

Fact 489 in the *Report and Order* notes “Staff included amounts considered to be known and measurable in its direct case as of September 30, 2019, the end of the update period.” The remaining sentence in that Finding of Fact (“This predates the retention program, which had not yet been implemented.”) is in error.

5. Although it is true that payments under the linemen retention program were first made during the true-up period for the case, Empire began to incur the obligation to make those payments during the update period. As noted on page three of the True-Up Direct Testimony of Jeff Westfall, Ex. 40, the program started with the September 2019 pay period.

WHEREFORE, Empire submits this Response to OPC’s Application for Rehearing and requests that the Commission deny OPC’s Application for Rehearing and grant such further relief as is just and proper under the circumstances.

Respectfully submitted,

/s/ Diana C. Carter

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CERTIFICATE OF SERVICE

I hereby certify that the above document was filed in EFIS on this 17th day of July, 2020, with notification of the same being sent to all counsel of record.

/s/ Diana C. Carter