

*Exhibit No.:*  
*Issue:* *Supplemental Executive  
Retirement Plan Benefits*  
*Witness:* *Ashley Sarver*  
*Sponsoring Party:* *MoPSC Staff*  
*Type of Exhibit:* *Rebuttal Testimony*  
*Case No.:* *ER-2021-0312*  
*Date Testimony Prepared:* *December 20, 2021*

**MISSOURI PUBLIC SERVICE COMMISSION**  
**FINANCIAL AND BUSINESS ANALYSIS DIVISION**  
**AUDITING DEPARTMENT**

**REBUTTAL TESTIMONY**

**OF**

**ASHLEY SARVER**

**THE EMPIRE DISTRICT ELECTRIC COMPANY,  
d/b/a Liberty**

**CASE NO. ER-2021-0312**

*Jefferson City, Missouri*  
*December 2021*

1 **REBUTTAL TESTIMONY**

2 **OF**

3 **ASHLEY SARVER**

4 **THE EMPIRE DISTRICT ELECTRIC COMPANY,**  
5 **d/b/a Liberty**

6 **CASE NO. ER-2021-0312**

7 Q. Please state your name and business address.

8 A. Ashley Sarver, 200 Madison Street, Jefferson City, Missouri 65101.

9 Q. By whom are you employed and in what capacity?

10 A. I am a Senior Utility Regulatory Auditor employed by the Missouri Public  
11 Service Commission (“Commission”).

12 Q. Are you the same Ashley Sarver that contributed to Staff’s Cost of Service  
13 Report filed on October 29, 2021 in Case No. ER-2021-0312?

14 A. Yes.

15 Q. What is the purpose of your Rebuttal Testimony?

16 A. The purpose of this testimony is to respond to the direct testimony addressing  
17 Supplemental Executive Retirement Benefits (“SERP”) filed in this case by The Empire District  
18 Electric SERP Retirees (“EDES”) witness William L. Gipson, in which he recommends that  
19 The Empire District Electric Company (“Empire”) be required to externally fund its SERP  
20 benefits through a Rabbi trust.

21 **SUPPLEMENTAL EXECUTIVE RETIREMENT PLAN**

22 Q. What is SERP?

1           A.     SERP is a non-qualified retirement plan for key company employees, such as  
2 executives, that provides benefits above and beyond those covered in other retirement plans  
3 such as individual retirement plans, a 401(k) or pension, and other post-employment plans.

4           Q.     What did the *Global Stipulation and Agreement* filed in the last rate case, Case  
5 No. ER-2019-0374 state concerning SERP retirees' benefits?

6           A.     Filed on April 15, 2020, the *Global Stipulation and Agreement* states on page 11:

7                         EDESER and the Company shall discuss with Staff and OPC, in  
8 or prior to July of 2020, the possibility of external funding (Rabbi Trust)  
9 of SERP benefits. If an agreement is reached between EDESER, the  
10 Company, Staff, and OPC in which: (1) EDESER, Staff, and OPC agree  
11 that, using reasonable assumptions, the annual costs and expenses of  
12 funds contributed by Empire using a Rabbi trust (including contributions  
13 to the trust) to provide benefits are essentially the same or less than the  
14 costs and expenses to customers of providing the alternate of SERP  
15 benefits from Empire's general funds and (2) none of these parties  
16 (EDESER, Staff, OPC) oppose the rate recovery of the Rabbi trust  
17 consistent with the Willis Towers Watson SERP funding analysis dated  
18 July 17, 2019 (but with currently approved weighted average cost of  
19 capital) in place of the SERP funded from general funds and will support  
20 said rate recovery in future cases, Empire will fund SERP benefits via a  
21 Rabbi trust within 30 days of execution of the written agreement.

22           Q.     Did Staff discuss with EDESER, the Company and OPC the possibility of external  
23 funding (Rabbi trust) of SERP benefits as called for in the language from the  
24 Case No. ER-2019-0374 stipulation language quoted above?

25           A.     Yes. That meeting took place on September 4, 2020.

26           Q.     Did that meeting result in an agreement among the parties regarding possible  
27 external funding of SERP benefits by Empire?

28           A.     No. However, various modifications to Empire's study regarding the economics  
29 of SERP external funding have since been proposed and incorporated into the analysis by

1 Empire. Staff's understanding is that further discussions of the study will likely take place  
2 between EDESR, Empire, Staff and OPC in the context of this general rate proceeding.

3 Q. What is EDESR's position concerning SERP costs?

4 A. Mr. Gipson states the following in his direct testimony at page 2, lines 16  
5 through 20:

6 Much like pensions and Other Post-Employment Benefits ("OPEBs"), I  
7 recommend that Empire be required to externally fund its SERP benefits  
8 through a Rabbi trust. This recommendation is consistent with the  
9 stipulation provision from Case No. EM-2016-0213 and my testimony  
10 in Case No. ER-2019-0374.

11 Q. What stipulation and agreement provisions in the prior Liberty-Empire merger  
12 case, Case No. EM-2016-0213, concerned SERP expense?

13 A. Filed on August 23, 2016, the Stipulation and Agreement as to EDESR on page 1  
14 through page 2 states:

15 Empire will, within one year after the Transaction closes, cause to be  
16 performed an actuarial analysis with the intention of determining  
17 whether a SERP funded via a Rabbi trust according to the SERP plan is  
18 less expensive to ratepayers than benefits paid from Empire's general  
19 funds for the life of the plan (the "Study"). The current SERP recipients  
20 shall be included in the development of all assumptions and allowed  
21 review and analysis of the Study. If the Study concludes the annual costs  
22 and expenses of funds contributed by Empire using a Rabbi trust  
23 (including contributions to the trust) to provide benefits are essentially  
24 the same or less than the costs and expenses to ratepayers of providing  
25 the alternate of SERP benefits from Empire's general funds, Empire will  
26 discuss the results of the Study with Staff and OPC, and to the extent  
27 neither party oppose the rate recovery of the Rabbi trust in place of the  
28 SERP funded from general funds, Empire will fund a Rabbi trust  
29 according to the plan. Any trust documents shall be subject to review by  
30 the SERP recipients' counsel.

31 Q. What has been Staff's position in the past concerning SERP costs?

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Ashley Sarver

1           A.     Staff’s consistent policy has been to limit utilities’ rate recovery of this item to  
2 actual normalized benefit payments to employees (i.e., a “pay-as-you-go” approach), if the paid  
3 amounts are reasonable.

4           Q.     How did Staff normalize Empire’s SERP expense paid by Empire in this case?

5           A.     Staff reviewed a five year period ending June 2021, to determine a reasonable  
6 ongoing level for SERP. Due to an employee retiring January 2021, the actual SERP payments  
7 are at a five-year high. So, Staff used the 12 months of actual payments ending with the end of  
8 the update period (June 30, 2021) to determine the annual costs of the SERP for the inclusion  
9 in rates for this case.

10          Q.     Could external funding of SERP benefits change the ratemaking treatment  
11 afforded to such costs?

12          A.     Yes. Under an external funding approach, it is highly likely that the cost to be  
13 included in customer rates would be the annual funding contribution amount, and not the  
14 amount of annual benefits paid to eligible retirees.

15          Q.     Would Staff support use of an external mechanism such as a Rabbi trust to fund  
16 SERP benefits?

17          A.     Generally, no. However, Staff might not oppose external funding of SERP  
18 benefits in this particular case if it is clearly demonstrated that external funding of SERP  
19 benefits would be at least no more expensive from a customer perspective than the current pay-  
20 as-you-go rate recovery policy.

21          Q.     Has Staff been provided a copy of the study that Mr. Gipson cites as  
22 demonstrating an overall Empire customer benefit from external funding of SERP benefits?

23          A.     Yes. Staff is still in the process of reviewing the study.

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1           Q.     Does this conclude your rebuttal testimony?

2           A.     Yes.

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

**AFFIDAVIT OF ASHLEY SARVER**

STATE OF MISSOURI     )  
                                   )  
COUNTY OF COLE     )     ss.

COMES NOW ASHLEY SARVER, and on her oath declares that she is of sound mind and lawful age; that she contributed to the foregoing *Rebuttal Testimony of Ashley Sarver*; and that the same is true and correct according to her best knowledge and belief.

Further the Affiant sayeth not.

Ashley Sarver  
ASHLEY SARVER

**JURAT**

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 15<sup>th</sup> day of December, 2021.

DIANNA L. VAUGHT  
Notary Public - Notary Seal  
State of Missouri  
Commissioned for Cole County  
My Commission Expires: July 18, 2023  
Commission Number: 15207377

Dianna L. Vaught  
Notary Public