis, Staff's recommended savings/benefits of securitization is \$38 million in nominal dollars (or \$25 million on a net present value basis) by securitizing the Winter Storm Uri and Asbury costs.

Q. Does this conclude your rebuttal testimony?

A. Yes it does.

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of the Petition of The Empire District Electric Company d/b/a Liberty to Obtain a Financing Order that Authorizes the Issuance of Securitized Utility Tariff Bonds for Qualified Extraordinary Costs	)	Case No. EO-2022-0040
In the Matter of the Petition of The Empire District Electric Company d/b/a Liberty to Obtain a Financing Order that Authorizes the Issuance of Securitized Utility Tariff Bonds for Energy Transition Costs Related to the Asbury Plant	)	Case No. EO-2022-0193

AFFIDAVIT OF AMANDA MCMELLEN

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

COMES NOW AMANDA C. MCMELLEN and on her oath declares that she is of sound mind and lawful age; that she contributed to the foregoing *Rebuttal Testimony of Amanda C. McMellen;* and that the same is true and correct according to her best knowledge and belief.

Further the Affiant sayeth not.

Amanda C McMellen

AMANDA MCMELLEN

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 12th day of May, 2022.

Dianna L. Vaught

Notary Public

DIANNA L. VAUGHT
Notary Public - Notary Seal
State of Missouri
Commissioned for Cole County
My Commission Expires: July 18, 2023
Commission Number: 15207377

Amanda C. McMellen
Utility Regulatory Audit Unit Supervisor

EDUCATION

Bachelors of Science
DeVry Institute of Technology, Kansas City, MO-June 1998

PROFESSIONAL EXPERIENCE

Missouri Public Service Commission
- Utility Regulatory Audit Unit Supervisor
  - March 2022 – Present
- Utility Regulatory Auditor V (Utility Regulatory Audit Supervisor)
  - February 2013 – March 2022
- Utility Regulatory Auditor IV
  - November 2006 – February 2013
- Utility Regulatory Auditor III
  - June 2002 – November 2006
- Utility Regulatory Auditor II
  - June 2000 – June 2002
- Utility Regulatory Auditor I
  - June 1999 – June 2000

I am a Utility Regulatory Supervisor (former title Utility Regulatory Auditor V) for the Missouri Public Service Commission (Commission). I graduated from the DeVry Institute of Technology in June 1998 with a Bachelor of Science degree in Accounting. Before coming to work at the Commission, I worked as an accounts receivable clerk. I commenced employment with the Commission Staff in June 1999. As a Utility Regulatory Auditor, I am responsible for assisting in the audits and examinations of the books and records of utility companies operating within the state of Missouri.

AMANDA C. McMELLEN

SUMMARY OF RATE CASE TESTIMONY FILED

COMPANY	CASE NO.	ISSUES
Osage Water Company	SR-2000-556	Plant in Service Depreciation Reserve Depreciation Expense Operation & Maintenance Expense
Osage Water Company	WR-2000-557	Plant in Service Depreciation Reserve Depreciation Expense Operation & Maintenance Expense
Empire District Electric Company	ER-2001-299	Plant in Service Depreciation Reserve Depreciation Expense Cash Working Capital Other Working Capital Rate Case Expense PSC Assessment Advertising Dues, Donations & Contributions
UtiliCorp United, Inc./ d/b/a Missouri Public Service	ER-2001-672	Insurance Injuries and Damages Property Taxes Lobbying Outside Services Maintenance SJLP Related Expenses
BPS Telephone Company	TC-2002-1076	Accounting Schedules Separation Factors Plant in Service Depreciation Reserve Revenues Payroll Payroll Related Benefits Other Expenses
Aquila, Inc. d/b/a Aquila Networks-MPS & Aquila Networks-L&P	ER-2004-0034	Revenue Annualizations Uncollectibles
Fidelity Telephone Company	IR-2004-0272	Revenue Revenue Related Expenses
Aquila, Inc. d/b/a Aquila Networks-MPS & Aquila Networks-L&P	ER-2005-0436	Revenue Annualizations Uncollectibles

COMPANY	CASE NO.	ISSUES
Empire District Electric Company	ER-2006-0315	Payroll Payroll Taxes 401(k) Plan Health Care Costs Incentive Compensation Depreciation Expense Amortization Expense Customer Demand Program Deferred State Income Taxes Income Taxes
Aquila, Inc. d/b/a Aquila Networks-MPS & Aquila Networks-L&P	ER-2007-0004	Revenue Annualizations Uncollectibles Maintenance Expenses Turbine Overhaul Maintenance
Empire District Electric Company	ER-2008-0093	Revenues Bad Debts Employee Benefits Tree Trimming Storm Costs Customer Programs Amortizations Current Income Taxes Deferred Income taxes Jurisdictional Allocations Corporate Allocations
Missouri Gas Energy, a Division of Southern Union Company	GR-2009-0355	Staff Report Cost of Service Revenues-Customer Growth Corporate Allocations Other Rate Base Items Amortization Expense Interest expense on customer Deposits Rents and Leases
Missouri-American Water Company	WR-2010-0131	Staff Report Cost of Service Corporate and District Allocations Lobbying Costs Net Negative Salvage Amortization of Regulatory Assets Belleville Lab Expenses Comprehensive Planning Study Payroll Payroll Taxes

COMPANY	CASE NO.	ISSUES
Kansas City Power & Light Company	ER-2010-0355	Staff Report Cost of Service Revenues-Customer Growth In-Field Service Fees Gross Receipts Taxes Forfeited Discounts Other Revenues Credit Card Acceptance Program Bad Debts
KCP&L Greater Missouri Operations Company	ER-2010-0356	Staff Report Cost of Service Revenues-Customer Growth Other Revenues Credit Card Acceptance Program Bad Debts
Empire District Electric Company	ER-2011-0004	Staff Report Cost of Service Plant in Service Depreciation Reserve Depreciation Expense Pensions & OPEBs Customer Programs Amortizations Carrying Costs Revenue Annualizations
Empire District Electric Company	ER-2012-0345	Staff Report Cost of Service Plant in Service Depreciation Reserve Depreciation Expense Prepayments Materials and Supplies Customer Demand Programs Amortization of Electric Plant Customer Deposits Customer Advances Carrying Costs Customer Programs Customer Deposit Interest Expense Franchise Taxes Amortizations Banking Fees Lease Expense Pay Station Fees Amortizations
Summit Natural Gas Company of Missouri, Inc.	ER-2014-0086	Corporate Allocations Capitalization Policy MGU Purchase Price SMNG Legacy Asset Valuation Energy Efficiency Programs

COMPANY	CASE NO.	ISSUES
Empire District Electric Company	ER-2016-0023	Staff Report Cost of Service Test Year/Update/True-Up Accumulated Deferred Income Taxes SWPA Hydro Reimbursement SPP Revenues and Expenses SPP Transmission Expenses ASM Revenue and Expense Miscellaneous SPP Related Revenues and Expenses Off-System Sales Revenue and Expense Current Income Taxes Deferred Income Taxes Rate Case Expense-Sharing Advertising Dues and Donations SWPA Amortization Tornado AAO Amortization Corporate Expenses Capitalized Depreciation Proposed Acquisition
Terre Du Lac utilities Corporation	WR-2017-0110	Rate Base
Spire Missouri, Inc.	GR-2017-0215 GR-2017-0216	Bad Debts
Missouri-American Water Company	WR-2017-0285	Plant in Service Contributions in Aid of Construction Regulatory Deferrals Depreciation Reserve Depreciation Expense Amortization Expense Customer owned Lead Service Lines
Empire District Electric Company	ER-2019-0374	Fuel Inventories Fuel and Purchased Power
Missouri-American Water Company	WR-2020-0344	Plant in Service Contributions in Aid of Construction Other Rate Base Regulatory Deferrals Depreciation Reserve Depreciation Expense Amortization Expense Property Tax Tracker Customer owned Lead Service Lines

COMPANY	CASE NO.	ISSUES
Empire District Electric Company	ER-2021-0312	Staff Report Cost of Service Test Year/Update Fuel Inventories Asbury Retirement AAO AMI – Regulatory Asset Tornado AAO Amortization Fuel and Purchased Power – Fixed Costs Rate Case Sharing
Empire District Gas Company	GR-2021-0320	Energy Efficiency Programs

Exhibit No.:	
Issues:	*Asbury Unrecovered Investment*
Witness:	*Mark L. Oligschlaeger*
Sponsoring Party:	*MoPSC Staff*
Type of Exhibit:	*Rebuttal Testimony*
Case No.:	*ER-2021-0312*
Date Testimony Prepared:	*December 20, 2021*

MISSOURI PUBLIC SERVICE COMMISSION

FINANCIAL AND BUSINESS ANALYSIS DIVISION

REBUTTAL TESTIMONY

OF

MARK L. OLIGSCHLAEGER

THE EMPIRE DISTRICT ELECTRIC COMPANY,
d/b/a Liberty

CASE NO. ER-2021-0312

Jefferson City, Missouri
December 2021

REBUTTAL TESTIMONY

OF

MARK L. OLIGSCHLAEGER

THE EMPIRE DISTRICT ELECTRIC COMPANY,
d/b/a Liberty

CASE NO. ER-2021-0312

Q. Please state your name and business address.

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

Q. Have you previously contributed to Staff's Cost of Service Revenue Requirement Report ("COS Report") filing in this case dated October 29, 2021?

A. Yes, I have.

Q. What is the purpose of your rebuttal testimony?

A. The purpose of this testimony is to respond to the direct testimony filed in this case by The Empire District Electric Company, d/b/a Liberty ("Empire," "EDE" or "Company") witness Frank C. Graves regarding the issue of ongoing rate treatment of unrecovered capital costs associated with the retired Asbury Generating Unit ("Asbury").

<u>ASBURY UNRECOVERED INVESTMENT</u>

Q. Before responding to specific points within Mr. Graves' direct testimony, please summarize Staff's recommended treatment of the unrecovered balance of Asbury in this proceeding.

A. Staff recommends a sharing of the responsibility for the unrecovered capital costs of the Asbury unit as of its retirement date in rates between Empire's shareholders and customers. This would be accomplished by inclusion in rates of an amortization of the unrecovered balance, but exclusion of the unamortized balance from EDE's rate base. This position is addressed in more detail in the section *Asbury Generating Station Unrecovered Investment* found in Staff's COS Report in this case at pages 134 - 138.

Q. At page 41 of his direct testimony, EDE witness Graves states that "longstanding and economically well-justified principles and standards in the utility industry strongly indicate that all prudently undertaken investments should be fully recoverable from customers, even if the underlying assets should at some point prove less economic than was originally intended." Do you agree with this?

A. Only in part. If money is prudently invested in assets that turn out through unforeseen factors to be less economic than assumed, then continued recovery of the asset costs should generally be allowed at least as long as the asset remains in service. However, under normal ratemaking the costs associated with assets that have been retired should no longer be recovered in rates.

Q. Why shouldn't utilities generally expect to continue to recover costs associated with assets after they are retired?

A. To state the obvious, that is because retired assets are no longer used and useful, or providing a current benefit to customers. Whether the initial investment in the retired assets by the utility was prudent or not is in most cases irrelevant to this general policy.

There can be unique situations in which it is reasonable that customers should contribute towards cost recovery of assets following their retirement. Staff's position is that the Asbury retirement is one of those rare instances.

Q. At pages 43 – 44 of his direct testimony, Mr. Graves states an apparent belief that, under proper operation of utility regulation, customers should bear all of the risk of prudent assets becoming uneconomic, even after the assets are retired. Do you agree with this contention?

A. No. Mr. Graves seems to be arguing that, because the operation of utility regulation tends to limit the amount of gain/profit utilities can retain over time, fairness requires that utilities in turn be shielded from financial losses such as those associated with retired plant assets. However, I regard this line of thinking to be one-sided. One benefit of rate regulation from a utility perspective is that, while the utility foregoes the possibility of making very high profits over time, the utility also will not be subject to extreme financial losses. For example, it is practically unheard of for a utility company to go bankrupt and cease operating in the United States. Under the normal regulatory paradigm in the U.S., I agree that utility companies should not expect either to be able to retain financial gains to the same degree as unregulated businesses, or be exposed to financial loss to the same degree as unregulated companies. However, a balanced risk/reward relationship for utilities through operation of rate regulation does not require that the companies be completely shielded from any and all losses associated with unforeseen events, such as those that led to the decision to retire Asbury.

Q. Can you describe another situation in which utilities are generally assigned a portion of a loss for ratemaking purposes resulting from unforeseen events?

A. Yes. There are instances in which utilities are subject to unforeseen natural disasters, such as tornadoes, other severe wind storms, ice storms, floods, etc. These events can result in serious damage to utility infrastructure and consequent loss of service to customers. No allowance is provided in utility ratemaking for such extraordinary events, but nonetheless it is expected that the utilities undertake the necessary measures and incur costs to repair their systems and restore service to customers as quickly as possible.

Notwithstanding the importance of these expenditures to the public, the Commission's general policy has not been to provide utilities with full, after-the-fact recovery of these extraordinary costs in rates. Instead, in most cases the Commission has effected a "sharing" of these costs between shareholders and ratepayers by allowing the utilities to recover the repair/restoration costs through a multi-year amortization, but not allowing a return on the unamortized balance in rate base. This approach does not assign the full risk of unanticipated natural disasters to fall solely on customers, but also assigns a portion of this risk to utility shareholders. Staff's position in this case is also a reasonable approach to assigning the risk between ratepayers and shareholders of the unanticipated economic, regulatory and political changes that led to the Asbury retirement.

Q. At page 49, line 22 through page 50, line 1 Empire witness Mr. Graves describes the consequences of failing to provide its requested rate treatment of unrecovered Asbury investment as constituting a "penalty" to EDE, and a "windfall" for customers. Do you agree with these characterizations?

A. No. A proposal to share the rate responsibility between shareholders and customers for retired plant assets does not provide customers a "windfall" from any reasonable perspective, when taking into account both the undeniable fact that Asbury is not providing a current benefit to them and the new costs of replacement renewable generation ratepayers are being asked to bear by the Company. To ask customers to pay for full rate recovery of both new generating resources and the retired resources the wind farms are replacing strikes me as much more imposing an unwarranted "penalty" on customers than somehow providing them a "windfall."

Q. At page 48 of his direct, Mr. Graves discusses the savings expected to accrue to customers from Empire's replacement of Asbury with wind generation. Please comment.

A. Empire has indeed presented analyses in prior cases that purported to support its contention that over the long-term customers will see overall savings in rates due to its decisions to retire Asbury and add new renewable generation. However, the existence of these savings are only projections at this point, and the bulk of the purported customer savings are assumed to only materialize many years in the future. Accordingly, Staff perceives that there is an undeniable risk that Empire's customers may ultimately not accrue overall savings in rates due to the Asbury retirement and windfarm addition decisions.

Q. Do the prior regulatory agreements reached by Empire, Staff, and other parties in prior proceedings regarding the Company's new wind farms reflect any measures to mitigate potential customer harm from Empire's recent generation decisions?

A. Yes. In Case No. EA-2019-0010, the Commission approved a stipulation and agreement submitted by certain parties to that proceeding that called for establishment of a "market price protection mechanism" (MPPM) to mitigate the financial consequences to Empire ratepayers if the new windfarms prove to be uneconomic in the long-term. The MPPM would not be necessary if the purported customer savings associated with the new windfarms was anywhere close to being guaranteed.

Q. At page 44 of his direct testimony, Mr. Graves opines that "disallowing full recovery of retired out-of-the-money assets that were prudently chosen and approved sends the wrong signals to and creates perverse incentives for resource planners and investors." Do you agree?

A. No. Regulatory "incentives" and "signals" to utilities are only appropriate in so far as they support a reasonable end result for both the utility and its customers. It is simply improper on its face for Empire to collect from customers a return on and of both the retired Asbury generating unit and the new wind farms added to its system by the Company. A much more appropriate and balanced allocation of the risk associated with the Asbury unit becoming uneconomic over time is to share that cost responsibility between Empire's shareholders and ratepayers. Granting a utility the most favorable rate treatment possible in order to "incent" a particular desired regulatory outcome is neither necessary nor appropriate in this circumstance.

Q. Would Empire have chosen to retire the Asbury plant when it did if it knew it would not receive full recovery of and on that investment in later rate proceedings?

A. I do not know. However, even without knowledge of the applicable future ratemaking, Empire willingly chose to take on the risk of less than full recovery of Asbury in the future when the Company retired those assets in early 2020.

Q. Should utilities have to be "incented" in order to make prudent decisions?

A. No, the obligation of the utility to provide safe and adequate service to customers at a just and reasonable rate is binding regardless of the financial consequences to the utility of meeting that obligation. In short, if retiring Asbury was the prudent and most economical action Empire could take in early 2020, it was obligated to do so regardless of whether it ultimately received full, partial or no rate treatment of the unrecovered plant balance in the future.

Q. At pages 44 – 48 of his direct testimony, Mr. Graves generally addresses the topic of whether the return on equity (ROE) allowance granted to Empire in past rate cases served to compensate investors for any subsequent disallowance of Asbury costs following its retirement. Is Staff's rationale for its position on unrecovered Asbury costs in this case premised upon any particular belief as to whether the risk of early generating unit retirements was factored into the ROE levels authorized for Empire in past rate cases?

A. No. I cannot state with certainty what investor expectations might have been regarding post-retirement rate treatment of Asbury costs prior to the unit's retirement. I will say that Empire investors were certainly aware of or should have been aware of the impending retirement of Asbury prior to the most recent Empire general rate case, No. ER-2019-0374, and likewise should have been aware that no predeterminations of any sort had been communicated by the Commission regarding the ultimate rate treatment of Asbury unrecovered investment following its retirement.

Q. Please describe Appendix A attached to Mr. Graves' direct testimony.

A. Mr. Graves' Appendix A contains a listing of regulatory proceedings, in other jurisdictions across the U.S. since 2009, that Mr. Graves alleges provide support for Empire's position regarding rate recovery of both a return of and on its unrecovered investment in the Asbury unit. There are a total of 32 cases listed in Appendix A.

Q. Did Staff attempt to review these cases to verify whether Empire witness Mr. Graves' interpretation of them was accurate?

A. Yes. Staff conducted an internet search of the applicable public utility commission websites to obtain additional information regarding the regulatory proceedings listed in Mr. Graves Appendix A. For almost all of the cases found in Appendix A, Staff was able to find key documents, usually Public Utility Commissions (PUC) orders or stipulations, in order to attempt to determine the general nature of the regulatory treatments ordered in relation to coal unit retirements.

Q, Does Staff's research show that Mr. Graves is correct in asserting that the various actions taken by the PUCs depicted in Appendix A support Empire's position of obtaining a "full recovery" of the remaining Asbury costs?

A. No, for the most part it does not. Based upon Staff's research, there appears to be only a handful of cases listed in Appendix A in which the PUC in question appears to have authorized full recovery of retired coal unit costs in an equivalent manner to what Empire is seeking from the Commission in this case (i.e., recovery of the unrecovered Asbury balance through a multi-year amortization, with rate base treatment of the unamortized balance).

Q. How would you broadly characterize the nature of the applicable issues in the regulatory proceedings listed in Mr. Graves Appendix A?

A. The cases mainly appear to fall under four categories:

1) Orders providing certain regulatory/accounting treatments to the utility prior to the coal unit's retirement date;

2) Orders allowing the utility to include in rates an amortization of the unrecovered cost of the coal unit after its retirement, but which do not clearly address the question of rate base treatment of the unamortized balance;

3) Orders authorizing the utility to apply certain accounting treatments to coal retirement costs, but that reserve any ratemaking determinations regarding the costs to later regulatory proceedings; and

4) Orders allowing the utility special accounting treatment in order to prepare for potential securitization of the unrecovered coal unit costs.

None of the cases falling into these four categories support Empire's request for a full recovery of and on the Asbury investment in this case. I will address the reasons for this below.

Q. Why wouldn't requests for regulatory/accounting treatments prior to coal unit retirements support Empire's requested Asbury ratemaking in this case?

A. These situations, typically involving requests for accelerated depreciation rates to match the new planned retirement dates for the coal units, involve units still in service at the time and still eligible for normal cost recovery of depreciation and other plant-related costs in rates. Requests for ratemaking treatment of costs associated with retired plant assets are of a fundamentally different nature, and would need to be assessed using very different criteria.

Q. What are some examples of cases cited by Mr. Graves that fall into this category?

A. The 2009 Public Service Company of Colorado case (Colorado PUC) and the 2011 Portland General Electric Company Case (Oregon PUC) are examples of this category of regulatory proceeding. Both of these cases are listed on page 57 of Mr. Graves' direct testimony.

Q. Why wouldn't PUC authorizations to book or recover in rates amortizations of unrecovered costs for coal units following retirement support Empire's requested ratemaking for Asbury in this case?

A. Some of the cases included in Mr. Graves' Appendix A indicate that the PUC approved amortizations of unrecovered coal unit costs following retirement. To the extent those PUC orders authorizing amortization of unrecovered costs were intended to set ratemaking treatments, these orders would appear to be generally consistent with the Staff's recommendation to allow Empire to recover in rates an amortization of its unrecovered Asbury investment costs over a 15-year period. However, with rare exception, the PUCs in question that ordered rate amortizations did not appear to address whether the unamortized amounts of coal investment should also be included in utility rate base, and thereby earn a return. Empire, of course, is requesting such rate base treatment in this case from the Missouri Commission.

Q. Is it possible that authorization by PUCs of rate inclusion of unrecovered coal unit investment through amortizations automatically or inherently involves inclusion in rate base of the unamortized balance?

A. Not in my opinion, as the decisions to allow a return of and a return on costs are entirely separate and distinct ratemaking determinations. I can state with certainty that, in Missouri, there have been many cases in which the Commission has ordered certain utility costs to be amortized in rates over a multi-year period without allowing rate base treatment for the costs to be amortized.

Q. What are examples of cases cited by Mr. Graves that would fall into this category?

A. The 2012 Georgia Power Company case (Georgia PUC) and the 2014 Wisconsin Public Service Corporation case (Wisconsin PUC) are examples of this category of regulatory proceeding. Both cases are listed on page 57 of Mr. Graves' direct testimony.

Q. Why wouldn't PUC authorizations for accounting treatment of unrecovered coal costs support Empire's requested Asbury ratemaking in this case?

A. Empire is asking the Missouri Commission to authorize inclusion in rates of unrecovered Asbury costs. Orders from other PUCs that deal exclusively with accounting treatment of such costs, but reserve consideration of the costs for ratemaking purposes at a later time, is not a precedent for the rate treatment Empire is seeking in Missouri for Asbury unrecovered costs.

Q. What are examples of cases cited by Mr. Graves that would fall into this category?

A. The 2014 Black Hills Power case (South Dakota PUC) and the 2016 Gulf Power Company case (Florida PUC) are examples of this category of regulatory proceeding. Citations to these cases can be found at pages 57 and 58 of Mr. Graves' direct testimony, respectively.

Q. Why wouldn't PUC authorization of regulatory treatment to allow for potential securitization of unrecovered coal unit investment support Empire's requested Asbury ratemaking in this case?

A. Securitization is a unique rate treatment that allows for recovery from customers of certain large dollar costs by utilities through a special type of bond issuance. Empire is not seeking to securitize its unrecovered Asbury costs, though. As such, the actions of other PUCs in regard to potential securitization of coal unit investment is irrelevant to the issues currently before the Missouri Commission in this proceeding. It should be noted that under Missouri's securitization statute, Section 393.1700.2(3)(c)b, a prerequisite to securitization is a finding by the Commission that the "issuance of securitized utility tariff bonds and the imposition and collection of a securitized utility tariff charge are just and reasonable and in the public interest and are expected to provide quantifiable net present value benefits to customers as compared to recovery of the components of securitized utility tariff costs that would have been incurred absent the issuance of securitized utility tariff bonds."

Q. What are some examples of cases cited by Mr. Graves involving securitization that fall into this category?

A. The 2018 Consumers Energy case (Michigan PUC) and the 2020 Public Service Company of New Mexico case (New Mexico PUC) are examples of this type of regulatory proceeding. These cases are listed at pages 58 and 60 of Mr. Graves' direct testimony, respectively.

Q. What is Schedule MLO-1 attached to this testimony?

A. Schedule MO-1 is the applicable pages from documents found by Staff on PUC websites for each of the cases I have specifically cited above from Mr. Graves' Appendix A. All of these cases serve as examples to support my characterization of the treatments granted by those PUCs to costs associated with potential or actual early coal unit retirements in those jurisdictions.

Q. Did Mr. Graves include any Missouri Commission cases in his Appendix A?

A. Yes. Mr. Graves included Case No. EC-2019-0200 in his testimony attachment, apparently upon the belief that this case provides some sort of precedent for Empire's requested Asbury ratemaking in this case.

Q. Are you familiar with that particular proceeding?

A. Yes. I was the Staff witness in that case.

Q. Please generally describe the subject matter of that case.

A. The complaint case was filed by The Office of the Public Counsel ("OPC") and the Midwest Energy Consumers Group (MECG) against KCPL Greater Missouri Operations Company (now Evergy Missouri West, or "Evergy West") shortly after Evergy West made a decision to retire its coal-fired Sibley Energy Station ("Sibley") in late 2018. The retirement decision was announced at the very end of the processing of Evergy West's general rate case, No. ER-2018-0146, and the rates ordered by the Commission as a result of that rate case included allowances for Evergy West's return of and on its investment in Sibley, as well as operation & maintenance expenses and other costs incurred due to operation of that facility.

The filing made by OPC and MECG sought authorization from the Commission to require Evergy West to defer all of the Sibley costs included in rates that would no longer be incurred after the retirement (including the return on the assets), so that such amounts could potentially be returned to customers in Evergy West's next general rate case. The Commission ultimately decided to grant OPC's and MECG's requests for a Sibley deferral.

This proceeding concerned only a dispute regarding appropriate accounting for the Sibley related costs between the time of the unit's retirement and Evergy West's next rate case. It did not concern any determinations regarding ratemaking treatment for unrecovered Sibley costs at the time of the next Evergy West rate case or later cases.

Q. Did an unrecovered plant balance exist for Sibley as of the date of its retirement?

A. Yes.

Q. Did the Commission make any determinations concerning ratemaking treatment for Sibley unrecovered costs in its Order in Case No. EC-2019-0200?

A. No.

Q. When do you expect issues regarding ratemaking treatment of the unrecovered balance of Evergy West's Sibley coal unit to be brought forward for the Commission's consideration?

A. I expect those issues will arise in Evergy West's next general rate case, for which a notice has been filed by that utility last month in Case No. ER-2022-0130.

Q. Notwithstanding its inclusion in Mr. Graves Appendix A, does the order in Missouri Case No. EC-2019-0200 provide any sort of precedent for the ratemaking treatment sought by Empire for Asbury in this rate case?

A. Not in any way.

Q. Did the Commission make any finding in Case No. EC-2019-0200 regarding the prudence of Evergy West's decision to retire its Sibley unit?

A. No. The Order states:

> GMO chose to close the Sibley units, and the prudence of that decision is not at issue in this case. The question of prudence will be addressed in a future general rate case.

Q. Please summarize your conclusions regarding Mr. Graves Appendix A.

A. At best, Mr. Graves' Appendix A appears to support a conclusion that a wide range of PUCs in the U.S. have granted a wide variety of accounting and rate treatments to utilities either planning to retire coal units early or that have already retired those units. Based upon Staff's review, however, Appendix A does not support a finding that Empire's specific proposal in this case to receive both a return of and a return on its unrecovered Asbury investment is consistent with "mainstream" treatment of this category of cost by other PUCs, or that a consensus of PUCs have followed this approach.

Q. Mr. Graves' states at page 5 of his Direct testimony that "Each of these major investments [a 2008 Selective Catalytic Reduction (SCR) and a 2014 Air Quality Control System (AQCR)] were reviewed and approved by the Commission." Do you agree with that characterization?

A. Not entirely. In Case No. EO-2005-0263, involving the 2008 SCR investment, the Commission approved a Stipulation and Agreement in which "Empire agree[d] to undertake commercially reasonable efforts to make" certain investments, including the SCR at Asbury. Subject to a long list of conditions, the parties to that same Agreement merely agreed "that they will not take the position that the [SCR investment, among others] should be excluded from

Empire's rate base on the ground that the projects were not necessary at the time of this agreement, or that Empire should have used alternative technologies."

Q. Is Staff's proposed ratemaking for the unrecovered amount of the SCR investment at Asbury based upon a belief that this investment was not necessary in 2008, or on a belief that Empire should have used alternative technologies in 2008?

A. No.

Q. Have you attached a copy of the Commission's Report and Order and Stipulation and Agreement in Case No. EO-2005-0263 as Schedule MLO-2?

A. Yes.

Q. What about the Commission's Order in ER-2014-0351, referenced in Mr. Graves' testimony with regards to the AQCS?

A. In that case, the Commission ordered at page 11 that it would "adopt Staff's recommended in-service criteria and find the Asbury AQCS to be fully operational and used for service. Any party to Empire's next general rate case may argue the book value of Asbury AQCS. No party is precluded in Empire's next rate case from seeking any disallowance."

Q. Did any party to Empire's next rate case seek a disallowance of the AQCS investment?

A. No.

Q. Have you attached a copy of the Commission's *Report and Order* in Case No. ER-2014-0351 as Schedule MLO-3?

A. Yes.

Q. Does that conclude your rebuttal testimony?

A. Yes, it does.

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of the Request of The Empire District Electric Company d/b/a Liberty for Authority to File Tariffs Increasing Rates for Electric Service Provided to Customers in its Missouri Service Area	)))))	Case No. ER-2021-0312

AFFIDAVIT OF MARK L. OLIGSCHLAEGER

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

COMES NOW MARK L. OLIGSCHLAEGER, and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing *Rebuttal Testimony of Mark L. Oligschlaeger;* and that the same is true and correct according to his best knowledge and belief.

Further the Affiant sayeth not.

Mark L. Oligschlaeger

MARK L. OLIGSCHLAEGER

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 December, 2021.

DIANNA L. VAUGHT
Notary Public - Notary Seal
State of Missouri
Commissioned for Cole County
My Commission Expires: July 18, 2023
Commission Number: 15207377

Dianna L. Vaught

Notary Public