

*Exhibit No.:*  
*Issue(s):* *Non-Labor O&M Expense,  
SERP, Pensions & OPEB,  
Wind Non-FAC expense*  
*Witness:* *Ashley Sarver*  
*Sponsoring Party:* *MoPSC Staff*  
*Type of Exhibit:* *Surrebuttal Testimony*  
*Case No.:* *ER-2021-0312*  
*Date Testimony Prepared:* *January 20, 2022*

**MISSOURI PUBLIC SERVICE COMMISSION**

**COMMISSION STAFF**

**FINANCIAL AND BUSINESS DIVISION**

**AUDITING DEPARTMENT**

**SURREBUTTAL TESTIMONY**

**OF**

**ASHLEY SARVER**

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

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

*Jefferson City, Missouri  
January 2022*

**TABLE OF CONTENTS OF  
SURREBUTTAL TESTIMONY OF  
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THE EMPIRE DISTRICT ELECTRIC COMPANY,  
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CASE NO. ER-2021-0312**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12

EXECUTIVE SUMMARY .....1  
OPERATION AND MAINTENANCE FOR THE WIND PROJECT .....2  
NON-LABOR OPERATIONS AND MAINTENANCE EXPENSE.....2  
WIND NON-FAC EXPENSES .....3  
FAS 88 .....4  
SERP .....6



1 **OPERATION AND MAINTENANCE FOR THE WIND PROJECT**

2 Q. What is the Company's approach to determine a normalized level for O&M for  
3 the wind project?

4 A. Charlotte T. Emery's rebuttal testimony, page 14 lines 10 through 13 states  
5 "it would be more reasonable to base the normalized level of costs by taking the costs incurred  
6 for the month of June 30, 2021 (all Wind Projects were fully operational during the month) and  
7 multiplying it by twelve to get an annual amount."

8 Q. Does Staff have an updated annualized number for O&M costs?

9 A. Yes. After reviewing the data provided Staff has determined that April 2021,  
10 May 2021, and June 2021 is most reasonable for the O&M for wind. Staff used April, May and  
11 June 2021 amounts and multiplied it by four to come up with an annualized amount.

12 Q. What is the annualized amount?

13 A. Before jurisdictional allocations are applied, the annualized amount is \$623,687.  
14 The jurisdictional annualized amount for Empire Electric's O&M for the wind project  
15 is \$550,590.

16 **NON-LABOR OPERATIONS AND MAINTENANCE EXPENSE**

17 Q. According to Ms. Emery's rebuttal testimony page 25, lines 16 through 21 she  
18 states regarding O&M expenses that "inflation rates should be applied to reflect costs in today's  
19 dollars." How do you respond?

20 A. It is not appropriate to adjust the actual expense for ratemaking purposes based  
21 on expected inflation rates.

22 Q. Was Staff aware of the Company wanting to utilize inflation rates to calculate  
23 O&M expense?

1 A. No. The Company did not reference this position in its direct testimony.

2 Q. In the last Empire rate case, Case No. ER-2019-0374, did the Commission rule  
3 that it is not appropriate to adjust the O&M expense amount for inflation?

4 A. Yes. On page 124 of the *Amended Report and Order*, the Commission states,  
5 “The Commission does not find that it is appropriate to adjust the O&M expense amount  
6 for inflation.”

7 Q. What is Staff’s appropriate amount of O&M expense to be included in Empire’s  
8 revenue requirement?

9 A. Before jurisdictional allocations are applied, the normalized amount is  
10 \$23,273,046. The jurisdictional annualized amount for Empire Electric’s O&M for the wind  
11 project is \$20,537,693.

12 **WIND NON-FAC EXPENSES**

13 Q. On Tisha Sanderson’s rebuttal testimony page 2 she states that Staff excluded  
14 costs for Operations and Maintenance Agreement (OMA) and the Asset Management and  
15 Services Agreement (AMA) associated with its new wind assets. Does Staff agree?

16 A. Yes. Staff excluded these costs because they were estimated based on the  
17 balance of plant O&M. However, based on the Company’s subsequent response to Staff Data  
18 Request No. 0404, Staff is now including these costs.

19 Q. According to Ms. Sanderson’s rebuttal testimony she states Staff did not include  
20 the Affiliate Services Agreement wind asset costs. Does Staff agree?

21 A. Yes, Staff excluded these costs. However, based on the Company’s subsequent  
22 response to Staff Data Request No. 0404 and working with Empire, Staff is now including  
23 these costs.

1 Q. Did Staff exclude wind asset costs arising from the Company's compliance  
2 with the Stipulation and Agreement Concerning Wildlife Issues, which arose from Case No.  
3 EA-2019-0010?

4 A. Yes. Upon examination of Staff Data Request No. 0404, Staff has determined  
5 that this cost is outside the update period and will be reviewed in the next rate case.

6 **FAS 88**

7 Q. What is Empire's position regarding FAS 88 expense?

8 A. James A. Fallert's rebuttal testimony states on page 2, lines 15 through 16 that,  
9 "The Company used a four year average of FAS 88 expense experience in 2017 through 2020.  
10 Staff included no FAS 88 expense in its direct case."

11 Q. What is Staff's response?

12 A. Staff did not include an expense for FAS 88 in this case. The last time Empire  
13 recorded an amount for FAS 88 was in 2017 and 2018; therefore, this expense is non-recurring  
14 and should not be included in this case.

15 Q. Does Mr. Fallert explain the reasoning for Empire including an expense for  
16 FAS 88 in this case?

17 A. Mr. Fallert's rebuttal testimony on pages 2 through 3, lines 19-24 and 1-2 states:

18 Recent experience has shown that FAS 88 expense is not an  
19 uncommon occurrence for the Company. In fact, as mentioned  
20 above, the Company expects to again record FAS 88 expense in  
21 2021. The age of the Company's workforce is relatively high and  
22 many current employees are eligible for retirement. Since FAS 88  
23 expense is caused by high levels of retirements, it is reasonable to  
24 base the adjustment in this case on the likelihood of future FAS 88  
25 entries. The Company's proposed four-year average is reasonable,  
26 in that in the event that a FAS 88 entry occurs, it would likely to  
27 be more than that average. This is because the average includes  
28 several years with no FAS 88 amounts recorded.

Surrebuttal Testimony of  
Ashley Sarver

1 Q. Does Staff find Mr. Fallert's response reasonable to include an expense for  
2 FAS 88?

3 A. No. Staff includes expenses that are known and measurable in rates for these  
4 costs and the last expenses booked by Empire was in 2017 and 2018. As of the end of the update  
5 period, Empire also has not recorded any FAS 88 expense.

6 Q. Did Mr. Fallert identify what "recent information" he indicates the Company  
7 relied on to predict that the Company would record FAS 88 at some point in December 2021  
8 (Fallert Rebuttal, page 2, lines 8 – 9)?

9 A. No.

10 Q. Is December 2021, past the Update Period for this case?

11 A. Yes, the Update Period ends June 30, 2021.

12 Q. Is it generally appropriate to include costs incurred in rates outside of the test  
13 year and update period?

14 A. No.

15 Q. Do you agree that FAS 88 expense is included in the pension tracker, as  
16 discussed by Mr. Fallert in his rebuttal at page 3, lines 4 - 5?

17 A. Yes.

18 Q. Mr. Fallert states that FAS 88 expense was included in the rates in the 2019 rate  
19 case. Did the Company collect FAS 88 expense from ratepayers after the effective date of new  
20 rates in the 2019 rate case, as reflected in the Company's pension tracker?

21 A. Yes. The Company will continue to collect an amount from the customers until  
22 the tracker for the amount set in the last rate case is paid off. The tracker will be evaluated again  
23 in the next rate case.

1 Q. Did the Company actually incur an FAS 88 expense after the effective date of  
2 new rates in the 2019 rate case, as reflected in the Company's pension tracker?

3 A. No.

4 Q. Mr. Fallert says that if FAS 88 expense is included in this case, but the Company  
5 over recovers that expense, the difference will be deferred and returned to the appropriate party  
6 through the tracker mechanism. Based on its pension tracker, will the Company have to return  
7 over recovered FAS 88 expenses to ratepayers in this proceeding?

8 A. No. Staff would review the tracker in the next rate case.

9 Q. What happens if FAS expense is not included in this case, but the Company  
10 actually incurs an FAS 88 expense?

11 A. All of the FAS 88 expense has been accounted for as of June 30, 2021. If the  
12 Company incurs more expenses in the future, it will be booked as part of the pension tracker  
13 regulatory asset/liability, for which it will have the opportunity to recover in the next rate case.

14 Q. So in summary, is it accurate to say that if FAS 88 expense is not included in  
15 this case, the Company will still be made whole if it incurs an FAS 88 expense in the future?

16 A. Yes, through operation of the ongoing Empire pension tracker.

17 **SERP**

18 Q. What is Empire's and Staff's position for SERP?

19 A. Empire is seeking recovery of an actuarial calculation of SERP expenses.  
20 Mr. Fallert goes on to state on page 3 of his rebuttal, lines 17 through 20 that "Rather than use  
21 the actuarially determined annual expense amount provided by CBIZ Cottonwood, Staff  
22 followed its long-standing approach of basing recovery on actual payments made from the plan.



1 Staff reviewed 5 years of payments and based the adjustment on payments made during the  
2 12 months ending June 30, 2021.”

3 Q. Why does Staff use the actual SERP payments made rather than use the  
4 actuarially determined annual SERP expense?

5 A. While regular pension and Other Post-Employment Benefits (OPEB) expense  
6 amounts included in rates are based on accrual accounting assumptions, these same assumptions  
7 form the basis of the concurrent cash contributions made by Empire and other utilities to  
8 external trusts to fund pensions and OPEBs. In contrast, SERP costs are not pre-funded.  
9 Empire’s suggested approach to this matter would require customers to pay in rates estimated  
10 amounts for OPEBs that would not be paid out to eligible Empire retirees for many years.

11 Q. On page 4, lines 4-13 of Mr. Fallert’s rebuttal testimony he compares SERP  
12 expense to Accumulated Deferred Income Taxes (ADIT) in his rebuttal testimony. Does Staff  
13 agree with this comparison as a reason as why ratepayers should pay for an estimated amount  
14 of SERP?

15 A. No. As the Commission is aware, the normalization restrictions of the Internal  
16 Revenue Service Code effectively mandates that deferred income tax amounts be granted rate  
17 recovery prior to the time in which such tax amounts are actually paid to taxing authorities.  
18 There is no IRS or other requirement mandating rate collection of SERP expenses prior to the  
19 period in which such benefits are paid.

20 Q. In the last Empire rate case, Case No. ER-2019-0374, did the Commission rule  
21 that the payment basis for SERP expense was the appropriate method to set rates?

22 A. Yes. On page 128 of the *Amended Report and Order*, the Commission states  
23 “The Commission finds that the payment basis is appropriate to calculate SERP costs because

1 SERP costs are not pre-funded and Empire’s own analysis indicates that costs to ratepayers to  
2 reimburse the SERP benefits are lower under the payment basis.”

3 Q. Did Empire propose the same approach as in this proceeding for calculating  
4 SERP expense in the last rate case, Case No. ER-2019-0374?

5 A. Yes.

6 Q. Is Staff’s approach to including actual SERP payments in this case, the same  
7 approach that Staff has used in other rate cases for Empire?

8 A. Yes<sup>1</sup>.

9 Q. Has Staff used the payment method for determining SERP expense in other cases  
10 for other utilities in the State of Missouri?

11 A. Yes. This has been Staff’s long-standing position on determining an appropriate  
12 SERP expense level to include in a utility’s cost of service.

13 Q. Does Staff have any corrections for SERP?

14 A. Yes. In Staff’s original calculations for SERP expense, Staff used the amount of  
15 SERP expense paid for the 12 months ending June 30, 2021. After further review, it appears  
16 the monthly amount of SERP expense paid increased in January 2021 and has stayed at that  
17 monthly level since that point. Staff recommends using the last known payment of occurred for  
18 June 2021 times 12 months to determine an annualized SERP expense level.

19 Q. What is the correction to Staff’s SERP?

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<sup>1</sup> Fallert Rebuttal, page 5, Case No. ER-2019-0374.

Surrebuttal Testimony of  
Ashley Sarver

1           A.     For Staff's Direct Testimony, Empire Electric's SERP expense was \$627,093  
2 using 12 months ending June 2021. For surrebuttal testimony, Staff's Empire Electric expense  
3 is \$746,844.

4           Q.     Does this conclude your surrebuttal testimony?

5           A.     Yes, it does.

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

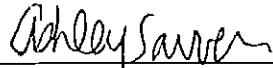
In the Matter of the Request of The Empire )  
District Electric Company d/b/a Liberty for ) Case No. ER-2021-0312  
Authority to File Tariffs Increasing Rates for )  
Electric Service Provided to Customers in its )  
Missouri Service Area )

**AFFIDAVIT OF ASHLEY SARVER**

STATE OF MISSOURI )  
 ) ss.  
COUNTY OF COLE )

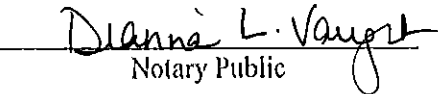
COMES NOW ASHLEY SARVER, and on her oath declares that she is of sound mind and lawful age; that she contributed to the foregoing *Surrebuttal Testimony of Ashley Sarver*; and that the same is true and correct according to her best knowledge and belief.

Further the Affiant sayeth not.

  
\_\_\_\_\_  
ASHLEY SARVER

**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 7<sup>th</sup> day of January, 2022.

  
\_\_\_\_\_  
Notary Public

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