

Exhibit No.:
Issue(s): *Supplemental Executive
Retirement Plan (SERP) Benefits
and Riverton 12 O&M Tracker*

Witness: *Ashley Sarver*
Sponsoring Party: *MoPSC Staff*
Type of Exhibit: *Rebuttal Testimony*
Case No.: *ER-2019-0374*
Date Testimony Prepared: *March 3, 2020*

MISSOURI PUBLIC SERVICE COMMISSION

FINANCIAL AND BUSINESS ANALYSIS DIVISION

AUDITING DEPARTMENT

REBUTTAL TESTIMONY

OF

ASHLEY SARVER

THE EMPIRE DISTRICT ELECTRIC COMPANY

CASE NO. ER-2019-0374

Jefferson City, Missouri
March 2020

1
2
3
4
5
6
7

**TABLE OF CONTENTS OF
REBUTTAL TESTIMONY OF
ASHLEY SARVER
THE EMPIRE DISTRICT ELECTRIC COMPANY
CASE NO. ER-2019-0374**

SUPPLEMENTAL EXECUTIVE RETIREMENT PLAN1

RIVERTON 12 O&M TRACKER.....4

1 **REBUTTAL TESTIMONY OF**

2 **ASHLEY SARVER**

3 **THE EMPIRE DISTRICT ELECTRIC COMPANY**

4 **CASE NO. ER-2019-0374**

5 Q. Please state your name and business address.

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

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

8 A. I am a Utility Regulatory Auditor employed by the Missouri Public Service
9 Commission (“Commission”).

10 Q. Are you the same Ashley Sarver that contributed to Staff’s Cost of Service
11 Report filed on January 15, 2020 in Case No. ER-2019-0374?

12 A. Yes.

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

14 A. The purpose of this testimony is to respond to the direct testimony addressing
15 Supplemental Executive Retirement Benefits filed in this case by The Empire District Electric
16 SERP Retirees (“EDES”) witness William L. Gipson, in which he recommends that The
17 Empire District Electric Company (“Empire”) be required to externally fund its Supplemental
18 Executive Retirement Plan (“SERP”) benefits through a Rabbi trust. I will also respond to the
19 corrected direct testimony of Sheri Richard filed on behalf of The Empire District Electric
20 Company, a Liberty Utilities company, regarding the Riverton 12 Operation and Maintenance
21 (“O&M”) tracker.

22 **SUPPLEMENTAL EXECUTIVE RETIREMENT PLAN**

23 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 plants, a 401(k) or pension, and other post-employment plans.

4 Q. What stipulation and agreement provisions in the prior Liberty-Empire merger
5 case, No. EM-2016-0213, concerned SERP expenses?

6 Filed on August 23, 2016, the Stipulation and Agreement as to EDESR on page 1
7 through page 2 states,

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

24 Q. What is EDESR’s position concerning SERP costs?

25 A. Mr. Gipson states the following in his direct testimony at page 2, lines 9 and 10,
26 “I recommend that Empire be required to externally fund its SERP benefits through a
27 Rabbi trust.”

28 Q. What has been Staff’s consistent position in the past concerning SERP costs?

Rebuttal Testimony of
Ashley Sarver

1 A. Staff’s policy has been to limit utilities’ rate recovery of this item to actual
2 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 September 30, 2019 to determine a
6 reasonable ongoing level for SERP. Due to an upward trend in actual payments, Staff used the
7 12 months of actual payments ending with the end of the update period (September 30, 2019)
8 to determine the annual costs of the SERP for the inclusion in rates for this case.

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

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

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

16 A. Generally, no. However, Staff might not oppose external funding of SERP
17 benefits in cases in which it is clearly demonstrated that external funding of SERP benefits
18 would be less expensive from a customer perspective than the current pay-as-you-go rate
19 recovery policy.

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

22 A. Yes. However, the required discussions between Empire and Staff (and the
23 Office of the Public Counsel) regarding SERP external funding called for in the Stipulation and

1 Agreement as to EDES in Case No. EM-2016-0213 regarding this study have not taken place
2 to date. Pending those discussions, and a further opportunity to review the assumptions and
3 conclusions underlying the SERP analysis in detail, Staff is not in a position to make a
4 recommendation at this time to the Commission regarding any change for funding and
5 ratemaking for Empire SERP benefits.

6 **RIVERTON 12 O&M TRACKER**

7 Q. Did Empire witness Richard propose to continue the Company's current
8 Riverton 12 O&M tracker in this case?

9 A. Yes. In her corrected direct testimony at page 28, lines 13 through 15,
10 Ms. Richard states,

11 Yes. As discussed above, the operating expenses associated with the
12 Riverton 12 long term maintenance agreement have increased
13 significantly since the tracker was established in the Company's last rate
14 case. Liberty-Empire believes the continuation of the tracker for these
15 costs provides benefits to both the Company and its customers by
16 avoiding any over or under collection of costs incurred for maintenance
17 of the Riverton 12 unit.

18 Q. Does Staff agree with Ms. Richard that this particular tracker should continue?

19 A. No. Staff recommended in its Cost of Service Report that this tracker be
20 discontinued after this case. This plant was converted to a combined cycle unit May 1, 2016,
21 which has given Staff enough prior history to determine a reasonable normalized level of
22 O&M expense associated with this unit for this case. Also, see the rebuttal testimony of Staff
23 witness Kimberly K. Bolin for more information regarding when trackers are appropriate to use
24 in rate regulation.

25 Q. By proposing to discontinue this tracker, is Staff suggesting that Empire should
26 no longer recover the costs related to these O&M expenses?

Rebuttal Testimony of
Ashley Sarver

1 A. No. Staff has included a reasonable level of ongoing expense based on three
2 years' of actual historical data for the Riverton 12 generating facility. Furthermore, Staff
3 calculated for the same time period the total O&M costs, which were above the established
4 tracker base and included the total in rate base as a regulatory asset. Staff recommends a five
5 year amortization of the regulatory asset incurred for Riverton 12.

6 Q. Why did Staff use three years of O&M cost to develop its recommended rate
7 level for this expense?

8 A. Riverton 12 was converted to a combined cycle unit on May 1, 2016. Therefore,
9 there are over three years of actual cost information for non-labor O&M costs as of the end of
10 the test year period for this proceeding. The O&M costs have not shown an upward or
11 downward trend in the last three years.

12 Q. Does this conclude your rebuttal testimony?

13 A. Yes.

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of The Empire District Electric)
Company's Request for Authority to File) Case No. ER-2019-0374
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 *Rebuttal Testimony*; 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 2nd day of March 2020.



Notary Public

D. SUZIE MANKIN
Notary Public - Notary Seal
State of Missouri
Commissioned for Cole County
My Commission Expires: December 12, 2020
Commission Number: 12412070