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 Tariffs Increasing Rates for Electric	)	Case No. ER-2019-0374
Service Provided to Customers in its Missouri Service Area	)	

STATEMENT OF POSITIONS OF THE EMPIRE DISTRICT ELECTRIC COMPANY

COMES NOW The Empire District Electric Company, a Liberty Utilities company ("Liberty-Empire" or the "Company"), and for its Statement of Positions, respectfully states as follows to the Missouri Public Service Commission:

The Initial Rate Case Filing and the Global Stipulation

On August 14, 2019, Liberty-Empire submitted revised rate schedules designed to increase Liberty-Empire's gross annual electric revenues by approximately $26.5 million, direct testimony in support of its rate increase request, and additional information required by the Commission's minimum filing requirements. This general rate case proceeding was required by RSMo. 386.266.4(3), and the dominant factors driving the amount of the requested rate increase were investments in Liberty-Empire's transmission and distribution systems since April 1, 2016, increased costs for property taxes and depreciation expense stemming from additional capital investment, and normal and inflationary increases in operating costs.

Following eight months of extensive discovery and other rate case processing, on April 15, 2020, the Company, the Staff of the Missouri Public Service Commission ("Staff"), Midwest Energy Consumers Group ("MECG"), Empire District Electric Company SERP Retirees ("EDESR"), the Empire District Retired Members & Spouses Association LLC ("EDRA"), Renew Missouri, Natural Resources Defense Council ("NRDC"), and the National Housing

Trust ("NHT") (collectively, the "Signatories"), and with a non-objection from the Sierra Club, submitted for the Commission's consideration and approval a Global Stipulation and Agreement (the "Stipulation") representing resolution of all issues in this general rate case proceeding. The Office of the Public Counsel ("OPC") filed an objection to the Stipulation.

Being mindful of the concerns facing the Commissioners, the ALJ, and all parties regarding conducting a hearing with the COVID-19 restrictions in place, and being ever mindful of the financial challenges facing Liberty-Empire's customers and the Company's obligation to provide safe and reliable service at just and reasonable rates, the parties thought outside the box and put together a settlement construct that balances all interests. It is a unique settlement construct that is investment driven and not expense driven. The pre-filed testimony and other documentation that is being offered in this case will allow the Commission to issue a lawful and reasonable report and order, including detailed findings of fact and conclusions of law, approving the terms of the Stipulation as a complete resolution of this rate case proceeding.

Approval of the terms of the Stipulation as a complete resolution of this case will result in just and reasonable rates and will allow Liberty-Empire to continue providing safe and reliable service. As such, approval of the terms of the Stipulation is the proper response to each question contained within the List of Issues submitted by Staff on behalf of all parties. Nonetheless, in this Statement of Positions, the Company will address each issue based upon its pre-filed testimony and other documentation which the Company seeks to have admitted into evidence in this proceeding. Based on the test year as updated and trued-up, the Company is experiencing an annual revenue deficiency of $21,916,462.

Implementation of the Company's requested rate increase, as set forth in and supported by its pre-filed testimony and as detailed issue-by-issue below, would result in just and

reasonable rates and allow Liberty-Empire to continue providing safe and reliable service. The Company made necessary and prudent investments in its transmission and distribution systems and has experienced increased costs for property taxes and depreciation expense stemming from its additional capital investment, as well as normal and inflationary increases in operating costs. The Company, however, recognizes that things are not "business as usual" and that our world is in a unique situation right now. As such, the Company urges the Commission to approve the terms of the Stipulation as a complete resolution of this rate case, allowing the Company to continue providing safe and reliable service and allowing Liberty-Empire's retail customers in Missouri to not experience a base rate increase until the effective date of rates resulting from the Company's next rate case.

List of Issues

1. Rate of Return - Return on Equity, Capital Structure, and Cost of Debt: (a) What return on common equity should be used for determining rate of return? (b) What capital structure should be used for determining rate of return? (c) What cost of debt should be used for determining rate of return?

Response: (a) The return on common equity to be used for determining the rate of return should be 9.95 percent, within an overall reasonable range of 9.80 percent to 10.60 percent.

(b) The capital structure to be used for determining the rate of return should include 53.07 percent common equity and 46.93 percent long-term debt; updated from 52.93 percent common equity, 47.07 percent long-term debt; updated from 51.91 percent common equity, 48.09 percent long-term debt.

(c) The Company's actual filed cost of debt, which is the same as the cost of debt at the true-up period, should be used. The cost of debt is a contractual obligation and was used in the revenue requirement calculation.

Ex. 6, Richard Surrebuttal - p. 8, lines. 5-18;

Ex. 7, Richard True-up Direct - p. 21, lines 10-20;
Ex. 56, Richard Workpaper, 6.1 Cost of Debt;
Ex. 36, Hevert Direct - pp. 2-4, 39-43;
Ex. 37, Hevert Rebuttal - p. 2, lines 7-20, pp. 67-68;
Ex. 38, Hevert Surrebuttal - pp. 2-9, 60-62.

2. Rate Design, **Other Tariff and Data Issues:** (a) Should the GP and TEB rate schedules be fully consolidated? (b) Should the CB and SH rate schedules be partially consolidated? (c) Should "grandfathered" multifamily customers taking service through a single meter be given the option of being served on the CB/SH rate schedule? (d) How should Empire's revenue requirement be allocated amongst Empire's customer rate classes (Class revenues responsibilities)? (e) How should the rates for each customer class be designed? (f) What should be the amount of the residential customer charge? (g) Should Empire continue its Low-Income Pilot Program as is, or modify it? (h) Should Empire be ordered to consolidate the PFM rate schedules into the GP/TEB rate schedule in a future proceeding? (i) Should Empire be ordered to incorporate shoulder months into the Special Contract / Praxair rate structures in the next rate proceeding? (j) Should Empire be ordered to work to incorporate shoulder months into the rate structures of all non-lighting rate schedules? (k) Should Empire be ordered to retain each of the following: Primary costs by voltage; Secondary costs by voltage; Primary service drops; Line extension by rate schedule and voltage; Meter costs by voltage and rate schedule? (l) Should Empire be ordered to use of AMIs for near 100% sample load research as soon as is practical, but no more than 12 months after 90% of AMI are installed? (m) Should Empire be ordered to retain individual hourly data for future bill comparisons? (n) Should Empire be ordered to retain coincident peak determinants for use in future rate proceedings? (o) How should the amount collected from customers related to the SBEDR charge be billed and if the item should appear as a separate line item on customers' bills? (p) By when should Empire move customers served on CB/SH that exceed the demand limits of those schedules to the appropriate rate schedule? (q) What, if any, revenue neutral interclass shifts are supported by the class cost of service study? (r) How should any revenue requirement increase or decrease be allocated to each rate class? (s) How should any residential revenue requirement increase or decrease be apportioned to the energy (kWh) rates? (t) What, if any, changes to the CB, SH, GP and TEB customer charge are supported by the class cost of service study? (u) What, if any, changes to the CB, SH, GP and TEB customer charge should be made in designing rates resulting from this rate case? (v) How should any CB and SH revenue requirement increase or decrease be apportioned to the energy (kWh) rates? (w) How should any GP and TEB revenue requirement increase or decrease be apportioned to the demand (kW) and energy (kWh) rates? (x) How should any LP revenue requirement increase or decrease be apportioned to the demand (kW) and energy (kWh) rates? (y) What, if any, changes to the current SC-P energy (kWh) rates should be made to align with Market Prices? (z) How should production-related costs be allocated to each rate class? (aa) How should plant accounts 364, 366 and 368 be classified? (bb) How should primary and secondary distribution plant facility costs be allocated to each rate class? (cc) How should General plant facility costs be allocated to each rate class?

Response: (a) No, GP and TEB rate schedules should not be fully consolidated until customer bill impact concerns have been evaluated. (b) No, CB and SH rate schedules should

not be partially consolidated until customer bill impact concerns have been evaluated. (c) No, "grandfathered" multifamily customers taking service through a single meter should not be given the option of being served on the CB/SH rate schedule, since the test year bills and kWh sales in the proposed rate design do not reflect the change.

(d) Empire's revenue requirement should be allocated amongst Empire's customer rate classes (Class revenues responsibilities) according to three principles: (1) rates should recover the overall cost of providing service; (2) rates should be fair, minimizing inter- and intra-class inequities to the extent possible; and (3) rate changes should be tempered by rate continuity concerns.

(e) The starting point for how rates for each customer class should be designed is setting the revenue targets. The next step is to set the customer charge. The final step is to set the energy (kWh) rates.

(f) The residential customer charge should be $19.00 per month.

(g) Yes, Empire should continue its low-income pilot.

(h) No, Empire should not be ordered to consolidate the PFM rate schedules into the GP/TEB rate schedule in a future proceeding because the rate structures are different and the costs of providing service are different. Also, the Company has concerns with the GP/TEB consolidation it cannot support further consolidation.

(i) Empire takes no position on incorporating shoulder months into the Special Contract / Praxair rate structures in the next rate proceeding.

(j) Empire should not be ordered to work to incorporate shoulder months into the rate structures of all non-lighting rate schedules. First, any revenue requirement not recovered through the customer charge should be recovered through a uniform change in the energy and

demand rates, except in the case of LP where any approved increase would apply to the billing demand and facility charges and any approved decrease would apply to the energy charge.

(k) Subject to technical considerations, Empire does not object to retaining each of the following: Primary costs by voltage; Secondary costs by voltage; Primary service drops; Line extension by rate schedule and voltage; Meter costs by voltage and rate schedule since the Company plans to use AMI as a platform to implement a much broader set of residential rate design alternatives.

(l) Subject to technical considerations, Empire does not object to the use of AMIs for near 100% sample load research as soon as is practical but no more than 12 months after 90% of AMI are installed since the Company plans to use AMI as a platform to implement a much broader set of residential rate design alternatives.

(m) Subject to technical considerations, Empire does not object to retaining individual hourly data for future bill comparisons since the Company plans to use AMI as a platform to implement a much broader set of residential rate design alternatives.

(n) Subject to technical considerations, Empire does not object to retaining coincident peak determinants for use in future rate proceedings since the Company plans to use AMI as a platform to implement a much broader set of residential rate design alternatives.

(o) The amount collected from customers related to the SBEDR charge should be included in base rates and not reflected as a separate line item on customers' bills.

(p) Empire should not be required to move customers served on CB/SH that exceed the demand limits of those schedules to the appropriate rate schedule until the effective date of the next rate case proceeding, since test year bills and kWh sales in the proposed rate design do not reflect this change.

(q) The class cost of service study supports a revenue neutral decrease for Schedules CB, SH, LP, GP and TEB and a revenue neutral increase for Schedule RG.

(r) Any revenue requirement increase or decrease should be guided by three principles: (1) rates should recover the overall cost of providing service; (2) rates should be fair, minimizing inter- and intra-class inequities to the extent possible; and (3) rate changes should be tempered by rate continuity concerns.

(s) Any residential revenue requirement increase or decrease not recovered through the customer charge should be recovered through a uniform change in the energy (kWh) rates.

(t) The class cost of service supports increases in the CB and SH customer charges but does not support increases in the GP and TEB customer charges.

(u) The CB and SH customer charge should be increased to $25.00 per month and the GP and TEB should remain at $69.49 per month.

(v) Any CB or SH revenue requirement increase or decrease not recovered through the customer charge should be recovered through a uniform change in the energy (kWh) rates.

(w) Any GP or TEB revenue requirement increase or decrease not recovered through the customer charge should be recovered through a uniform change in the energy (kWh) rates.

(x) Any LP revenue requirement increase should be applied to the billing demand and facility charges and any LP revenue requirement decrease should be applied to the energy charge.

(y) Empire takes no position on changes to the current SC-P energy (kWh) rates to align with Market Prices.

(z) Production-related costs should be allocated to each rate class based on the Average and Excess method since it is consistent with how costs are incurred.

(aa) The portion of plant accounts 364, 366 and 368, respectively, that should be classified as customer-related is 53.1 percent, 100.0 percent and 43.0 percent. The remaining portion should be classified as demand-related.

(bb) Primary and secondary distribution plant facility costs should be allocated to each rate class based on the 6NCP allocator (i.e., an average of Non-Coincidental Peak demand for the six-month period December through February and June through August).

(cc) General plant facility costs should be allocated to each rate class based on a composite of labor-related O&M expenses because general plant facilities are generally used by employees.

Ex. 26, Lyons Direct - pp. 10-13, 15-19, 20-24, 25-26, 27, 28-38, 41-43;
Ex. 28, Lyons CCOSS Rebuttal - pp. 13-19, 22-24, 24-26, 27-31, 34-35, 38;
Ex. 29, Lyons Surrebuttal and True-Up Direct - p. 10, lines 4-13;
Ex. 30, Hackney Direct - pp. 10-12;
Ex. 31, Hackney Rebuttal - p. 3;
Ex. 32, Hackney Surrebuttal - pp. 7-9.

3. Jurisdictional Allocation Factors: What are the appropriate jurisdictional allocation factors to be used in the cost of service?

Response: The Commission should approve the jurisdictional allocation factors used in the Company's cost of service. Staff used inconsistent methodologies for creating their allocation factors, which can over or understate the balances allocated to the Missouri jurisdictional retail customers.

Ex. 5, Richard Rebuttal - pp. 38-39;
Ex. 20, Doll Rebuttal - pp. 7-8;
Ex. 57, Richard Workpaper, Jurisdictional allocation factors

4. WNR and SRLE Adjustment Mechanisms: (a) Should the Commission approve, reject, or approve with modifications Empire's proposed Weather Normalization Rider? (b) Is it lawful for the Commission to authorize Empire to implement a Sales Reconciliation to Levelized Expectations ("SRLE") mechanism, such as those Staff and Empire are proposing in this case? (c) Should the Commission adopt Staff's Sales Reconciliation to Levelized

Expectations Proposal ("LRSE") or approve the SRLE with modification as suggested by the Company?

Response: (a) As with most other questions contained within the list of issues, approval of the terms of the Stipulation is the proper response to this question. Pursuant to the Stipulation, the Commission should not adopt Empire's originally proposed Weather Normalization Rider ("WNR"), and, instead, should approve Staff's proposed SRLE mechanism as modified and set forth in the terms of the Stipulation.

(b) It is lawful for the Commission to authorize the implementation of either Empire's WNR or Staff's SRLE mechanism, as both are consistent with the premise of Section 386.266.3, RSMo.

(c) If the terms of the Stipulation are not accepted as a resolution of this case, the Commission should approve the SRLE with four modifications: (1) adjust for the partial loss of new customer and sales revenues; (2) adjust for customer migration from CB or SH to GP; (3) implement the SRLE on a temporary basis; and (4) implement on a calendar basis beginning January 1, 2020.

Ex. 29, Lyons Surrebuttal and True-Up Direct, pp. 5-7.

5. **FAC:** (a) What is the appropriate incentive mechanism in Empire's FAC for sharing between Empire and its retail customers the difference between its actual and base net fuel costs? (b) What FAC-related reporting requirements should the Commission impose? (c) What is the appropriate base factor? (d) What costs and revenues should flow through Empire's FAC, including, but not necessarily limited to, the following? (i) What is the appropriate percentage of transmission costs for the FAC? (ii) What, if any, portion of the MJMEUC contract should be included or excluded from the FAC? Should the Company provide any additional reporting requirements within its FAC monthly reporting in regards to MJMEUC? (iii) Should any wind project costs or revenues flow through the FAC before the wind projects revenue requirements are included in base rates? (iv) Should any short-term capacity costs flow through the FAC from the effective date of this rate case? (e) When should Empire be required to provide its quarterly FAC surveillance reports?

Response: As with all issues in this case, adoption of the terms of the Stipulation is the lawful and reasonable resolution of the FAC issues. Pursuant to the Stipulation, there should be no base rate increase in this case, no change to the FAC base, and limited FAC tariff language changes. The Company's filed positions, however, are set forth below.

(a) The incentive mechanism should not be changed. The incentive mechanism should remain at 95%/5%. (b) Additional FAC reporting requirements was brought forward in the surrebuttal testimony of Staff witness Mastrogiannis relating to the MJMEUC contract, and the Company does not object to this proposal. (c) The appropriate FAC base factor is $24.16/MWh, which was developed with a computer production cost model using current fuel, purchased power, market revenue, transmission costs (as amended in Company witness Aaron J. Doll's supplemental direct testimony) and all the other cost components of the proposed FAC base factor appropriate for this case.

(d) The cost and revenue components of the FAC base factor calculation are summarized in Schedule TWT-3 of Todd W. Tarter's direct testimony. In summary, the Company's proposed FAC consist of net FPP energy costs (without purchased demand or natural gas firm transportation charges). This includes FPP costs and revenues associated with selling energy from the Company's resources into the SPP IM, including ancillary and other charges, the cost of purchasing Liberty-Empire's native load energy from the market, RTO transmission expense and the net ARR/TCR offset. Additionally, costs and revenues that should flow through Liberty-Empire's FAC include fuel related costs such as unit train costs, undistributed and other costs, variable natural gas transportation expenses, Plum Point PPA O&M costs, the cost of the AQCS consumables, net emissions cost and the net sales of RECs. The FAC base is then calculated on a per unit basis utilizing net system input expressed in kilowatt hours or megawatt hours.

(i) The appropriate amount of transmission costs that should be included in the FAC is 100% of all retail-based charges which also includes SPP Schedule 1A Tariff Administration and Schedule 12 FERC Assessment. Furthermore, this should also include any and all charges from the Midcontinent Independent System Operator ("MISO") for the pseudo-tie of Plum Point into the SPP market.

(ii) All of the revenue received from the MJMEUC contract ought to be excluded from fuel due to the contract representing a requirement sales contract. The Company's current FAC tariff specifically excludes revenue from "full or partial requirement sales to municipalities" from passing through to customers through the Off-System Sales Revenue ("OSSR") component. Furthermore, since the allocation to Missouri for non-fuel production plant reflects wholesale load, any treatment different from excluding revenue from inclusion in the FAC would not be just nor reasonable.

(iii) No wind revenues should flow through the FAC mechanism prior to the investment being reflected in base rates. Failure to exclude revenue generated from the wind projects to flow back to customers would violate Missouri statute 386.266 which requires a utility's FAC to be "reasonably designed to provide the utility with a sufficient opportunity to earn a fair return on equity." The Company proposed changes in its FAC tariff in an abundance of caution to make certain that all parties understood that the flow of revenues would be retained by the Company in order to partially offset the costs that will be carried from the wind investment until the adjudication of the next case. However, the Company believes the current tariff allows for this treatment of revenues and that only after the regulatory treatment that is sought in the next case would that restriction be lifted for distribution of subsequent revenues.

(iv) Yes. No party has provided written testimony to change the Company's FAC tariff which currently allows for the pass through of short term (one year or less) capacity charges or revenues.

(e) There should be no change in the timing of distribution of the Company's FAC surveillance reporting, as there is no testimony that proposes a change from the current timeline.

Ex. 14, Tarter Direct - pp. 3, 5-6;
Ex. 15, Tarter Rebuttal - pp. 2, 3-7;
Ex. 17, Doll Direct - pp. 2-7;
Ex. 18, Supplemental Direct - pp. 2-5;
Ex. 20, Doll Rebuttal - pp. 7-8;
Ex. 21, Doll Surrebuttal - pp. 1-5.

6. Credit Card Fees: (a) Should Empire's credit card fees be included in Empire's revenue requirement? (b) If so, what level of fees should be included?

Response: (a) Yes, credit card fees should be included. (b) The appropriate level of fees that should be included would consist of the number of credit card payments received in the last 12 months ending January 2020, multiplied by the transaction fees of $2.25 and $13.00, for residential and commercial customers, respectively, which equates to a total of $1,297,266 that should be included in the cost of service.

Ex. 4, Richard Corrected Direct - p. 23, lines 8-15;
Ex. 5, Richard Rebuttal - p. 20, lines 5-18;
Ex. 6, Richard Surrebuttal - pp. 7-8;
Ex. 7, Richard True-Up Direct - p. 18, lines 17-24;
Ex. 58, Richard Workpaper, Credit Card Fees;
Ex. 1, Baker Direct - pp. 9-10;
Ex. 2, Baker Rebuttal - pp. 3-5;
Ex. 3, Baker Surrebuttal - pp. 2-4.

7. Rate Case Expense: (a) How much of Empire's rate case expenses should be included in Empire's revenue requirement? (b) Should Empire's prudent rate case expenses be normalized or amortized, and over what period of time? (c) Should Empire's prudent rate case expenses be shared between Empire's shareholder and Empire's retail customers? If so, how?

Response: (a) An annualized amount of $222,736 should be included in Empire's revenue requirement. (b) The total amount of prudent rate case expense, which is $445,472, should be amortized over a period of two years. (c) There should not be a sharing mechanism in place between Empire's retail customers and shareholders because this rate case was a required filing and the related costs are a necessary and prudent cost of doing business.

Ex. 4, Richard Corrected Direct - p. 20, lines 12-24;
Ex. 5, Richard Rebuttal - pp. 34 – 35;
Ex. 6, Richard Surrebuttal - p. 7;
Ex. 7, Richard True-Up Direct - pp. 16-17;
Ex. 59, Richard Workpaper, Rate Case Expense.

8. Management Expense: Should any of Empire's management expenses not be included in Empire's revenue requirement?

Response: All of Empire's management expenses are prudent and, therefore, should not be excluded from the revenue requirement.

Ex. 5, Richard Rebuttal - pp. 30 31.

9. Allowance for Funds Used During Construction: What metric should be used for Empire's carrying cost rate for funds it uses during construction that are capitalized?

Response: The appropriate metric for Liberty-Empire to use for funds used during construction that is capitalized is the metric prescribed by the FERC Uniform System of Accounts Electric Plant Instructions. The FERC instructions state the formula and elements for the computation of the allowance for funds used during construction shall be as prescribed in the Electronic Code of Federal Regulations: Title 18, Chapter 1, Subchapter C, Part 101.

Ex. 60, Richard Electric Plant Instruction AFUDC;
Ex. 61, Company's Response to OPC DR 3045 (Richard).

10. Cash Working Capital: (a) What is the appropriate expense lag days for measuring Empire's income tax lag for purposes of cash working capital? (b) What is the appropriate expense lag days for cash vouchers? (c) Should bad debt expense be a component of cash working capital? If so, what is the appropriate lag days? (d) What is the appropriate expense lag days for employee vacation?

Response: (a) The appropriate expense lag days for measuring Empire's income tax lag for purposes of cash working capital is 39.38 days. (b) The appropriate expense lag days for cash vouchers is 29.21 days. (c) Yes, bad debt expense should be a component of cash working capital. The appropriate revenue lag days for bad debt expense is 42.13 days. (d) The appropriate expense lag days for employee vacation is 182.50 days.

Ex. 26, Lyons Direct - pp. 49-50;
Ex. 27, Lyons Revenue Requirement Rebuttal - pp. 3-9, Rebuttal Schedule TSL-R1, p. 1;
Ex. 29, Lyons Surrebuttal and True-up Direct - p. 2, lines 8-18, Schedule TSL-SR1, p. 1.

11. Accumulated Deferred Income Tax: (a) Should Empire's booked accumulated federal income tax include a reduction for net operating loss? (b) Should FAS 123 deferred tax asset for stock-based compensation be included in ADIT balances for rate base?

Response: (a) Yes. The Company incurred a net operating loss ("NOL") due to the use of accelerated tax depreciation, which in effect reduces current income tax expense to a negative number. In accordance with numerous IRS private letter rulings, an NOL deferred tax asset resulting from accelerated tax depreciation should be offset against a Plant deferred tax liability also resulting from accelerated tax depreciation, resulting in a reduction to the overall ADIT.

(b) Yes. The FAS 123 deferred tax asset should be included in rate base. FAS 123 is an accounting pronouncement related to accounting for stock-based compensation, and the related deferred tax represents a book deduction for which there has not yet been a tax deduction; a tax benefit has not yet been received.

Ex. 5, Richard Rebuttal, pp. 7-9.

12. Tax Cut and Jobs Act of 2017 federal income tax rate reduction from 35% to 21% impact for the period January 1 to August 30, 2018: (a) How should the Commission treat the 2017 TCJA regulatory liability the Commission established in Case No. ER-2018-0366 when setting rates for Empire in this case?

Response: The amounts collected by the Company during this period pursuant to lawfully approved tariffs should remain the Company's property. The Company reviewed its

financial performance from January 1 to August 30, 2018 and determined it earned less than its allowed return during that period. As a result, it would be inequitable to credit the retained sums to customers, creating significant under-earnings during this period. Also, requiring the return of these sums would constitute retroactive ratemaking, as those revenues were lawfully collected pursuant to Liberty-Empire's filed and approved tariffs.

Ex. 4, Richard Corrected Direct, pp. 12-14;
Ex. 5, Richard Rebuttal, pp. 35-36.

13. **Asbury:** (a) Is it lawful to require Empire's customers to pay for Asbury costs through new rates? (b) Is it reasonable to require Empire's customers to pay for Asbury costs through new rates? (c) If it is unlawful and/or unreasonable to include the costs of the retired Asbury plant in rates, what amount should be removed from Empire's cost of service?

Response: Yes, it is both lawful and reasonable for costs related to the Asbury power plant to remain in rates, and no amount should be removed from Empire's cost of service at this time to reflect the closure of the Asbury power plant in March of 2020. This is not a necessary issue, however, for inclusion in statements of positions and briefing, as the Commission has repeatedly held that it will address the impacts of Asbury's retirement in Empire's next rate case proceeding.

On December 9, 2019, Public Counsel filed its Motion to Modify Test Year. Liberty-Empire opposed the Motion, noting that the issue of the impact of Asbury's retirement on the Company's revenue requirement was not yet ripe for a ratemaking determination. On January 28, 2020, the Commission issued its *Order Denying Public Counsel's Motion to Modify the Test Year*. The order provides "Asbury's retirement is best addressed in Empire's next rate proceeding" and directs the parties to submit a list of items to be included in an accounting authority order ("AAO") to address the impacts resulting from Asbury's retirement. On January 30, 2020, Public Counsel submitted its Motion for the Commission to Reconsider Its Order

Denying Public Counsel's Motion to Modify Test Year. On February 19, 2020, the Commission issued its *Order Denying Motion for Reconsideration*, stating: "(t)he Commission will not modify the test year, nor allow isolated adjustments for Asbury's retirement to be addressed in this general rate proceeding. The Commission will address the impacts of Asbury's retirement in Empire's next rate proceeding, which Empire states it will file upon the conclusion of this proceeding."

From its first consideration of retiring the Asbury plant, the Company has worked hard to be transparent with the Commission and all stakeholders regarding its intentions for the plant, including with IRP filings, filings of Informational Notices in this rate case on August 9 and November 13, 2019, and a coal level submission on October 22, 2019. In reliance on the Commission's *Order Denying Public Counsel's Motion to Modify the Test Year* and *Order Denying Motion for Reconsideration*, however, the Company has not presented the evidence that would be necessary in order for the Commission to lawfully and reasonably reflect the closure of the Asbury plant in the Company's cost of service in this proceeding. In fact, the Company continues to explore all opportunities related to the closure of the Asbury plant, including actively exploring multiple opportunities to reuse the existing facility to support ongoing service to customers. The operations and maintenance for the future wind farms will be based at the Asbury facility, but the final plan for the Asbury facility and other structures on the property is not known at this time. Additionally, and quite significantly, costs of dismantlement are still being determined by an outside expert who is conducting a dismantlement study. It would be patently unjust and unreasonable to attempt to make isolated adjustments to the revenue requirement in this case due to the retirement of Asbury, as many of the components are not known and measurable at this time.

The issuance of an AAO, however, will allow the Commission to defer a final decision on the cost impact of the retirement of Asbury until the next rate case, when there will be significantly more facts known with regard to changing costs and expenses as a result of the retirement of Asbury. This ratemaking decision would not be unnecessarily delayed, as the Company will be filing its next rate case, to address its wind investments, shortly after this current rate case concludes.

14. Fuel Inventories: What is the appropriate number of burn days to use for Asbury fuel inventory?

Response: The appropriate number of burn days to use for Asbury fuel inventory is 60 days.

Ex. 15, Tarter Rebuttal, pp. 15-16.

15. Energy Efficiency: (a) Should Empire's cost of service include an amount for promoting energy efficiency and demand-side management? (b) If an amount remains in Empire's cost of service for energy efficiency, should EM&V be performed as was agreed to in Empire's last general rate case?

Response: (a) Yes, Empire's cost of service should include an amount for energy efficiency and demand-side management. (b) No. Empire agrees with OPC that the EM&V budget could better serve customers if it were reallocated.

Ex. 4, Richard Corrected Direct, p. 22, ln. 6-13, pg. 40, ln. 9-16;
Ex. 5, Richard Rebuttal, p. 6, ln. 1 -7;
Ex. 30, Hackney Direct, pp 2- 5;
Ex. 32, Hackney Surrebuttal, pp 3-4.

16. Operation and Maintenance Normalization: (a) What is the appropriate level of operation and maintenance expense to be included in the cost of service? (b) Should inflation factors be used to calculate operation and maintenance expense? (c) What is the appropriate normalized average of years to be used for the Riverton, State Line Combined Cycle Unit, the Common Unit and State Line 1 Unit?

Response: Although this item is not set forth in the Stipulation as being specifically addressed, the Stipulation terms represent a full and complete resolution of this rate case. As such, like with all other issues, the Company submits that approval of the Stipulation terms would be a lawful and reasonable resolution of this issue. The Company's filed positions, however, are set forth below and should be accepted if the Stipulation terms are not approved as a complete resolution of the case.

(a) The amounts included in the Company's cost of service reflect an appropriate level of operation and maintenance expense. The Company's filed cost of service represents the test year actual amounts, in addition to an adjustment to normalize the maintenance related to the boiler plant. Alternatively, Staff's proposed O&M level averaged each of the plant's O&M costs based on incorrect maintenance schedules. In addition, they did not include all the chemical costs related to MATS when doing their adjustment for Iatan 1.

(b) Yes, if the Commission were to accept the methodology to average the O&M expenses, an inflation factor should be applied in order to do a true comparison in today's dollar and to accurately reflect the costs on an ongoing basis.

(c) As stated previously, the Company does not believe a historical averaging of years approach should be used and rather proposes the test year level of expense be included in the cost of service. If the historical averaging is used, it should at a minimum be adjusted for inflation.

Ex. 4, Richard Corrected Direct, p. 18, ln. 1-3;
Ex. 5, Richard Rebuttal, pp. 17-20;
Ex. 7, Richard True-Up Direct, pp. 15, ln 12-15;
Ex. 62, Richard Workpaper, Generation O&M Expense.

17. Pension and OPEB (FAS 87 and FAS 106): (a) Should "regulatory accounting" or "acquisition accounting" be used in setting rates for pensions and OPEBs? (b) Should FERC account 426 be included in test year pensions and OPEBs expense? What is the appropriate

amount of Prepaid Pension that should be included in Empire's cost of service? (c) Should the "payment basis" or the "expense basis" be used to calculate SERP? In addition, what allocation percentage is appropriate. (d) What should the appropriate rate base and tracker amortization balances be for accounts 182353 and 254101? (e) What is the appropriate balance of prepaid pension?

Response: (a) When Empire was acquired by Liberty Utilities, the accounting rules required that certain pension and OPEB balances be eliminated as part of the acquisition accounting. These balances are amortized. This amortization expense is included in pension and OPEB expense used in setting rates. Eliminating these balances from the pension calculation would therefore change the amount of pension and OPEB expense included in rates due to the acquisition. This result would be contrary to the Stipulation & Agreement in the acquisition case (No. EM-2016-0213). To this end, the Company's actuary provides a calculation of pension expense on a regulatory basis.

(b) A recent change to the accounting rules requires that non-service pension and OPEB costs that were previously charged to FERC account 926 must now be booked separate from service cost. The Company is charging these non-service costs to FERC account 426 instead. Staff's methodology needs to be updated to recognize this change, and Staff needs to include the FERC 426 accounts.

(c) Basing SERP recovery on expense rather than payments is a preferable approach because (1) the expense amount is independently determined by the company's actuary, (2) it is consistent with the calculation of similar items (qualified pensions and OPEBs), (3) the recognition of SERP on an expense basis, rather than a payment basis, more closely matches the benefits provided to customers. The allocation percentage used in Staff's direct case was based on FAS 87 pension expense. This methodology is problematic because it applies an allocation percentage developed for one category of expense (qualified FAS 87 pension expense) to a

completely different category (non-qualified SERP expense). Staff acknowledged this in its true up calculations and used an allocation percentage that is directly applicable to SERP.

(d) Staff's true up calculations included two errors to the balance of account 182353: (1) Staff included entries to remove FAS 88 settlements on an acquisition accounting basis from the tracker balance and replace it with FAS 88 settlements on a regulatory accounting basis. Staff included an entry specifically removing the acquisition basis amount from the tracker balance. However, Staff also included a "FAS 88 Settlement Adjustment", the net effect of which was to add FAS 88 on a regulatory accounting basis and subtract FAS 88 on an acquisition basis. Thus, the FAS 88 amount of $1,569,840 on an acquisition basis was removed twice. (2) There was a reclassification entry in December 2018 which reclassified $639,992 from account 182353 to account 254101. Staff's true up calculation included the impact of this entry on account 254101 but did not include the impact on account 182353. As a result, both the tracker balance and rate base were understated by $639,992.

(e) Paragraph 10 of the Stipulation & Agreement in the Company's previous rate case (No. ER-2016-0023) states: "The prepaid pension asset balance as of March 31, 2016 is $23,314,960, Missouri jurisdictional." The Company's calculation of prepaid pension asset in this case starts with that balance and rolls forward with activity from that point.

Ex. 12, Fallert Rebuttal, p. 2, ln. 11-18, pp. 3- 5;
Ex. 13, Fallert True-Up Direct, pp. 2-3, p. 5 ln. 1-18.
Ex. 47, Fallert – Errors in Staff True-Up Calculations.

18. Affiliate Transactions: (a) Are Empire's transactions with its affiliates imprudent? (b) Do Empire's transactions with its affiliates comply with Commission Rule 20 CSR 4240-20.015 (Affiliate Transactions)? (c) What amount should be included in Empire's revenue requirement for its transactions with its affiliates?

Response: (a) The Company's transactions with its affiliates are prudent and reasonable. The Company follows its Cost Allocation Manual ("CAM") which includes the Missouri-specific Appendix and satisfies the Commission's affiliate transaction rules.

(b) Yes. The Missouri Appendix satisfies the requirements of Commission Rules 20 CSR 4240-20.015 and 20 CSR 4240-40.015 by providing the criteria, guidelines, and procedures the Missouri Regulated Utilities will follow when engaging in affiliate transactions. This provision ensures that costs are appropriately allocated between Liberty-Empire and its unregulated fiber subsidiary, Empire District Industries, Inc. In addition, the CAM was filed on August 23, 2011 in Case No. AO-2012-0062. On October 20, 2016, the Commission granted a request to suspend the procedural schedule in Case No. AO-2012-0062 on the condition that the utilities file a new CAM application within six months of the closing of the merger with Liberty Utilities Sub Corp. In compliance with the Commission's condition, on June 30, 2017, the Missouri Regulated Utilities filed an application seeking approval of their then-current CAM (Case No. AO-2017-0360). The Company's application is pending before the Commission.

(c) During the test year, Liberty-Empire received approximately $32.9 million in direct and indirect allocations through the cost allocations. There should be no disallowances related to affiliate transactions.

Ex. 22, Schwartz Direct;
Ex. 23, Schwartz Rebuttal;
Ex. 42, Timpe Rebuttal;
Ex. 44, Cochrane Surrebuttal.

19. Riverton 12 O&M Tracker: (a) Should the Riverton 12 O&M Tracker continue? (b) What is the updated balance of the Riverton 12 O&M tracker regulatory asset and the related amortization that should be included in Empire's cost of service? (c) What level of O&M expense should be included in the cost of service for Riverton 12?

Response: (a) Yes, the Riverton 12 O&M Tracker should continue because the hours of operations have continued to vary significantly from year to year. In addition, the unit starts and trips are also inconsistent from year to year. This tracker continues to protect customers from these fluctuations.

(b) The balance of the Riverton 12 regulatory asset as of January 31, 2020 is $13,717,733, which is the amount that should be included in rate base. The annual amount of amortization associated with this regulatory asset is $2,743,547, which represents a five year amortization period.

(c) The amount of expenses that should be included in the cost of service related to Riverton 12 is $8,349,230. This amount represents the balance of these expense accounts as of January 31, 2020.

Ex. 4, Richard Corrected Direct, pp. 22, 24-25, 28;
Ex. 5, Richard Rebuttal, pp. 4-5, 32;
Ex. 7, Richard True-Up Direct, pp. 17-19;
Ex. 63, Richard Workpaper, Riverton 12 Reg. Asset & Amort.;
Ex. 64, Richard Workpaper, Riverton Expense True-Up.

20. Software Maintenance Expense: (a) What is the appropriate normalized level for software maintenance expense?

Response: (a) The appropriate level of normalized software maintenance expense is $924,820 (total company). Staff normalized the level of expense to the update period, rather than for the true-up period. Therefore, Staff does not reflect a normalized amount of software expense for the pro forma period.

Ex. 5, Richard Rebuttal, pp. 36-37;
Ex. 65, Richard Workpaper, Software Maintenance Norm. Expense.

21. Advertising Expense: What is the appropriate amount of advertising expense to include?

Response: The appropriate amount of advertising expense to include in the cost of service is $155,552 (total company). Staff does not fully support the disallowance for all the costs included in their adjustment, therefore, the Company disagrees with Staff's advertising expense balance to include in the cost of service.

Ex. 5, Richard Rebuttal, pg. 23, lines 1-23;
Ex. 7, Richard True-Up Direct, pg. 20, lines 20-23;
Ex. 66, Richard Workpaper, Advertising Expense.

22. Customer Service: (a) Is Empire providing satisfactory customer service? (i) If not, what should the Commission order to ensure better customer service? (b) Is Empire providing reliable service? (i) If not, what should the Commission do?

Response: The Company provides safe and reliable electric service to its customers and has always prided itself on its customer service. To the extent concerns were raised in this proceeding regarding customer service and reliability, implementation of the terms of the Stipulation is a just and proper resolution.

Exhibits 1-3, Baker Direct, Rebuttal, and Surrebuttal.

23. Estimated Bills: (a) Should Empire be ordered to incorporate data into its monthly reports to Commission Staff regarding the number of estimated meter readings, the number of estimated meter readings exceeding three consecutive estimates, the number of bills with a billing period outside of 26 to 35 days, and the Company and contract meter reader staffing levels? (b) Should Empire be ordered to evaluate the authorized meter reader staffing level and take action to maintain adequate meter reader staffing levels in order to minimize the number of estimated bills? (c) Should Empire be ordered to initiate action to more clearly communicate on customer's bills when they are based on estimated usage? (d) Should Empire be ordered to ensure that all customers who receive estimated bills for three consecutive months receive the required communication regarding estimated bills and their option to report usage? (e) Should Empire be ordered to ensure that all customers who receive an adjusted bill due to underestimated usage are offered the required amount of time to pay the amount due on past actual usage? (f) Should Empire be ordered to evaluate meter reading practices and take action to ensure that billing periods stay within the required 26 to 35 days, unless permitted by exceptions listed in the Commission's rule 20 CSR 4240-13.015.1(C)? (g) Should Empire be ordered to file notice within this case by September 1, 2020, containing an explanation of the actions it has taken to implement the above recommendations?

Response: Implementation of the terms of the Stipulation is a just and proper resolution of this issue.

In an effort to be transparent and fair to Union employees, in late 2017, the Company announced its plans to move to AMI. During most of 2018, the Company experienced an increase in estimated meter reads, as it struggled maintaining the appropriate meter reader staffing levels and was unable to utilize contractors. However, in late 2018, the Company was successful with Union contract negotiations, which allowed for the use of contractors for meter reading, this allowed for a reduction in estimated meter reads. Unfortunately, beginning in August 2019, the Meter Reading department had four readers on medical leave at the same time for several months. This, coupled with other factors, led to the Company again experiencing an increase in estimated bills.

It is the Company's goal to read every meter every month. In an effort to meet this goal, the Company has reallocated meter readers to cover service areas that had vacant positions. Additionally, the Company allowed for employees to work additional overtime. The Company has worked with its meter reading contractor. The contractor hired an extra person to help keep their routes on schedule, and the contractor will continue to work with the Company to provide additional solutions as needed. While the estimated meter reads in the first two months of 2020 continue to be higher than early 2017, they have drastically improved from late 2019.

When an account is estimated, "__ KwH Estimated" is printed in bold font on the statement following the meter number and read date information. The Company is unaware of any system or other issue which would cause customers to receive estimated bills without estimate reflected on the bill.

Ex. 3, Baker Surrebuttal, pp. 8-10.

24. Material and Supplies: (a) What is the appropriate balance for material and supplies to be included in the cost of service? (b) What is the appropriate balance to remove from inventory as it relates to Non-Electric items?

Response: (a) The appropriate amount of materials and supplies to be included in the cost of service is $33,031,612, which represents a 13-month average as of January 31, 2020. (b) The appropriate amount to be removed from inventory as it relates to Non-Electric items is $67,179, which also represents a 13-month average as of January 31, 2020.

Ex. 8, Palumbo Direct, pp. 2-3;
Ex. 9, Palumbo Rebuttal, pg. 2, lines 10-22;
Ex. 10, Palumbo True-Up Direct, pg. 2, lines 4-13;
Ex. 67, Palumbo Workpaper, Materials and Supplies;
Ex. 68, Palumbo Workpaper, Removal of Non-Electric Inventory.

25. Asset Retirement Obligations: Should Asset Retirement Obligations be included in rate base as a regulatory asset and amortized?

Response: Yes, because an ARO is a legal obligation associated with a tangible long-lived asset that results from the acquisition, construction, development, or normal operation of a long-lived asset, in which the timing or method of settlement is conditional on a future event. The amount that should be included in rate base is $9,180,956, which represents settlements as of January 31, 2020. The annual amortization related to this regulatory asset is $2,530,466.

Ex. 4, Richard Corrected Direct, pp. 14-15, 24;
Ex. 6, Richard Surrebuttal, pp. 3-6;
Ex. 7, Richard True-Up Direct, pp. 7, lines 18-21, pg. 19, lines 4-6;
Ex. 69, Richard Workpaper, Asset Retirement Obligations Reg Asset & Amortization.

26. LED Replacement Tracker: (a) Should a tracker be established for the costs associated with replacement of mercury vapor light fixtures with LED light fixtures for private lighting customers? (b) Should a tracker be established for the costs associated with replacement of mercury vapor light fixtures with LED light fixtures for Municipal customers?

Response: Although this item is not set forth in the Stipulation as being specifically addressed, the Stipulation terms represent a full and complete resolution of this rate case. As such, like with all other issues, the Company submits that approval of the Stipulation terms

would be a lawful and reasonable resolution of this issue. In the event the terms of the Stipulation are not approved as a complete resolution of the case, the Company's filed positions should be accepted and are set forth below.

(a) Yes, a tracker should be established for the costs associated with replacement of MV light fixtures for private lighting customers. (b) Yes, a tracker should be established for the costs associated with replacement of MV light fixtures for municipal customers.

Exhibits 33-35, McGarrah Direct, Rebuttal, and Surrebuttal.

27. May 2011 Tornado Unamortized AAO Balance: Should the unamortized AAO Balance for the May 2011 Joplin Tornado be included in rate base?

Response: Yes, this amount should be included in rate base. The exclusion of this balance would deny the Company a return on the investment it made in the system to restore electric services to its Missouri retail customers, and the exclusion of this account does not coincide with the order from the Commission granting the deferral of these costs.

Ex. 5, Richard Rebuttal, pp. 6-7;
Ex. 70, Richard Workpaper, Tornado Regulatory Asset.

28. Depreciation and Amortization Expense: (a) What is the appropriate level of depreciation and amortization expense of plant to include in the cost of service? (b) Should depreciation expense for transportation equipment that was charged through a clearing account be removed from depreciation expense? (i) What are the authorized depreciation rates for accounts 371 & 373 to be used in the cost of service?

Response: (a) The appropriate levels of depreciation and amortization expense at January 2020 are $71,515,922 and $3,821,588, respectively. (b) Yes. Depreciation costs for transportation equipment charged through a clearing account should be removed from depreciation expense. (c) The depreciation rates that should be used in this case for accounts 371 and 373 are 4.67% and 3.33%, respectively, as those are the last approved depreciation rates from Case No. ER-2016-0023.

Ex. 5, Richard Rebuttal, pp. 31-32;
Ex. 7, Richard True-Up Direct, p. 15, lines 8-11;
Ex. 71, Richard Workpaper, Annualized Depreciation Expense;
Ex. 72, Richard Workpaper, Annualized Amortization Expense;
Ex. 73, Richard Workpaper, Approved Depreciation Rates.

29. Iatan/Plum Point Carrying Costs: (a) What is the appropriate level of unamortized Iatan/Plum Point Carrying Costs to include in rate base? (b) What is the appropriate level of Iatan/Plum Point Carrying amortization to include in amortization expense?

Response: (a) The appropriate level of unamortized Iatan/Plum Point Carrying Costs at January 2020 is $13,598,692. (b) The appropriate level of amortization for the Iatan/Plum Point Carrying Costs is $217,451.

Ex. 7, Richard True-Up Direct, p. 7, ln. 8-17;
Ex. 74, Richard Workpaper, Iatan & Plum Point Carrying Costs.

30. Incentive Compensation: What is the appropriate level of incentive compensation to be included in the cost of service?

Response: Incentive compensation is an essential part of the Company's overall compensation package. The total compensation package is necessary to attract and retain employees, so that the Company may properly serve its Missouri retail customers. As such, incentive compensation should be included in the Company's cost of service.

Ex. 5, Richard Rebuttal, pp. 26-29;
Ex. 75, Company's Response to Staff DR 0033.1 (Richard).

31. Customer Demand Program (DSM): (a) What is the appropriate rate base amount for the customer demand program? (b) What is the appropriate amortization amount for the customer demand program?

Response: (a) The appropriate rate base amount for the customer demand program at January 31, 2020 is $4,269,460. (b) The appropriate level of amortization expense related to the customer demand program is $1,422,715.

Ex. 5, Richard Rebuttal, p. 6, ln. 1-7;
Ex. 7, Richard True-Up Direct, p. 7, ln. 7-17, p. 18, ln. 4-9;
Ex. 76, Richard Workpaper, DSM Regulatory Asset and Amortization.

32. Bad Debt Expense: (a) What is the appropriate level of bad debt expense to be included in the cost of service?

Response: (a) The appropriate amount of bad debt expense that should be included is ($143,419). This amount represents a normalized uncollectible expense as of January 31, 2020 using a five-year average historical uncollectible percentage.

Ex. 4, Richard Corrected Direct, p. 16, lines 8-11;
Ex. 5, Richard Rebuttal, p. 21, lines 9-15;
Ex. 7, Richard True-Up Direct, pp. 13-14;
Ex. 77, Richard Workpaper, Bad Debt Expense.

33. Retail Revenue: (a) What is the appropriate amount to remove from retail revenue for unbilled revenue, franchise tax revenue, and FAC revenue? (b) What is the level of billing determinants per rate schedule that should be used to calculate retail rate revenue in this case? (c) Should the billing adjustment and the retail revenues be trued up to January 31, 2020 in the cost of service?

Response: (a) The appropriate amount to be removed from retail revenues for unbilled revenues is $5,497,448, franchise tax revenues is $9,319,510, and FAC revenues is $5,203,205. These balances represent balances as of January 31, 2020. (b) The level of billing determinants to be used in the calculation of retail rate revenue for the test year are included in Schedule TSL-10 of the direct testimony of Timothy S. Lyons. These should be adjusted to reflect the true-up period of January 31, 2020. (c) Yes, the billing adjustment and retail revenues should be updated to the true-up period of January 31, 2020.

Ex. 7, Richard True-Up Direct, pp. 8, 11, 12;
Ex. 8, Palumbo True-Up Direct, p. 3, lines 13-21;
Ex. 26, Lyons Direct, pp. 31-37, Schedule TSL-10
Exhibits 78-80, Richard Workpapers;
Ex. 96, Company's Response to Staff DR 0097 (Richard);
Exhibits 97-1009, Richard Workpapers.

34. Other Revenue: What is the appropriate normalized level of revenue for rent revenue, other electric revenue, and fly ash revenues?

Response: The appropriate normalized amount of rent revenues is $1,026,462, and other electric revenues is $354,638. The normalized level of fly ash revenues that should be included in the cost of service at January 2020 is $36,107. The rent revenues balance was updated to September 30, 2019, as recommended by Staff witness Caroline Newkirk in Direct Testimony. The other electric revenues were normalized to a three-year average as of September 30, 2019.

Ex. 4, Richard Corrected Direct, p. 18;
Ex. 5, Richard Rebuttal, p. 37, lines 8-9;
Ex. 7, True-Up Direct, pp. 8, 10, 11;
Ex. 81, Richard Workpaper, Rent Revenues;
Ex.82, Richard Workpaper, Other Revenues;
Ex. 83, Richard Workpaper, Fly Ash Revenues.

35. Tax Cut and Job Acts Revenue: (a) What is the appropriate amount of tax cut and job act revenue to remove from test year revenues? (b) Should revenues associated with the tax cut and job act stub period be removed from revenue?

Response: (a) The adjustment to calculate the appropriate amount of tax cut and job act (TCJA) revenues as of January 31, 2020, that should be included in the cost of service shows an increase to revenues by $12,024,852. This is because the adjustment trues up the revenues to reflect the annual amount ordered by the Commission in Case No. ER-2018-0092 of the deferred revenues related to the change in federal income tax rate as a result of TCJA. (b) The adjustment mentioned in part (a) encompasses the stub period as part of the annual amount ordered.

Ex. 4, Richard Corrected Direct, p. 24, lines 9-12;
Ex. 5, Richard Rebuttal, pp. 11, 17;
Ex. 7, Richard True-Up Direct, p. 11, lines 6-9;
Ex. 84, Richard Workpaper, TCJA Revenue Adjustment.

36. Property Insurance: What is the appropriate test year amounts before comparing to the current premium amounts?

Response: The appropriate test year level of property insurance is $2,027,854 (total company).

Ex. 5, Richard Rebuttal, pp. 29-30;
Ex. 7, Richard True-Up Direct, p. 16, ln. 5-8;
Ex. 85, Richard Workpaper, Property Insurance Test Year Expense.

37. Injuries and Damages: What is appropriate amount of injuries and damages expense to include in the cost of service?

Response: The appropriate amount of injuries and damages expense to include in the cost of service is $312,562 (total company).

Ex. 7, Richard True-Up Direct, p. 16, ln. 5-8;
Ex. 86, Richard Workpaper, Injuries and Damages to include in Cost of Service.

38. Payroll and Overtime: (a) What is the appropriate test year amount of payroll expense? (b) What is the appropriate test year amount for overtime expense?

Response: (a) The appropriate amount of test year level regular payroll is $32,764,724 (total company). (b) The appropriate amount of test year level overtime payroll is $4,502,541 (total company). These amounts exclude all incentive related compensation in order to compare a true test year level of regular and overtime payroll to the pro forma amounts.

Ex. 4, Richard Corrected Direct, pp. 16, 17;
Ex. 5, Richard Rebuttal, pp. 24-25;
Ex. 6, Richard Surrebuttal, pp. 9-10;
Ex. 7, Richard True-Up Direct, pp. 14-15;
Ex. 87, Richard Workpaper, Test Year Payroll and Overtime.

39. Retention Bonuses: Should proposed retention bonuses for lineman be included in the cost of service?

Response: Yes. A total of $1,021,080 should be included in the cost of service related to lineman retention bonuses. The linemen retention program was created to help combat the issue of these highly skilled employees being in high demand throughout the nation. The linemen retention program has helped the Company retain existing employees and attract external linemen, helping the Company to provide safe and reliable service.

Ex. 4, Richard Corrected Direct, p. 17, lines 4-12;
Ex. 7, Richard True-Up Direct, pp. 20-21;

Ex. 88, Richard Workpaper, Retention Bonus Calculations;
Ex. 39, Westfall Direct, pp. 12-13;
Ex. 40, Westfall True-Up Direct, pp. 3-4.

40. Employee Benefits: What is the appropriate level of employee benefits to include in the cost of service?

Response: The appropriate amount of employee benefits, including dental, vision and healthcare, that should be included in the Company's cost of service is $6,682,463. This amount represents balances updated as of January 30, 2020.

Ex. 4, Richard Corrected Direct, p. 17, lines 13-16;
Ex. 7, Richard True-Up Direct, p. 15, lines 5-7;
Ex. 89, Richard Workpaper, Employee Benefits to include in Cost of Service.

41. Property Taxes: (a) What is the appropriate amount of property taxes to include in the cost of service? (b) What is the proper method to be used for calculating the property tax amount to be included in the cost of service?

Response: (a) The appropriate Missouri jurisdictional amount of property taxes to be included in the cost of service is $25,985,842. (b) The State of Missouri assesses property tax for Electric Utilities using the Income Approach in its evaluation of property tax assessments in addition to the property value. Taking into consideration the Company's income, as well as the value of its property, more accurately reflects the amount of property tax expense the Company will incur.

Ex. 5, Richard Rebuttal, pg. 36;
Ex. 7, Richard True-Up Direct, pg. 16;
Ex. 90, Richard Workpaper, Property Tax Calculation.

42. Dues and Donations: (a) What is the appropriate amount of dues and donations that should be included in the cost of service? (b) Should Edison Electric Institute dues be included in the cost of service?

Response: (a) The appropriate amount of dues and donations that should be included in the cost of service is $309,778 (total company). (b) Yes, Edison Electric Institute ("EEI") dues that are not related to lobbying should be included. The Company, as well as Staff, utilize

information from EEI to conduct business. This information is invaluable to the Company with regard to its provision of safe and reliable service. As such, the payment of this amount benefits customers and should be included in the Company's cost of service.

Ex. 5, Richard Rebuttal, pp. 21-22;
Ex. 7, Richard True-Up Direct, pg. 16, ln. 10-12;
Ex. 91, Richard Workpaper, Dues and Donations.

43. Outside Services: What is the appropriate amount of outside services to include in the cost of service?

Response: The appropriate amount of outside services to be included in the cost of service is ($177,565). This amount represents Missouri's portion of a five-year average of the two outside service expense accounts.

Ex. 5, Richard Rebuttal, pg. 37, line 15;
Ex. 7, Richard True-Up Direct, pg. 19, lines 14-18;
Ex. 92, Richard Workpaper, Outside Services to include in Cost of Service.

44. Common Property Removed from Plant and Accumulated Depreciation: What is the appropriate method and amount for removal of common property from plant in service and accumulated depreciation?

Response: In order to calculate the appropriate amount of plant and accumulated depreciation that should be removed from the cost of service, the "mass rate" allocation factor should be applied to only the specific asset balances that are being shared with Liberty-Empire's non-electric businesses ("common plant'), rather than being applied to the entire balances in FERC accounts 389 through 398, as Staff did. The entire balances in those accounts are not all considered common plant. When the balances are updated to January 2020 and this method is applied, this results in a total company adjustment to reduce plant and accumulated depreciation, $4,882,321 and $2,839,974, respectively.

Ex. 4, Richard Corrected Direct, pg. 11, ln. 10-14;
Ex. 5, Richard Rebuttal, pp. 3-4;
Ex. 7, Richard True-Up Direct, p. 6, ln. 1-4;

Ex. 93, Richard Workpaper, Common Property Adjustment.

45. Retirement: (a) Should Empire be required to externally fund, through a Rabbi Trust, its SERP benefits obligation? (b) Should Empire be required to provide, to a designated EDRA contact, the following documents of The Empire District Electric Company in the years 2020-2026: (i) IRS filings (specifically Form 5500 for each plan), (ii) Actuarial valuation reports, (iii) Financial disclosures, (iv) Annual funding notice to pension plan participants (v) Annual health care premium and coverage letter to retirees, (vi) FERC Form 1 and summary and full annual reports. (c) In addition, should the company be required to designate a contact person for EDRA to contact regarding these matters?

Response: Approval of the Stipulation terms, as a complete resolution of this case, would be a lawful and reasonable resolution of the retirement issues. The Company's filed positions, however, are set forth below and should be accepted if the Stipulation terms are not approved as a complete resolution of the case.

(a) No, the Company should not be required to externally fund its SERP benefits obligations through a Rabbi trust. There has been no need demonstrated, and there is no benefit to customers in changing the method of funding for its SERP, based on the study conducted as agreed to in the stipulation and agreement in Case No. EM-2016-0213. The Company has complied with the referenced stipulation, and no further action is required on this issue by the Company at this time.

(b) The Company objects to the requested requirement of providing the detailed actuarial valuation reports to EDRA. With regard to the other documents being requested, some are already being received by plan participants and the others are publicly available and may easily be obtained by EDRA.

(c) The Company is agreeable to providing the Director of Human Resources for the Central Region, as the point of contact for any of EDRA's questions.

Ex. 5, Richard Rebuttal, pp. 40-42;
Ex. 94, Richard Workpaper, Rabbi Trust Analysis.
Ex. 95, Richard Workpaper, Rabbi Trust Appendix.

46. Case No. EM-2016-0213 Commission-ordered conditions: (a) Has Empire complied with Condition A.4 the Commission imposed in Case No. EM-2016-0213? (i) If not, what relief should the Commission grant? (b) Has Empire complied with Condition A.5 the Commission imposed in Case No. EM-2016-0213? (i) If not, what relief should the Commission grant? (c) Has Empire complied with Condition A.6 the Commission imposed in Case No. EM-2016-0213? (i) If not, what relief should the Commission grant? (d) Has Empire complied with Condition G.3 the Commission imposed in Case No. EM-2016-0213? (i) If not, what relief should the Commission grant?

Response: (a-c) Yes. The Company has complied with the stipulation conditions related to cost of capital and capital structure as ordered in EM-2016-0213, and, as such, no action on the part of the Commission is required and none would be appropriate.

(d) Yes, in objecting and responding to data requests, the Company has complied with the merger stipulation and the Commission's rules. The merger stipulation specifically contemplated objections for lack of relevance. Also, this issue is not properly before the Commission at this time.

Ex. 4, Richard Corrected Direct, p. 10, lns. 16-18;
Ex. 6, Richard Surrebuttal, p. 8, lns.4-24 and p. 9, lns. 1-6;
Ex. 36, Hevert Direct, pp. 11, 12, and 13-67;
Ex. 44, Cochrane Surrebuttal.

Conclusion

Implementation of the Company's requested rate increase, based on an annual revenue requirement deficiency of $21,916,462, as set forth in and supported by the Company's pre-filed direct, rebuttal, surrebuttal, and true-up testimony, would be lawful and reasonable. The Company, however, being mindful of the financial challenges facing Liberty-Empire's customers and the Company's obligations, urges the Commission to approve the terms of the Stipulation as a complete resolution of this rate case. This will allow the Company to continue providing safe and reliable service and will allow Liberty-Empire's retail customers in Missouri to not

experience a base rate increase until the effective date of rates resulting from the Company's next rate case.

WHEREFORE, The Empire District Electric Company submits its Statement of Positions for the Commission's consideration.

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 April, 2020, with notification of the same being sent to all counsel of record.

/s/ Diana C. Carter