

**Exhibit No:**  
**Issue(s):** Supplemental  
Executive Retirement  
Plan (SERP) Benefits  
**Witness:** William L. Gipson  
**Sponsoring Party:** The Empire District  
Electric SERP Retirees  
**Type of Exhibit:** Direct Testimony  
**File No.:** ER-2021-0312  
**Date Testimony Prepared:** October 29, 2021

**MISSOURI PUBLIC SERVICE COMMISSION**

**FILE NO. ER-2021-0312**

**DIRECT TESTIMONY OF**

**WILLIAM L. GIPSON**

**ON BEHALF OF**

**THE EMPIRE DISTRICT ELECTRIC SERP RETIREES**

**October 29, 2021**

**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	)	Case No. ER-2021-0312
Tariffs Increasing Rates for Electric Service	)	
Provided to Customers in its Missouri Service Area.	)	

**AFFIDAVIT OF WILLIAM L. GIPSON**

STATE OF MISSOURI	)	
	)	ss.
COUNTY OF JASPER	)	

**COMES NOW WILLIAM L. GIPSON** and on his oath declares that he is of sound mind and lawful age; that he prepared the attached Direct Testimony; and that the same is true and correct according to his best knowledge and belief, under penalty of perjury.

Further the Affiant sayeth not.

/s/ William L. Gipson  
William L. Gipson

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2  
3 **DIRECT TESTIMONY OF**  
4 **WILLIAM L. GIPSON**  
5 **THE EMPIRE DISTRICT ELECTRIC SERP RETIREES**  
6 **BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION**  
7 **CASE NO. ER-2021-0312**  
8

9 **Q. PLEASE STATE YOUR NAME AND ADDRESS.**

10 A. My name is William L. Gipson. My address is 299 Oak Tree Point Lane, Shell Knob,  
11 Missouri 65747.

12  
13 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING IN THIS DOCKET?**

14 A. I am testifying on behalf of The Empire District Electric SERP Retirees (“EDES”).  
15 EDES is a group of former executives of The Empire District Electric Company  
16 (“Empire”) that were recipients of certain Supplemental Executive Retirement Plan  
17 (“SERP”) benefits.

18  
19 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND.**

20 A. I hold a Bachelor of Science Degree in Business Management Technology and an  
21 Associate Degree in Computer Science from Missouri Southern State College (now  
22 University) in Joplin, Missouri.

1       **Q.     PLEASE DESCRIBE YOUR PROFESSIONAL EXPERIENCE.**

2       A.     I have 30 years of experience in the electric industry with The Empire District Electric  
3           Company. From 2002 until my retirement in 2011, I was the President and Chief  
4           Executive Officer of Empire. Prior to that role, I held various roles with Empire  
5           including Executive Vice President and Chief Operating Officer and Vice President of  
6           Commercial Operations.

7

8       **Q.     HAVE YOU PREVIOUSLY SUBMITTED TESTIMONY BEFORE THIS OR ANY OTHER**  
9       **REGULATORY BODY?**

10      A.     Yes, I have presented testimony before the Missouri Public Service Commission  
11           ("Commission"); the Kansas Corporation Commission, the Oklahoma Corporation  
12           Commission, and the Arkansas Public Service Commission.

13

14      **Q.     WHAT IS THE PURPOSE OF YOUR DIRECT TESTIMONY?**

15      A.     The purpose of my testimony is to provide EDESR's position regarding the  
16           ratemaking treatment for SERP benefits. Much like pensions and Other Post-  
17           Employment Benefits ("OPEBs"), I recommend that Empire be required to externally  
18           fund its SERP benefits through a Rabbi trust. This recommendation is consistent  
19           with the stipulation provision from Case No. EM-2016-0213 and my testimony in  
20           Case No. ER-2019-0374.

1       **Q.     WHAT ARE SERP BENEFITS?**

2       A.     A SERP is an employer-sponsored, non-qualified deferred compensation plan. It  
3             allows employers to select key employees who are provided with supplemental  
4             retirement benefits in addition to benefits from a qualified plan such as a pension,  
5             profit-sharing or 401(k) plan.

6  
7       **Q.     YOU PREVIOUSLY REFERENCED A STIPULATION PROVISION FROM CASE NO. EM-**  
8       **2016-0213. PLEASE DISCUSS THAT DOCKET.**

9       A.     On February 9, 2016, Empire announced an agreement by which it would be  
10            acquired by Algonquin Power & Utilities Corp. (“Algonquin”). Specifically, Empire  
11            would be acquired by Liberty Utilities (Central) Company which is owned by Liberty  
12            Utilities Company which is an indirect wholly-owned subsidiary of Algonquin. On  
13            March 16, 2016, Empire and various other Algonquin companies (the “Merger  
14            Applicants”) sought Commission approval for the transaction in Case No. EM-2016-  
15            0213. From July 19, 2016 through August 26, 2019, the Merger Applicants executed  
16            a series of stipulations with the various parties to the merger docket. Relevant to  
17            the issue discussed in this testimony, Empire executed a stipulation with EDESR on  
18            August 23, 2016 (“EDESR Merger Stipulation”).

19

20

1       **Q.       WHAT DOES THE EDESR MERGER STIPULATION PROVIDE?**

2       A.       In general terms, the EDESR Merger Stipulation provides for a study to be conducted  
3               to determine whether it is neutral or possibly cheaper to customers for Empire to  
4               utilize a pre-funded plan method for ratemaking for SERP benefits. If so, then the  
5               stipulation requires Empire to meet with Staff and OPC and, absent their objection,  
6               to externally fund a Rabbi trust for SERP benefits.

7

8       **Q.       WHAT DID THE STUDY CONCLUDE?**

9       A.       EDESR asserts that the Initial Study concluded that the benefits of funding a Rabbi  
10              trust are “essentially the same or less than the costs and expenses to ratepayers of  
11              providing the alternative of SERP benefits from Empire’s general funds.”

12

13      **Q.       WAS THIS ISSUE ULTIMATELY RESOLVED IN THE LAST RATE CASE?**

14      A.       No. Ultimately most of the parties executed a global Non-Unanimous Stipulation.  
15              Rather than litigate this issue EDESR agreed to a modification of the Merger  
16              Stipulation. The EDESR provision now states:

17                      EDESR and the Company shall discuss with Staff and OPC, in or prior  
18                      to July of 2020, the possibility of external funding (Rabbi Trust) of  
19                      SERP benefits. If an agreement is reached between EDESR, the  
20                      Company, Staff, and OPC in which: (1) EDESR, Staff, and OPC agree  
21                      that, using reasonable assumptions, the annual costs and expenses of  
22                      funds contributed by Empire using a Rabbi trust (including  
23                      contributions to the trust) to provide benefits are essentially the  
24                      same or less than the costs and expenses to customers of providing

1 the alternate of SERP benefits from Empire's general funds and (2)  
2 none of these parties (EDES, Staff, OPC) oppose the rate recovery of  
3 the Rabbi trust consistent with the Willis Towers Watson SERP  
4 funding analysis dated July 17, 2019 (but with currently approved  
5 weighted average cost of capital) in place of the SERP funded from  
6 general funds and will support said rate recovery in future cases,  
7 Empire will fund SERP benefits via a Rabbi trust within 30 days of  
8 execution of the written agreement.  
9

10  
11 **Q. WAS THIS PROVISION APPROVED BY THE COMMISSION?**

12 A. Yes. While much of the Non-Unanimous Stipulation was opposed, this provision was  
13 not opposed. In its Amended Report and Order the Commission approved this  
14 stipulation. "Having reviewed the related filings in the record and determined the  
15 unopposed terms in the Agreement to be reasonable resolutions of the undisputed  
16 issues identified in the May 11, 2020 Response to Commission Order, the  
17 Commission finds the undisputed issues should be resolved consistent with the  
18 terms of the Agreement unless otherwise specified in this order."<sup>1</sup>  
19

20 **Q. HAS THE STUDY BEEN UPDATED SINCE THE LAST RATE CASE?**

21 A. Yes. The Study has been updated to reflect more current conditions.  
22

23 **Q. WHAT DOES THE UPDATED STUDY CONCLUDE?**

24 A. Much like the Initial Study, EDES, concludes that the Updated Study indicates that

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<sup>1</sup> Case No. ER-2019-0374, *Amended Report and Order*, issued July 23, 2020, at page 24.

1 the benefits of funding a Rabbi trust are essentially the same or less than the costs  
2 and expenses to ratepayers of providing the alternative of SERP benefits from  
3 Empire's general funds.

4

5 **Q. WHAT IS THE IMPLICATION OF THIS CONCLUSION?**

6 A. The stipulation provision provides that, so long as Staff and Public Counsel agree  
7 with the conclusion that the benefits of funding a Rabbi trust are essentially the  
8 same or less than the costs and expenses to customers of providing the alternate of  
9 SERP benefits from Empire's general funds AND neither of these parties oppose rate  
10 recovery of the of the cost of funding the Rabbi trust, then Empire is required to  
11 fund the Rabbi trust.

12

13 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

14 A. Yes.