Exhibit No.: _____
Issue(s): Revenue Adjustments, Time of Use Rate, Green Energy Tariff
Witness: Gregory W. Tillman
Type of Exhibit: Surrebuttal Testimony
Sponsoring Party: The Empire District Electric Company
Case No.: ER-2021-0312
Date Testimony Prepared: January 2022

Before the Public Service Commission
of the State of Missouri

Surrebuttal Testimony

of

Gregory W. Tillman

on behalf of

The Empire District Electric Company

January 2022

Liberty™

TABLE OF CONTENTS
FOR THE SURREBUTTAL TESTIMONY OF GREGORY W. TILLMAN
THE EMPIRE DISTRICT ELECTRIC COMPANY
BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION
CASE NO. ER-2021-0312

SURREBUTTAL TESTIMONY OF GREGORY W. TILLMAN
THE EMPIRE DISTRICT ELECTRIC COMPANY
BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION
CASE NO. ER-2021-0312

I. INTRODUCTION

Q. Please state your name and business address.

A. My name is Gregory W. Tillman. My business address is 601 South Joplin Avenue, Joplin, Missouri.

Q. Are you the same Gregory W. Tillman who provided Direct and Rebuttal Testimony in this matter on behalf of The Empire District Electric Company ("Empire" or the "Company")?

A. Yes.

Q. What is the purpose of your Surrebuttal Testimony in this proceeding before the Missouri Public Service Commission ("Commission")?

A. The purpose of my surrebuttal testimony is to address recommendations by the Staff of the Commission ("Staff") in the rebuttal testimonies of Kim Cox and Joseph Roling related to the billing determinant adjustments and associated revenue, Sarah L.K. Lange related to the proposed time of use ("TOU") rate design, Robin Kliethermes related to the Company's proposed tariff changes, and Amanda Coffer related to the Company's proposed renewable energy purchase ("REP") schedule. In addition, I address recommendations by Midwest Energy Consumers Group ("MECG") witness Kavita Maini related to the Company's proposed TOU rate and Office of the Public Counsel ("OPC") witness Geoff Marke related to the introduction of TOU rates to Empire's customers.

II. REVENUE ADJUSTMENTS

Q. Please summarize Staff's recommendations regarding the billing determinant adjustments within the revenue calculations.

A. Staff's recommendations regarding the billing determinant adjustments are as follows:

1. Staff recommends manual billing determinant adjustments be applied proportionately to each rate block according to the actual percent of usage in each season and block.[1]
2. Staff recommends that manual adjustments be included in the weather normalization calculation.[2]
3. Staff recommends that the weather normalization adjustment be applied to all rate usage components and seasons.[3]
4. Staff recommends that the Company's growth adjustment for the RG, CB, SH, GP and TEB classes be applied through May 2021.[4]
5. Staff recommends certain adjustments to the lighting revenues and Special Transmission service billing determinants.[5]

Q. What is the Company's response to Staff's recommendation to apply the manual adjustment proportionately to each rate block?

A. The manual adjustments are adjustments to total billing determinants intended to bring them into alignment with total sales contained within the revenue reports. There is no definitive basis for how the billing determinant adjustments apply to the kWh rate

[1] Rebuttal Testimony of Kim Cox, p. 3, lines 14-15.
[2] Id., p. 4, lines 15-17.
[3] Id., p. 6, lines 2-3.
[4] Id., p. 6, lines 11-14.
[5] Rebuttal Testimony of Joseph P. Roling, p. 2.

blocks. In the absence of any basis for how to apply these adjustments to the billing determinants, the Company applied them to the second block of usage.

Q. Should the manual adjustments be included in the Company's weather normalization adjustment?

A. No. The manual adjustments were adjustments to the billing determinants intended to bring them into alignment with the sales data and were not adjustments to the sales data itself. The Company's weather normalization process was conducted using the kWh sales data from its revenue reports which were not impacted by the application of the manual adjustments to the billing determinants.

Q. What is the Company's response to Staff's recommendation to apply the weather normalization to all rate usage components and seasons?

A. The Company is not opposed to Staff's recommended approach. However, the result under Staff's approach does not appear to be materially different than the result of the Company's approach. The Company applied weather normalization to each month's sales as determined by the weather normalization factors for each month. The weather normalization adjustments are then allocated to the seasonal blocks associated with each month's primary season.

Q. What is Empire's response to Staff's recommendation regarding the growth adjustment being updated through May 2021 to match Staff's update period?

A. The Company's growth adjustment (customer annualization) was filed in the Company's update using the ordered update period of June 2021. At this time, the Company believes it is appropriate to utilize the customer count as of the end of the update period in the case.

Q. What is the Company's position on Staff's corrections and modification to the billing determinants and revenue determination for the lighting classes and the Special Transmission service rates?

A. The Company agrees with the corrections and modifications made by Staff. These changes do not affect the Company's proposed adjustments.

III. TOU RATE DESIGN

Response to Staff

Q. Please summarize Staff's recommendations regarding TOU rate design.

A. Staff's recommendations regarding the design of TOU rates are as follows:

1. Staff recommends that all customers begin to be billed in a manner that recognizes - at least to some extent - the impact of time of day on energy pricing or system resources.[6]
2. Staff recommends that all customers be charged rates that better align revenue recovery with cost causation, and that will provide customers with information to make choices about when to use energy that will incur lower system costs, or to bear some responsibility for when they use energy that incurs system costs.[7]
3. Staff recommends that the Commission not implement Empire's proposed TOU rates on a mandatory basis.[8]
4. Staff recommends that Empire's TOU rates not be approved as proposed by the Company, but Staff does not object to implementation of Empire's proposed

[6] Rebuttal Testimony of Sarah L.K. Lange, p. 2, lines 8-10.
[7] Id., lines 12-15.
[8] Id., p. 5, lines 4-6.

rates on an opt-in basis with or without participation caps but exclusive of the proposed retail purchased power tracker.[9]

5. Staff suggests that if the Empire rate design is authorized, that any initial authorization should include weekends and holidays in the on-peak period.[10]

6. Staff recommends retention of the TOU rider.[11]

7. Staff recommends that the Commission not approve the "best-bill guarantee" for customers within the proposed TOU rates.[12]

8. Staff recommends that Empire's proposed purchased power tracker not be approved.[13]

9. Staff recommends that the Commission not approve the FAC TOU NBEC provision proposed by the Company.[14] If the Commission does approve the TOU NBEC, Staff recommends that the amounts be adjusted to correspond with the final NBEC and TOU rates found for the case.[15]

Q. Does the Company agree with Staff's comparison of the Company and Staff's proposed rate structures?

A. In part. The Company agrees with Staff's comparison that the Company's TOU rates have a higher differential between peak and off-peak rates than Staff's TOU rates. However, the difference is largely related to the different objectives that the Company and Staff are trying to achieve with the proposed rate design. Specifically, the Company's objective is to establish optional TOU rates that provide customers with an

[9] Id., p. 6, line 6.
[10] Id. p. 8, lines 8-9.
[11] Id., p. 12, lines 4-8.
[12] Id., lines 19-20.
[13] Id., p. 13, lines 6-14.
[14] Id., p. 17, lines 9-11.
[15] Id., lines 12-17.

opportunity to achieve bill savings by shifting consumption from the higher cost "peak" period to the lower cost "off-peak" period. The shifting consumption will produce system efficiencies that will result in benefits to all customers. By comparison, Staff's objective is to establish mandatory TOU rates that also provide customers with an opportunity to achieve bill savings by shifting consumption from the peak to off-peak period; however, the savings opportunities are lower since there is a lower differential between peak and off-peak rates. The implication of the lower differential is to minimize the bill impact and potential savings relative to the current rates while advancing an educational purpose through exposure to time-based rates. The Company believes that both Staff's and the Company's objectives and proposals have merit and can be accommodated in the Company's rate structure.

Q. Does the Company believe that a reasonable solution which incorporates elements of the current structure, Staff's proposed structure, and the Company's proposed structure would be viable for its customers?

A. Yes. Staff expressed a level of acceptance of the Company's proposed opt-in TOU rates with some design exceptions.[16] Likewise, notwithstanding its disagreement with the mandatory nature of Staff's proposed structure, the Company believes, generally, that Staff's proposed structure contributes to the advancement of modernized rates at Empire. The adoption of an approach, like that of Ameren, that incorporates multiple TOU rate options aligned with the Company's and Staff's proposals, as well as the current standard rate as a non-TOU rate option, would establish a path that allows the Commission, Empire, and, most importantly, Empire's customers an opportunity to

[16] Staff Witness Lange states, "…Staff does not object at this time Empire offering the Empire designed ToU rates on an opt-in basis, with or without its requested caps, so long as the rate tracker is not included." (at 6)

understand more advanced rate structures and ensure that the Company's rates are aligned with the Commission's goals going forward. The issues with the individual proposals that remain are secondary to the need to take this first crucial step in modernization of Empire's rates.

Q. What is the Company's response to Staff's recommendation that all customers be charged rates that better align revenue recovery with cost causation, and that will provide customers with information to make choices about when to use energy that will incur lower system costs, or to bear some responsibility for when they use energy that incurs system costs?

A. Empire fully supports this recommendation. Additionally, the Commission should recognize that this recommendation does not prohibit offering choice to customers. Providing a choice of rate options that incorporates the spirit of this recommendation is also important to our customers. For example, time-differentiated rates reward customers that are willing to take on a greater portion of the risk; while lower risk, more stable rates may be offered to more budget conscious customers. Under Staff's recommendation, the prices of those products would vary based on the recognition of the customers' responsibility for the cost risk associated with the selected rate.

Q. What is the Company's response to Staff's recommendation that Empire's TOU rates not be implemented on a mandatory basis for all customers?

A. The Company has not requested that its proposed TOU rates be implemented as mandatory rates and, as such, agrees with this recommendation. Empire believes customers value choice, and the Company is opposed to establishing mandatory rates of any structure or design for all customers.

Q. Does the Company agree with Staff's position on implementing Empire's TOU rates with or without participation caps, and exclusive of the attendant rate tracker requested by Empire?

A. Not entirely. While the Company is pleased with Staff's position on the implementation of the Company's proposed opt-in TOU rates, Empire believes the Commission should approve the recommended TOU rates as proposed on an opt-in basis with an initial limitation on availability and also approve the proposed tracker. As discussed later, the Company believes that the proposed rate tracker is a reasonable and accurate approach to mitigate revenue erosion associated with customer response to TOU rates.

Q. What is Staff's concern with implementing the Company's proposed TOU rates on an opt-in basis?

A. In addition to concerns with the rate tracker, Staff expresses concerns that the rates are heavily susceptible to free-ridership and that few, if any, incremental system benefits will materialize.[17]

Q. What is the Company's response to the free-ridership issue?

A. The Company does not believe that *free-ridership,* as used in the context of introducing TOU rates, should be allowed to become a barrier to the introduction of those rates. As described in Staff witness Lange's testimony, some customers will, under the TOU rate, receive a lower bill for the same usage than they would have under the existing rate.[18] This is a characteristic of any rate structure change. Assuming that the TOU rate is more cost reflective than the previous rate, the reduced cost for some customers is not only expected, but a desirable outcome in which the customer's bill is more

[17] Id., p. 6, lines 6-9.
[18] Id., p. 9, lines 15-19.

closely aligned with the underlying costs of service. In that context, free-ridership is simply an alternate term for more accurate reflection of cost in the customer's revenue responsibilities.

Q. Does the Company agree that the introduction of its TOU rate proposal will result in few, if any, incremental system benefits?

A. No. The Company believes that the TOU rate structure will encourage customers to shift load from the peak period and result in the reduction of peak loads which will lead to the desired benefit of reducing system costs. The Company believes that regardless of whether a customer's current consumption is weighted to the on-peak or weighted to the off-peak, the proposed rates are sufficiently differentiated to encourage a shift in load that leads to the intended incremental system benefits.

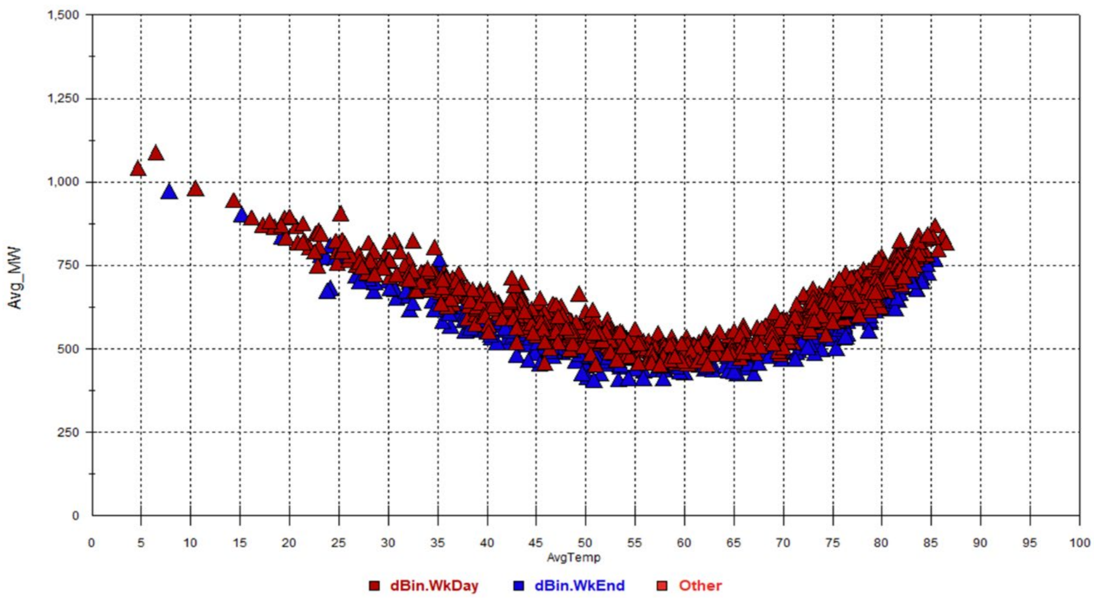
Q. Commission Staff expresses a concern with the allocation of the "excess" portion of the Average and Excess Production cost allocation to the on-peak rate.[19] Does the Company believe that the methodology is a reasonable approach to TOU rate design?

A. Yes. Assigning the excess (or the demand component of the allocator) to the on-peak period recognizes the portion of production demand costs associated with the capacity requirements being caused by the customer during the peak time period. The allocation under the average and excess methodology recognizes the customer's contribution to cost of meeting the peak demand (excess) as well as the cost of meeting the energy (average) needs. The Company's approach to TOU rate design simply reflects how costs are incurred by and allocated to various classes of customers.

[19] Id., p. 10, lines 16-19.

Q. What is the Company's response to Staff's recommendation of including weekends and holidays in the on-peak period?

A. The Company does not agree that the peak period should include weekends and holidays. While peaks can possibly occur on a weekend or holiday, it rarely occurs, is unexpected and, in fact, highly unlikely. A review of the previous 20 years at Empire shows that no annual peak has occurred on a weekend or holiday. The low probability of peaks occurring on weekends is illustrated by reviewing the statistical relationship of peak loads to daily average temperatures for weekdays and weekends as presented by Company witness Eric Fox[20] and illustrated in this scatter plot showing that weekend loads (blue) for like temperatures typically fall below weekday (red) loads at similar temperatures.



[20] Direct Testimony of Eric Fox, Schedule EF-3.

Q. What is the Company's response to retaining the existing TOU rider?

A. The Company agrees that the existing Optional TOU Adjustment Rider[21] should be retained for classes which do not otherwise have a TOU option following the conclusion of this case.

Q. How does Empire respond to Staff's recommendation that the Commission not approve the "best-bill guarantee" for customers within the proposed TOU rates?

A. The Company believes that the first year "best-bill guarantee", in conjunction with effective educational program and support to customers, is appropriate and encourages higher participation levels. The "best-bill guarantee" provides customers with assurance that there will be no negative financial impact over the first year of participation. Following the first full year of enrollment the customer will not have access to the "best-bill guarantee" and will, as suggested by Staff, bear the financial risk associated with being enrolled in the rate.

Q. Does the Company agree that an alternative to the "best-bill guarantee" is establishing a grace period under which a customer could revert to the default rate, as suggested by Staff[22]?

A. No. The rates are designed around annual revenue requirements and are not fully aligned during each month of the year. Compared to the standard rate, the TOU rate may result in a bill that exceeds the standard rate in one month and, in another month, be less than the standard rate. That being the case, it would be more logical to allow the customer to experience the full impact of the TOU rate over the entire initial annual period before determining if the rate is a good fit. A customer enrolling on the rate in

[21] The Empire District Electric Company d.b.a. Liberty, Schedule of Rates for Electricity, P.S.C. Mo. No. 6, Section 4, Original Sheets No. 18 - 19.
[22] Lange Rebuttal, p. 12, line 26.

June may see an increase in the July bill and falsely conclude that the TOU rate is not a good fit and leave the rate without examining the impact over the remainder of the year.

Q. Does the Company agree that customers should be allowed to leave the opt-in rate without exercising the "best-bill guarantee" prior to the end of the first full year on the rate?

A. Yes. If the customer chooses to leave the optional TOU rate before the end of the first 12-month period, the customer should be allowed to exit the rate with no "best-bill guarantee" and return to their otherwise applicable rate. To eliminate rate-switching concerns, the customer should not be allowed to then return to the optional TOU rate until after a waiting period of at least 12 months on the otherwise applicable rate.

Q. How does the Company respond to Staff's recommendation that the Commission should not approve the retail purchased power tracker?

A. The retail purchased power tracker[23] supports the possibility of future rate case recovery of the revenue requirement authorized by the Commission until such time that the TOU rate classes are mature enough for the Company to fully develop accurate rate design inclusive of TOU response and expected migration. The TOU rate is designed specifically to incent customers to make changes to their load. This change in load creates a corresponding change to their bill and leads to a change in the Company's revenue. The tracker is not a request for automatic adjustment of revenue, but as proposed would allow the Company to record these revenue changes in a regulatory asset or liability and request recovery in a future general rate proceeding.

[23] As described in Tillman Direct, p. 16, retail purchased power refers to costs associated with programs that create a reduction in retail load.

Q. What reasons does Staff provide to support its recommendation?

A. Staff expresses three reasons for its opposition to the tracker. First, Staff indicates that the dollars at stake do not warrant this level of revenue protection. Second, Staff indicates that the "best-bill guarantee" would create a mix-match of bills that are bill on TOU or not. And, finally, Staff indicates that the existence of load building and load-shifting that increase sales introduces new revenue for which Empire should not be made "whole".

Q. Does the Company agree that the dollars at stake do not warrant approval of the requested tracker?

A. The Company believes that, depending on enrollment levels, the revenue exposure could become significant enough to warrant the protection. Certainly, the Company is not overly concerned with the exposure related to a 500 residential customer enrollment or a 200 small commercial customer enrollment in TOU. However, the LP TOU rate proposed by the Company, or Staff's proposed LP TOU rate could create sufficient revenue risk to warrant the requested protection. As they respond to the TOU price signals, these customers could introduce substantial risk for revenue erosion through response to the TOU price signals. Furthermore, if, in fact, the revenue risk proves to be immaterial, the tracker balance would be minimal, and a request or authorization for recovery would not be materially impactful.

Q. Should the Commission not grant the proposed tracker, how could the Company address the risk associated with the proposed TOU rates?

A. The risk could be incorporated into the rate design itself. This would be a less accurate method of addressing the revenue reductions associated with the TOU rates, as it would incorporate an assumed migration and response to the TOU rate into the class rate designs. For example, instead of designing the rates to be revenue neutral, the billing determinants would be modified to reflect a reduction in on-peak consumption and a corresponding increase in off-peak consumption. The resulting rates would reflect the full revenue requirement (at the assumed TOU response) and eliminate the risk up to that level of response. Under this alternative, depending on the accuracy of the estimated response, the final revenue could be higher or lower than the authorized revenue. In comparison, under the retail purchased power tracker proposal, the revenue changes associated with the response to the TOU rate would reflect the actual response level and, if recovery is authorized, would ensure the final revenue matches authorized revenue for TOU participants.

Q. What is the Company's position if the Commission does not authorize the tracker nor authorize the inclusion of an assumed level of response in the TOU rate design in this case?

A. If the Commission does not authorize either of these solutions, the Company requests that the TOU rates for only residential and small commercial customers be approved and implemented. The Company further requests that the proposed Company and Staff TOU rates for LP customers not be implemented at this time, with the intention of addressing the revenue risks more fully in a TOU rate design to be filed in the next general rate case.

Q. How does the Company respond to Staff's concern with the impact of the "best-bill guarantee" on the determination of revenue impacts?

A. The Company understands Staff's concern and believes that the impact of any application of the "best-bill guarantee" be coupled with a corresponding adjustment to the tracker balance to ensure that the tracker does not reflect amounts associated with the standard rate following the exercise of the guarantee.

Q. What is the Company's response to Staff's concern regarding the impacts of load growth under the TOU rates?

A. The impact of growth could be accounted for and removed from the impact calculations. The Company suggests that an alternative method of calculating the revenue impact of responses to the TOU rate that eliminates the load growth and load shift impacts should be designed. One method would be the use of a control group to eliminate the growth kWh from the customer's consumption. The control group would consist of non-TOU customers that are selected to match TOU customer consumption levels and patterns prior to entering the rate and allow load growth impacts to be eliminated from the revenue calculations. Other analytical techniques could provide similar assurances.

Q. What is the Company's response to Staff's recommendation that the Commission not approve the FAC TOU NBEC provision proposed by the Company?

A. The Company's proposed modifications to the FAC NBEC ensure that TOU customers are billed fuel rates that are reflective of the fuel costs associated with the actual on-peak and off-peak consumption patterns of the customer. The fuel price differentiation is fully supported by cost-causation methodologies and incorporates fuel cost related benefits and costs associated with response to the TOU rate onto the customer's bill.

Q. Does the Company agree that if the Commission approves the differentiation of base fuel for TOU customers, then the amounts should be adjusted to correspond with the final NBEC and TOU rates found for the case?

A. Yes.

<u>Response to MECG</u>

Q. What are MECG's recommendations regarding the Company's TOU rate proposal?

A. MECG makes the following recommendations:

1. MECG recommends that the Company establish an on-peak window for determining monthly billing demand.[24]
2. MECG does not support the Company's proposed retail purchased power tracker to capture the revenue impacts of customer response to the TOU rate.[25]

Q. What is the Company's response to MECG's recommendation to establish an on-peak window for determining monthly billing demand?

A. The Company's design includes an on-peak window for determining monthly billing demand. The original tariff filing contained an error and a substitute sheet was filed on July 11, 2021 which corrected the definition of Billing Demand to On-Peak Billing Demand.

Q. What is the Company's response to MECG's recommendation regarding the retail purchased power tracker?

A. As previously discussed, the tracker is designed to provide the most accurate method available of accounting for revenue impacts due specifically to customer response to the TOU rate. Migration and customer response have not been incorporated into the Company's rate design and the revenue impact due to LP customer response to the TOU rate could be significant. As suggested in the Company's response to Staff's concerns, an alternative which incorporates the migration and an assumed level of

[24] Rebuttal Testimony of Kavita Maini, p. 10, lines 23-24.
[25] Id., p. 11, lines 19-21.

response in the rate design could provide a less accurate substitute for the proposed tracker. The Company's position if neither the tracker nor a rate design incorporating TOU migration and response is authorized in this case is that the TOU rate for LP customers be delayed pending a more thorough design proposal in the next case.

<u>Response to OPC</u>

Q. What is your understanding of OPC's positions and recommendations regarding the Company's TOU proposal?

A. OPC's positions and recommendations are as follows:

1. OPC does not support the Company's TOU proposal. Additionally, OPC recommends that, since the Company has not proposed to roll out TOU to all customers, the Commission should disallow the return on AMI capital investments.[26]
2. OPC supports the implementation of Staff's TOU proposal for option 1 or option 2.[27]
3. OPC recommends that the Commission reject its proposed retail purchased power tracker.[28]

Q. What is the basis for OPC's lack of support?

A. OPC opines that the benefits associated with TOU rates are limited to only a few customers under the Company's proposal. Additionally, OPC's lack of support for the Company's proposal appears to be substantially based on OPC's contention with

[26] Rebuttal Testimony of Geoff Marke, p. 43, lines 10-21.
[27] Id., p. 44, lines 9-11.
[28] Id., p. 51, lines 13-14.

Evergy Metro and Evergy West regarding a perception that insufficient benefits from the AMI investments were provided to Evergy's customers.[29]

Q. Does the Company believe that the situation, real or perceived, at Evergy Metro and Evergy West is relevant to Empire's current case?

A. Absolutely not. Regardless of the situation, real or perceived, at other utilities, the Company does not believe that its customers should be subjected to rash and imprudently levied mandates regarding the rate designs under which they may take service. Empire is proposing a thoughtful introduction of new rate structures in a rational and controlled manner that supports a successful implementation of advanced rate structures. The Company's proposal is well-designed and incorporates elements to meet our customers' needs, provide direct benefits to willing participants, and promote operational efficiencies that ensure benefits to all customers.

Q. How does the Company respond to OPC's concern that the benefits of TOU rates are not being offered to all customers?

A. The Company believes that the benefits of TOU rates are being provided to all customers within its proposal. Benefits of effective TOU rates are not limited to only participants on those rates. Customers that are not enrolled in TOU rates benefit through the improved system efficiencies resulting from customer response to the rates. Additionally, not all customers have to be mandated to be on a TOU rate for the benefits to customers to accrue. As customers continue to enroll and begin to respond to TOU rates by reducing peak demands, all customers benefit from the resulting improvements to the efficient use of system resources. Furthermore, the Company believes that all

[29] Id., p. 43, lines 17-20.

customers do not desire, nor would all customers consider it a benefit, to be enrolled in a TOU rate.

Q. Is it prudent to implement the Company's proposed TOU rate as an immediately available rate to all customers outside of a controlled and limited release and expansion of the program?

A. No. As discussed in my rebuttal testimony,[30] successful transition to the TOU rates will be supported through a well-designed implementation that includes a gradual introduction of new rate designs, introduction on a limited availability basis (inclusive of bill impact assurances), offering new rates on an opt-in basis, and supplementing new rates with technology.

Q. What is the Company's response to OPC's position on Staff's proposed rates?

A. The Company believes that OPC's position is reasonable given the objective to minimize impact and provide educational benefits. However, OPC's stated objective is to offer benefits to all customers through TOU rates. Due to the limited impact of Staff's proposed rates, the Company does not believe that Staff's proposal supports OPC's objective of benefiting customers in a meaningful way.

Q. Is there a solution that would better support OPC's position?

A. The Company believes, as previously outlined, a solution that incorporates elements of the current structure, Staff's proposed structure, and the Company's proposed structure would be viable for Empire's customers.

Q. What is the Company's response to OPC's recommendation that the Commission reject Empire's requested tracker?

A. The Company disagrees with OPC's reasoning for rejecting the tracker.

[30] Rebuttal Testimony of Gregory W. Tillman, p. 8, line 16 through p. 9, line 4.

Q. What is OPC's objection to the tracker based upon?

A. OPC appears to believe that Senate Bill 564 precludes use of the proposed tracker based on the Company's election of Plant-In-Service Accounting ("PISA").

Q. What is the Company's position?

A. The Company does not agree that SB 564 precludes the proposed tracker. While I am not an attorney, it appears to me that Senate Bill 564, as passed, establishes a preclusion on "*…authorizing periodic rate adjustments outside of general rate proceedings to [reflect the nongas revenue effects] adjust rates of customers in eligible customer classes to account for the impact on utility revenues of increases or decreases in residential and commercial customer usage variations in either weather, conservation, or both.*"[31].

Q. Is the proposed tracker a periodic rate adjustment outside of general rate proceedings?

A. No. The Company has proposed that the Company would track the revenue impacts of customer's response to TOU rates in a regulatory asset or liability and then request recovery in a future general rate proceeding.

Q. Is the proposed tracker intended to account for customer usage variations in either weather, conservation, or both?

A. No. The proposed tracker is intended to account for revenue variations due specifically to customer response to the TOU rate structure. As proposed by the Company, this is a relatively straightforward comparison of non-fuel revenues under the TOU rate

[31] SECOND REGULAR SESSION, [TRULY AGREED TO AND FINALLY PASSED], SENATE SUBSTITUTE NO. 5 FOR SENATE BILL NO. 564, Section A, 386.266, para. 3.

compared to what the revenue otherwise would have been under the otherwise applicable rate.

IV. TARIFF CHANGES

Q. What change does Staff recommend to the Company's proposed Schedule - TS?

A. Staff recommends that the Company add provisions requiring customer contracts to be filed for Commission review and add either the value of the monthly credit or a formula describing how the monthly credit will be calculated for each customer.[32]

Q. How does the Company respond to the recommendation to make these changes?

A. The Company agrees with Staff's recommendation and supports the changes as requested.

V. RENEWABLE ENERGY PURCHASE SCHEDULE

Q. What are Staff's recommendations regarding the Company's proposed REP Schedule?

A. Staff recommends the following changes to the Company's proposed REP schedule.

1. Staff recommends the REP schedule incorporate the provisions intended for the service agreement.[33]
2. Staff recommends that the program allow for a 60-day effective date after filing to change the rate.
3. Staff recommends a percentage cap on the number of RECs available to the program be placed in the tariff and that Empire provide staff with the cap and all supporting calculations on an annual basis.

[32] Rebuttal Testimony of Robin Kliethermes, p. 3, lines 1-6.
[33] Rebuttal Testimony of Amanda Coffer, p. 4, lines 14-15.

Q. Does the Company agree with Staff's recommendation to include the provisions for the service agreement in the Tariff?

A. Yes.

Q. How does the Company respond to the recommendation for a 60-day effective date for rate changes?

A. The Company does not oppose the recommended change from a 30-day to a 60-day effective date.

Q. What is the Company's position on the percentage cap and providing the cap and supporting calculations annually?

A. The Company supports a cap of 15% and could incorporate the cap information and supporting calculations in its annual filing with the Commission.

VI. CONCLUSION

Q. Does this conclude your Surrebuttal testimony?

A. Yes, at this time.

VERIFICATION

I, Gregory W. Tillman, under penalty of perjury, on this 20th day of January, 2022, declare that the foregoing is true and correct to the best of my knowledge and belief.

/s/ Gregory W. Tillman