

5. The July 15 order also directs “Staff [to] specifically identify the correct TCJA excess ADIT protected and unprotected amounts in the record and additionally identify where in the record the proposed amortization periods for those amounts are contained.”

Riverton 12 O&M Tracker

6. The Riverton 12 O&M Tracker was established in Commission Case ER-2014-0351 and was intended to normalize, or smooth, costs of the Riverton 12 long term maintenance agreement. The Commission found in the *Report and Order* that the Riverton 12 O&M tracker should continue. *Report and Order*, p. 124.

7. One of the issues to be decided by the Commission was as follows: “(c) What level of O&M expense should be included in the cost of service for Riverton 12?” The Commission decided that “the appropriate amount of O&M expenses to include in the cost of service is \$8,133,625, prior to the applying jurisdictional allocations.” *Report and Order*, p. 124.

8. Finding of fact 340, upon which the above decision was based, suggested erroneously that the cited \$8,133,625 represented the “O&M expenses for Riverton 12.” *Report and Order*, p. 123. It did not. The \$8,133,625 represented the O&M expenses for all Riverton units, which includes more than just Riverton 12.

9. Empire and Staff agree that the correct amount of O&M expenses for Riverton 12, after use of Staff’s three-year average, is \$7,293,416. This amount, however, is not contained within the record. As such, Staff and Empire seek clarification from the Commission that it intends the tracker to be set at the three year average of O&M expenses for Riverton 12 and recognizes that \$8,133,625 is for all Riverton units.

Excess ADIT

10. The March 31, 2019, protected and unprotected excess ADIT balances of \$101,146,004 and \$25,621,649, respectively, are not in the record for this case. Company Exhibit 4 (Sheri Richard's direct testimony), page 21, addresses the proposed three-year amortization of the unprotected ADIT balance and the annual unprotected amortization amount. This testimony, at page 23, also contains the annual amortization amount for the protected excess ADIT component. Staff's Exhibit 124, Accounting Schedule 11, lines 51 and 52, also contains the same annual amortization amounts.

11. For the protected excess ADIT there is no set annual amortization amount that is calculated or used, as the amortization amounts may change from year to year. The protected excess ADIT balance is associated with past accelerated depreciation tax timing differences that must be "normalized" for rate making purposes and cannot be flowed back to the customers any more quickly than over the estimated life of the assets that give rise to the ADIT. The annual amortization calculation is based upon the estimated lives of each asset in which the tax timing difference occurred.

12. Staff and Empire both agree on the excess ADIT amortization amounts to include in cost of service in this proceeding for both protected and unprotected ADIT, and these values were not challenged by any other party to this proceeding or suggested for inclusion in the list of issues for determination by the Commission.

WHEREFORE, Empire and Staff submit their Joint Response to Commission Order and request clarification of the Riverton 12 tracker issue as set forth above.

Respectfully submitted,

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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