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Witness: James A. Fallert  
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Sponsoring Party: The Empire District  
Electric Company  
Case No.: ER-2021-0312  
Date Testimony Prepared: December 2021

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

**Rebuttal Testimony**

**of**

**James A. Fallert**

**on behalf of**

**The Empire District Electric Company**

**December 2021**



TABLE OF CONTENTS  
FOR THE REBUTTAL TESTIMONY OF JAMES A. FALLERT  
THE EMPIRE DISTRICT ELECTRIC COMPANY  
BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION  
CASE NO. ER-2021-0312

<b>SUBJECT</b>	<b>PAGE</b>
I. INTRODUCTION.....	1
II. PENSIONS – FAS 88 EXPENSE.....	1
III. SERP.....	3
III. CONCLUSION.....	6

JAMES A. FALLERT  
REBUTTAL TESTIMONY

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1   **I.    INTRODUCTION**

2   **Q.    Please state your name and business address.**

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

5   **Q.    On whose behalf are you testifying in this proceeding?**

6   A.    I am testifying on behalf of The Empire District Electric Company (“Empire” or  
7       “Company”).

8   **Q.    Are you the same James A. Fallert that submitted Direct Testimony on behalf of  
9       Empire in this case in May 2021?**

10   A.    Yes.

11   **Q.    What is the purpose of your Rebuttal Testimony in this proceeding?**

12   A.    The purpose of this testimony is to respond to Staff’s direct case in regard to pensions,  
13       Other Post-Employment Benefits (OPEBs), and the Supplemental Executive Retirement  
14       Plan (SERP). Staff’s witness in regard to these matters is Ashley Sarver.

15   **II.   PENSIONS – FAS 88 EXPENSE**

16   **Q.    Please provide an explanation of the FAS 88 portion of pension expense.**

17   A.    FAS 88 is the accounting standard that provides for accounting related to pension lump  
18       sum settlements. It should be noted that in 2009 FAS 88 was incorporated into a new  
19       accounting standard, Accounting Standard Codification Topic 715. I will refer to FAS 88  
20       herein as that term is still commonly used in regulatory settings.

21       FAS 88 requires recognition in expense of a portion of unamortized gains or losses  
22       corresponding to pension liabilities satisfied via lump sum settlements to participants.

1           However, this recognition is only required if a certain threshold is reached (the threshold  
2           is when lump sum settlement payments in a year exceed the sum of service and interest  
3           cost in the pension plan). As a result, FAS 88 entries can be significant in years where the  
4           threshold is reached but can be zero in other years.

5   **Q.    What has been the recent history of FAS 88 entries for Empire?**

6   A.    Empire recorded significant FAS 88 expense amounts in 2017 and 2018 when the  
7           aforementioned threshold was reached. There were no FAS 88 entries in 2019 and 2020.  
8           However, recent information indicates that the Company will again record FAS 88 expense  
9           in December 2021.

10 **Q.    What did the Commission include for FAS 88 expense in the previous rate case?**

11 A.    In Case No. ER-2019-0374, the Commission included FAS 88 expense in cost of service  
12           based on a two-year average of 2017 and 2018.

13 **Q.    How did the Company and Staff calculate normalized expense in this case related to  
14           FAS 88?**

15 A.    The Company used a four-year average of FAS 88 expense experience in 2017 through  
16           2020. Staff included no FAS 88 expense in its direct case.

17 **Q.    Why do you believe that the Company's calculation of ongoing FAS 88 expense is  
18           preferable?**

19 A.    Recent experience has shown that FAS 88 expense is not an uncommon occurrence for the  
20           Company. In fact, as mentioned above, the Company expects to again record FAS 88  
21           expense in 2021. The age of the Company's workforce is relatively high and many current  
22           employees are eligible for retirement. Since FAS 88 expense is caused by high levels of  
23           retirements, it is reasonable to base the adjustment in this case on the likelihood of future  
24           FAS 88 entries. The Company's proposed four- year average is reasonable, in that in the

1 event that a FAS 88 entry occurs, it would be likely to be more than that average. This is  
2 because the average includes several years with no FAS 88 amounts recorded.

3 **Q. Do you have any additional comments?**

4 A. Yes. As mentioned above, it is noteworthy that FAS 88 expense is included in the pension  
5 tracker. Therefore, any differences between the amount included in rates in this case and  
6 the actual amounts experienced going forward will be deferred and returned to the  
7 appropriate party through the tracker mechanism. Therefore, there is no risk that including  
8 FAS 88 expense in this case would result in an over recovery (similar to what was Ordered  
9 by the Commission in the 2019 case).

10 **III. SERP**

11 **Q. How did the Company calculate SERP expense for its direct filing?**

12 A. The ongoing expense amount included in the Company's filing was based on the actuarial  
13 calculations of expense provided by the Company's independent actuary, CBIZ  
14 Cottonwood. These calculations were done in a manner consistent with the calculation of  
15 ongoing FAS 87 pension and OPEB expense.

16 **Q. How did Staff determine ongoing SERP expense?**

17 A. Rather than use the actuarially determined annual expense amount provided by CBIZ  
18 Cottonwood, Staff followed its long-standing approach of basing recovery on actual  
19 payments made from the plan. Staff reviewed 5 years of payments and based the adjustment  
20 on payments made during the 12 months ending June 30, 2021.

21 **Q. What reasoning does Staff provide for basing SERP expense to be recovered  
22 in rates on cash payments rather than actuarially determined expense?**

23 A. On page 85 of its Cost of Service Report, Staff notes that the SERP is a non-qualified plan.  
24 Beginning at line 7, Staff states: "In a non-qualified plan, the expense is not 'pre-funded'

1 and only the amounts paid to beneficiaries are tax deductible. Therefore, Staff's policy has  
2 been to limit utilities' rate recovery of this item to actual benefit payments to employees,  
3 if reasonable."

4 **Q. Please comment on Staff's approach.**

5 A. It is not at all unusual for expense items used to determine rates to vary from the tax  
6 deductions related to those items. One only has to look at the numerous deferred tax items  
7 listed in any case to verify this observation. One example is income taxes on depreciation.  
8 As Staff points out in its discussion of accumulated deferred income tax (ADIT) on page  
9 37 of its Cost of Service Report, the Company's cash deduction of income taxes is based  
10 on accelerated depreciation as permitted by the tax code. Nevertheless, the unaccelerated  
11 book depreciation rates are used for ratemaking purposes. The methodology to single out  
12 SERP expense to be accounted for on a payments basis is inconsistent with other Staff  
13 proposed adjustments and not a well-supported approach.

14 **Q. Why is it preferable to base SERP recovery on actuarially determined expense  
15 rather than the cash payment basis advocated by Staff?**

16 A. The expense amount is independently determined by the Company's actuary. It is  
17 consistent with the calculation of similar items (qualified pensions and OPEBs). The  
18 recognition of SERP on an expense basis, rather than a payment basis, more closely  
19 matches the period during which the SERP benefits are earned by employees with the  
20 services provided by those employees to customers.

21 **Q. What is the impact of Staff's long-standing policy of basing SERP rate recovery on  
22 cash payments rather than actuarially determined expense?**

23 A. The Company has experienced a significant under recovery of this item for many years  
24 over the life of the SERP.

1 **Q. Do you have any additional comments regarding the cash payment basis used by Staff**  
2 **to determine normalized expense to be included in this case?**

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

6 **Q. Please explain.**

7 A. Staff's adjustment is based on the 12 months ending June 30, 2021. The Company agrees  
8 that using a recent period most accurately determines an ongoing level since it would  
9 incorporate recent retirements. However, in this instance it does not appear that using the  
10 12 months ending June 30, 2021 does so.

11 **Q. Why is that?**

12 A. A review of payments in the 12 months ended June 30, 2021 indicates that, while payments  
13 were about \$50,000 per month in the period from July 2020 to December 2020, payments  
14 increased to \$73,950 per month in January 2021 and remained at that level through June  
15 2021. Under the circumstances, the \$73,950 per month experienced during the more recent  
16 period is a much better indicator of ongoing levels.

17 **Q. What would be the impact of this change?**

18 A. Staff's direct case included \$627,093 of payments applicable to Missouri (based on  
19 \$745,107 of payments in the 12 months ended June 30, 2021 times a Missouri allocation  
20 percent of 84.1614%). An improved calculation as described above would result in  
21 \$746,848 of payments applicable to Missouri (based on \$73,950 monthly payments times  
22 12 for a total of \$887,400 annual payments, times the 84.1614% allocation).

1 **III. CONCLUSION**

2 **Q. Does this conclude your Rebuttal Testimony at this time?**

3 **A. Yes.**



**VERIFICATION**

I, James A. Fallert, under penalty of perjury, on this 20th day of December, 2021, declare that the foregoing is true and correct to the best of my knowledge and belief.

/s/ James A. Fallert