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 Service Provided To Customers in its Missouri Service Area	))))))	**Case No. ER-2019-0374**

STAFF'S REPLY BRIEF

Respectfully submitted,

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TABLE OF CONTENTS

ER-2019-0374

The Empire District Electric Company, Inc.

INTRODUCTION 3

STIPULATION AND AGREEMENT 3

Rate of Return—Return on Equity, Capital Structure, and Cost of Debt 5

Rate Design, Other Tariff and Data Issues 7

WNR and SRLE Adjustment Mechanisms 7

FAC 8

Customer Service 12

Credit Card Fees 12

Rate Case Expense 13

Management Expense 13

Allowance for Funds Used During Construction 15

Cash Working Capital 15

Accumulated Deferred Income Tax 16

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 16

Tax Cut and Job Acts Revenue 17

Asbury 17

Fuel Inventories 20

Operation and Maintenance Normalization 20

Depreciation and Amortization Expense 20

Retail Revenue 20

Property Taxes 21

Common Property Removed from Plant and Accumulated Depreciation 21

Affiliate Transactions 21

Jurisdictional Allocations 21

INTRODUCTION

The purpose of a Reply Brief is for a party to respond to the opposing arguments made by the other parties to a proceeding. In this matter, several issues are specifically addressed in the Global Stipulation and Agreement, but some issues were not. Staff continues to support its position that the Global Stipulation and Agreement is the most appropriate resolution of this case and would ask the Commission to approve it without modification. Staff also continues to support each of its positions outlined in its Initial and Responsive briefs, should the Commission in the alternative, not approve the Global Stipulation and Agreement as a full resolution of this matter.

Staff has addressed all arguments in its Initial and Responsive briefs, or in its Supplemental and Supplemental Rebuttal testimony, regardless of what other parties may allege. Rather than again replying to every individual statement/argument/issue made by the other parties in their Responsive briefs, having presented and argued its positions in its Initial and Responsive briefs, Staff is limiting its replies in this brief to those matters which Staff believes will most aid the Commission in its determinations. Therefore, to the extent this Reply Brief does not address any matter raised in the Initial or Responsive briefs of any other party, that should not be construed as Staff's agreement in any way therewith.

STIPULATION AND AGREEMENT

As stated in its *Initial Brief* and in its *Responsive Brief,* all of the parties to this matter, except OPC, have either signed onto or not opposed a *Global Stipulation and Agreement* ("Global Agreement" or "Agreement" or "Stipulation" or "Non-Unanimous Stipulation") in an effort to settle all issues in this matter.

OPC witness, Marke, in his *OPC Reply to Testimony Responding to Commission Questions of Geoff Marke*, in a number of places implies that it is somehow improper or disingenuous for Staff to file testimony in support of a rate reduction for Empire and then enter into a settlement calling for no immediate change in customer rates.[1] However, a rate case settlement, including the stipulated rate change amounts specifically, are by necessity the result of a compromise between all of the signatories. By nature of a negotiation, almost universally, utilities will reduce the amount of their requested rate increase in order to reach a settlement, and Staff, OPC and the other parties will agree to a higher rate increase amount than what they have previously recommended to the Commission in order to reach such a settlement. Settlement being akin to a compromise, which is defined as, "an agreement or a settlement of a dispute that is reached by each side making concessions."[2] That is exactly what has happened in this case: for settlement purposes, Staff moved from a "slightly negative revenue requirement position" to a position of "no change in rates" for Empire. There is nothing abnormal or unusual to be found in the fact that this shift in revenue requirement occurred, or in the magnitude of the shift for that matter. Staff would further remonstrate that reaching settlement in a case generally saves all parties time and resources and thereby reduces the rate case expense of a utility both directly and indirectly through the hours spent by Staff and OPC, which are later assessed to the Company and included in rates.

Additionally, Dr. Marke says he does not see how Staff faces any "litigation risk" before the Commission in rate cases.[3] To start with, this theory can be factually disproven just

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[1] *OPC Reply to Testimony Responding to Commission Questions of Geoff Marke*.
[2] Lexico: Powered by Oxford, https://www.lexico.com/en/definition/compromise.
[3] *OPC Reply to Testimony Responding to Commission Questions of Geoff Marke*, Pp. 17.

by reviewing recent rate case decisions made by the Commission.[4] Staff historically wins some issues and loses others, and that has been consistent throughout the rate case process for years.[5] Issues are won or lost before the Commission based upon the sufficiency of the evidence supplied by supporting and opposing parties, and the Commission occasionally finds that other parties' evidence on a particular issue is more persuasive than Staff's. The logical fallout of Dr. Marke's statements regarding Staff's litigation risk is that Staff should never move off of its filed positions for the purpose of settlements. Which as explained above would result in less compromise and higher rate case expenses.

The *Global Stipulation and Agreement* is still the appropriate method for resolving all issues in this matter and ensuring that ratepayers do not experience a change at this difficult and unprecedented time in recent history. The arguments made here should in no way imply that Staff does not support the *Global Agreement* as a full and just resolution of all of the issues in this matter and the Commission should approve the *Agreement* in full, without modification.

Whitney Payne

Rate of Return—Return on Equity, Capital Structure, and Cost of Debt

a. *Return on Common Equity – what return on common equity should be used for determining rate of return?*

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[4] *In the Matter of Union Electric Company d/b/a Ameren Missouri's Tariffs to Decrease its Revenues for Electric Service,* Case No. ER-2019-0335; *In the Matter of Kansas City Power and Light Company's Request for Authority to Implement a General Rate Increase for Electric Service/ In the Matter of KCP&L Greater Missouri Operations Company's Request for Authority to Implement a General Rate Increase for Electric Service,* Case Nos. ER-2018-0145 and ER-2018-0146, etc.

[5] *Id.*

b. *Capital structure – what capital structure should be used for determining rate of return?*

c. *Cost of debt – what cost of debt should be used for determining rate of return?*

Staff urges the Commission to resolve the Cost-of-Capital issues pursuant to the *Global Stipulation,* which provides for a carrying cost rate of 7.3% on the balance created by the § 393.155.1, RSMo, phase-in rate mechanism.[6] However, if that resolution is not acceptable to the Commission, then Staff urges the Commission to adopt Staff's positions on each of the Cost of Capital issues.

Nothing in the initial and responsive briefs filed by the parties herein have persuaded Staff to change any of its cost of capital positions. Staff's ROE position is joined by OPC and MECG. Staff's cost of debt and capital structure positions are reasonable, evidence-based, and are intermediate between the low values proposed by OPC and the high values proposed by the Company. As Staff pointed out in its *Responsive Brief*, the Company necessarily seeks the highest ROR it can get, while OPC seeks the lowest ROR. Only Staff provides the Commission with a neutral, "best practices" perspective.

	Murray OPC	**Chari Staff**	**Hevert Empire**	**Value of This Issue[7]**
ROE Range	**9.25% 8.50% - 9.25%**	**9.25% 9.05% - 9.80%**	**9.95% 9.80% -10.60%**	**$6,696,760**
Cost of Debt	**4.65%**	**4.57%**	**4.85%**	**$2,445,516**
Capital Structure --Equity --Debt:	**46.00% 54.00%**	**52.43% 47.57%**	**53.07% 46.93%**	**$492,129**
ROR	**6.77%**	**7.02%**	**7.56%**	**$9,106,721**

[6] The carrying cost rate of 7.3% implies an ROE of 9.78%, using Staff's capital structure and cost of debt. The amortization period for what is captured by the phase-in mechanism will be determined in the next general rate proceeding.

[7] *See* the Final Reconciliation, filed April 10, 2020. The values shown reflect the difference between the Company position and the Staff position. Not shown is an adjustment for capital structure impact on interest expense deduction.

The use of appropriate inputs, as recommended by Staff, results in a just and reasonable ROR for Empire of 7.02%. These inputs include a capital structure of 52.43% common equity and 47.57% long-term debt, an authorized ROE of 9.25%, and a cost of debt of 4.57%. As explained by Staff in detail in its *Initial Brief* and *Responsive Brief,* the recommendations offered by Mr. Hevert and Mr. Murray should be discarded because they have been manipulated to skew either high or low, depending on the goals of the respective party.

Kevin A. Thompson

Rate Design, Other Tariff and Data Issues

Staff thoroughly addressed all arguments surrounding this matter in its *Initial* and *Responsive* briefs. It will not address the arguments any further here and supports the positions previously outlined in its briefs.

Jamie Myers

WNR and SRLE Adjustment Mechanisms

Staff thoroughly addressed all arguments surrounding this matter in its *Initial* and *Responsive* briefs. It will not address the arguments any further here and supports the positions previously outlined in its briefs.

Nicole Mers

FAC

OPC is wrong that Staff "defers to history and intransigence"[8] regarding changing the 95% / 5% sharing mechanism. Staff simply argues changes should be rooted in law and sound policy. Subsection 5(1) of § 386.266, RSMo establishes that a fuel adjustment clause must allow utilities sufficient opportunity to earn a fair return on equity, and the Commission has characterized this as "the key requirement" of a fuel adjustment clause.[9] Missouri law also provides that the Commission may consider business risk in crafting an adjustment mechanism.[10] While OPC bears the burden of persuading the Commission that Empire's FAC sharing mechanism should be changed,[11] it does not explain whether an 85% / 15% sharing mechanism gives Empire sufficient opportunity to earn its return on equity or how an 85% / 15% sharing mechanism would affect business risk.

Neither has OPC pointed to any Empire imprudency that would support changing the mechanism. The closest OPC gets is to blame hedging losses on the current 95% / 5% sharing mechanism. OPC continues to claim that if Empire's sharing mechanism had been 85% / 15%, Empire would not have experienced hedging losses.[12] The fact of the matter is that OPC cannot explain any correlation between Empire's hedging losses and the sharing mechanism, despite having two opportunities to do so. And most importantly, the Commission found no imprudency in Empire's hedging practices.[13]

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[8] *The Office of Public the Counsel's Response Brief*, P. 26 (May 12, 2020).

[9] "Any fuel adjustment clause the Commission allows Ameren Missouri to implement must be reasonably designed to allow the company a sufficient opportunity to earn a fair return on equity." Missouri Public Service Commission, Report and Order, ER-2012-0166, 82 (Dec 12, 2012) and Missouri Public Service Commission, Report and Order, ER-2014-0258, 110 (Apr 29, 2015). The quotes are the same in both orders.

[10] § 386.266.8, RSMo.

[11] *The Office of the Public Counsel's Initial Brief*, ER-2019-0335, 5 (Mar 30, 2020).

[12] *The Office of Public the Counsel's Response Brief*, P. 26 (May 12, 2020).

[13] Ex. 205, *Surrebuttal Testimony of Lena Mantle*, P. 4 (Apr 8, 2020).

The legislature did not specify a sharing mechanism ratio, acknowledging the Commission's expertise and authority. Applying a one-size-fits-all sharing mechanism by lifting the 85% / 15% mechanism from the unrelated plant-in-service accounting ("PISA") statute removes the Commission's discretion to craft FACs and runs counter to the law. Empire's hedging losses are unrelated to the sharing mechanism. Empire has demonstrated responsible management of its FAC with the current 95% / 5% sharing mechanism, and it should continue.

b. What is the appropriate base factor?

Consistent with the *Global Stipulation and Agreement*, Staff supports a base factor of $.02415/kWh.[14] If the Commission does not accept the *Global Stipulation and Agreement*, Staff posits that it should accept Staff's trued-up base factor of $.02333/kWh.[15] OPC continues to argue that the base factor should exclude Asbury costs and revenues[16] and simplistically states that "[a]ll the Commission needs to do in order to have an accurate base factor is to order its Staff to recalculate the NBEC and base factor while accounting for Asbury's retirement."[17] Although OPC alludes to the "complex interactions between fuel costs and the energy market,"[18] it fails to specify nuances that make this suggestion problematic. The "complex interactions" within the market would not be accounted for if Staff simply reran its fuel model without Asbury. For example, the market prices that Staff used in its fuel model are based upon historic SPP nodal prices. Those prices were determined in a market in which Asbury was

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[14] *Global Stipulation and Agreement*, P. 3 (Apr 15, 2020) and Ex. 161, *Supplemental Testimony of Brooke Mastrogiannis*, P. 2 (May 6, 2020).
[15] Ex. 161, *Supplemental Testimony of Brooke Mastrogiannis*, P. 3 (May 6, 2020).
[16] *The Office of Public the Counsel's Response Brief*, P. 27 (May 12, 2020).
[17] *The Office of Public the Counsel's Initial Brief*, P. 37 (May 6, 2020).
[18] *Reply to Testimony Responding to Commission Questions of Lena M. Mantle*, P. 5 (May 12, 2020). *See also* Ex. 203, *Direct Testimony of Lena M. Mantle*, P. 23 (Jan 15, 2020).

operating. If Staff simply deleted Asbury from its base factor calculation and reran the fuel model without any other changes, the effects of Asbury's retirement would not be reflected in the market prices. In that scenario, there would be a mismatch between the assumptions included in the fuel model inputs and the assumptions made about the composition of Empire's generation portfolio. The fuel model that OPC proposes would not be as internally consistent as what Staff already submitted in this case.

As Staff stated in its prior briefs, Staff assumed continued operation of Asbury, because Empire's planned retirement date of March 1, 2020 followed the true-up date of January 31, 2020. For this reason, combined with the fact that removing Asbury from the fuel model does not address market pricing based upon Asbury being a participant, Staff supports a base factor which includes Asbury.

c. 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?

Staff's position continues to be that if the Commission orders the terms of the *Global Stipulation and Agreement* in which there is no change to the base factor, the percentage of transmission costs in the FAC should remain the same.[19] OPC and Staff agree that the FAC should include 50% of MISO transportation costs. Similar to its argument regarding the base factor, OPC continues to argue that Asbury should not be included in the FAC.[20] As Staff stated in its prior briefs, Staff assumed continued operation of Asbury, because Empire's planned retirement date of March 1, 2020 followed

[19] *Global Stipulation and Agreement*, P. 3 (Apr 15, 2020).
[20] *The Office of Public the Counsel's Response Brief*, P. 29 (May 12, 2020).

the true-up date of January 31, 2020. OPC mocks Staff's inclusion of "fictional Asbury costs and revenues,"[21] but does not address Staff witness Charles Poston's testimony that Asbury's retirement date is based upon integrated marketplace protocol and that Staff found Empire "made proper notifications to SPP in accordance with required deadlines."[22]

Regarding transmission revenues, OPC does not argue that prior Commission precedent states that transmission revenues should not be included, but baldly states that the status quo should be challenged without little argument.[23]

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?

Consistent with the *Global Stipulation and Agreement,* Staff's position is that revenue from the MJMEUC contracts should be excluded from the FAC, along with a reduced portion of fuel expenses for the energy purchased by Liberty-Empire specifically for the cities within the MJMEUC agreement.[24] Staff and Empire are in complete agreement on this issue. In its most recent briefing, OPC simply restates its convoluted argument, ignoring plain federal precedent that long term contracts of wholesale electricity to municipalities are partial or whole requirements contracts.[25]

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[21] *The Office of Public the Counsel's Response Brief*, P. 27 (May 12, 2020).
[22] Ex. 163, *Supplemental Testimony of Charles T. Poston*, P. 7-8 (May 6, 2020).
[23] *The Office of Public the Counsel's Response Brief*, P. 29-30 (May 12, 2020).
[24] *Global Stipulation and Agreement*, P. 4 (Apr 15, 2020).
[25] Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, FERC Stats. & Reg. ¶ 32,507, p. 32,862 (1994), 59 Fed. Reg. 35274 (July 11, 1994) ("Historically, electric utilities entered into long-term contracts to make wholesale requirement sales (bundled sales of generation and transmission) to municipal, cooperative and investor-owned utilities. Under these contracts, utilities often committed to provide all (full requirements) or part (partial requirements) of a customer's power needs for the contract period.)

iii. Should any short-term capacity costs flow through the FAC from the effective date of this rate case?

Consistent with the *Global Stipulation and Agreement*, Staff's position is that short-term capacity costs should not flow through the FAC from the effective date of this rate case. OPC is in agreement.[26]

Karen Bretz

Customer Service

Although Empire's customer service is below expectations, the Commission should not order a decreased return on equity at this juncture.

Staff's position continues to be that although Empire's customer service is below expectations, Empire is taking appropriate actions to address issues and reducing Empire's return on equity is not warranted at this time.

Karen Bretz

Credit Card Fees

Staff's position continues to be that credit card fees should be included in the cost of service, similar to the manner in which Empire's bank charges are included in the cost of service. If there is no direct charge to customers using a credit card, Staff and Empire anticipate that usage will increase. Credit card fees will likely offset check processing and cash handling costs, the costs of handling mail, window, and phone payments, as

[26] *The Office of Public the Counsel's Response Brief*, P. 32 (May 12, 2020).

well as collections. For the reasons stated in its initial brief, Staff's position is that $1,308,320 (before the jurisdictional allocation factor is applied) should be included.

Karen Bretz

Rate Case Expense

Staff thoroughly addressed all arguments surrounding this matter in its *Initial* and *Responsive* briefs. It will not address the arguments any further here and supports the positions previously outlined in its briefs.

Whitney Payne

Management Expense

Staff has not specifically argued the issue of management expense in previous briefs because it did not find merit in the arguments of OPC and it has already made adjustments to its case to reflect any updates or modification it found necessary.[27] OPC's management expense calculation is riddled with many unexplainable assumptions and calculation errors. The first unexplainable assumption is applying a 50% reduction to the disallowance percentage used to calculate the amount of mangers expense to remove.[28] OPC witness Conner cites her reasons for arbitrarily using a 50% factor as: 1) The officers are in Canada, and 2) she recognizes that most managers do not, in general, charge as much expense as officers do.[29] She provide no explanation as to why officers being in Canada and managers being located elsewhere warrants a reduction in the disallowance percentage or cite to any reputable research to support that determination. While she

[27] *Staff's Initial Brief*, P. 62; citing Ex. 101, *Staff Direct Report*, P. 32.
[28] Ex. 200: *Direct Testimony of Amanda C. Conner*, P. 7.
[29] Ex. 200: *Direct Testimony of Amanda C. Conner*, P. 7.

does recognize that traditionally managers do not incur the same type of expenses as officers, her reasoning for determining a 50% reduction for managers from the officers' expense is appropriate is not explained anywhere in any filed testimony. Conner reports that she did not review a single expense report of any of the managers to determine if any of the costs were similar to officer expenses.[30] In this case, OPC witness Conner uses her review of the officer expense reports totaling $42,397 and then applies her arbitrary disallowance percentage to the manager's total expense report totaling $8,513,610.[31]

Another flaw in Conner's assumptions is that the expenses incurred by the officers were all indirectly allocated to Empire while half of the expenses incurred by the managers are directly allocated to Empire. The managers who incurred these costs directly record their time as working on Empire matters. Conner makes no account to adjust for this error.

Also, the calculation of the adjustment for meals contains at least two errors that Staff could identify. The first error occurs with the calculation of the percentage of expenses that are attributable to meals. Conner divides "total meals" by "total other officer expenses" instead of correctly dividing "total meals" by "total officer expense."[32] She then applies the 50% reduction to the officer percentage of other officer expenses, but does not apply the 50% reduction to the officer percentage of meals allowed.[33]

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[30] Ex. 299-14: *OPC Reply to Testimony Responding to Commission Questions of Amanda C. Conner*, Pp. 2-3, "Since 2018, I started requesting the total amount of charges made by managers. I then use the disallowance percentage by officers and put that to the total amount as done in this case."
[31] Ex. 202: *Surrebuttal/True-Up Testimony of Amanda C. Conner*, Schedule ACC-S-1.
[32] Ex. 200: *Direct Testimony of Amanda C. Conner*, P. 11.
[33] Ex. 200: *Direct Testimony of Amanda C. Conner*, P. 11.

Finally, OPC's recommended disallowance amount of $3,707,884 is a total company adjustment number; it does not reflect the Missouri jurisdictional allocator. If Staff's Missouri jurisdictional allocation factor (87.5515%) was applied to Conner's number this adjustment would correctly be $3,246,308.

For these reasons, Staff has graciously recognized that OPC identified some areas within management expense that may garner further investigation. However, as that further investigation is not included in OPC's testimony or other evidence, Staff cannot support the adjustments OPC has proposed for management expense. Staff's agreement to the Global Stipulation and Agreement accounts for any consideration of management expense supported in this case and should be approved.

Whitney Payne

Allowance for Funds Used During Construction

Staff thoroughly addressed all arguments surrounding this matter in its *Initial* and *Responsive* briefs. It will not address the arguments any further here and supports the positions previously outlined in its briefs.

Whitney Payne

Cash Working Capital

Staff thoroughly addressed all arguments surrounding this matter in its *Initial* and *Responsive* briefs. It will not address the arguments any further here and supports the positions previously outlined in its briefs.

Whitney Payne

Accumulated Deferred Income Tax

Staff thoroughly addressed all arguments surrounding this matter in its *Initial* and *Responsive* briefs. It will not address the arguments any further here and supports the positions previously outlined in its briefs.

Travis Pringle

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?*

To emphasize the argument Staff made in its *Responsive Brief,* Staff states:

> Due process prevents any court or legislative body from taking the property of a public utility where that property consists of money collected from ratepayers pursuant to lawful rates. ***Lightfoot v. City of Springfield,*** 236 S.W.2d 348, 354 (Mo. banc 1951); ***Straube v. Bowling Green Gas Co.,*** 360 Mo. 132, 227 S.W.2d 666, 671 (1950).[34]

§ 393.137, RSMo., passed during the 2018 session as part of Senate Bill 564, could be found to be unconstitutional to the extent that it authorizes the Commission to deprive Empire involuntarily of the "stub period" revenues. Staff's proposed treatment of the TCJA "stub period" over-earning is fair and should therefore be adopted.

Kevin A. Thompson

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[34] ***State ex rel. City of Joplin v. Pub. Serv. Comm'n of State of Mo.*,** 186 S.W.3d 290, 299 (Mo. App., W.D. 2005).

Tax Cut and Job Acts Revenue

Staff thoroughly addressed all arguments surrounding this matter in its *Initial* and *Responsive* briefs. It will not address the arguments any further here and supports the positions previously outlined in its briefs.

Jeffrey Keevil

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?***

Staff's position has not changed from that argued in its Initial Brief and Responsive Brief. Namely, the Commission should approve the Global Stipulation, which provides for an accounting authority order to be issued to capture all financial impacts from Asbury's retirement from January 1, 2020 forward, as the only just and reasonable resolution of this matter.

In its Responsive Brief, the Office of the Public Counsel ("OPC") essentially makes two arguments to support its position on the Asbury issue, but upon closer examination both of OPC's arguments fail. First, OPC conflates the terms "shutdown" and "retirement" as though they mean the same thing, which they most certainly do not. Power plants shut down and go into outages all of the time. Being retired and removed from the integrated marketplace ("IM") is a different process. The Commission will recall that starting December 13, 2019, Asbury was offered daily to the SPP IM as "Outage;"

i.e., Empire continued to monitor market conditions, forward market prices and evaluate economical fuel procurement options. If market conditions and forward market prices created an opportunity for Empire to procure fuel at a price allowing Asbury to operate economically, fuel would have been purchased and the unit would have been offered Available to the markets once fuel was received.[35] In this context, "outage" commitment status means "The Resource is unavailable due to a planned, forced, maintenance or other approved outage." Among the approved outage reasons within SPP is one designated as "Fuel Supply." The "Fuel Supply" outage reason is defined as "Removal from service or limitation due to fuel supply interruption. Does not include local equipment failures related to fuel supply. Includes loss of gas pressure due to offsite issue, *coal supply exhaustion* [emphasis added], lack of headwater issues for hydro, etc."[36] This "outage" or "shut down" status is clearly not the same as "retirement," even under OPC's definition of retirement.

Although OPC's Responsive Brief pretends that the date doesn't matter, it must be remembered that one of the dates (the date for which OPC truly argues) is within the true-up period, and the other date (which Empire supports as the Asbury retirement date) is outside the true-up period. This brings us to the second argument OPC makes to support its position on the Asbury issue.

In its Responsive Brief OPC refers to a Kansas City Power and Light Company case in which the Commission issued an order modifying the procedural schedule for true-up proceedings; OPC even late-filed the order as Exhibit No. 299-20. In that case,

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[35] Ex. 163, *Supplemental Testimony of Chuck T. Poston*, filed May 6, 2020, p. 6.
[36] Ex. 163, *Supplemental Testimony of Chuck T. Poston*, filed May 6, 2020, p. 7, l. 9-15.

the Commission ordered the extension of the true-up period to capture the addition of generating plant. The reason for offering the late-filed exhibit is not apparent on the face of the order, or for that matter in OPC's brief, but it is readily distinguishable from the present case in any event.

First, in that case the Commission extended the true-up period for *all* costs and revenue, not just those related to Iatan 1 (Ex. 299-20, p. 4). It should be noted that in its Initial Brief OPC was seeking an adjustment for Asbury as a "known and measurable change" occurring outside of the test year as trued-up; now, in its Responsive Brief, OPC is apparently seeking an extension of the test year – however, it is not clear from OPC's Responsive Brief whether such an extension would be for all costs and revenues like the order upon which OPC relies or only for Asbury costs and revenues. OPC should at least be consistent with its request and with its terminology. Second, when you look at the actual order in the Kansas City Power and Light Company case (OPC's Ex. 299-20) you see that the order modifying the true-up proceedings was also the order in which the Commission formally adopted the test year and update period for that case, much unlike the procedural situation with the present case and the Asbury issue.

Staff continues to recommend that an accounting authority order be issued to capture all financial impacts from Asbury's retirement from January 1, 2020 forward consistent with the terms of paragraphs 24 -26 of the Global Stipulation. Further, any fuel related costs or market related charges or revenues incurred at Asbury or related to Asbury after January 1, 2020 shall not be eligible for inclusion in the FAC. As noted in paragraph 26 of the Global Stipulation, support of the Global Stipulation is in no way agreement as to the retirement date of Asbury.

Jeffrey Keevil

Fuel Inventories

Staff thoroughly addressed all arguments surrounding this matter in its *Initial* and *Responsive* briefs. It will not address the arguments any further here and supports the positions previously outlined in its briefs.

Jeffrey Keevil

Operation and Maintenance Normalization

Staff thoroughly addressed all arguments surrounding this matter in its *Initial* and *Responsive* briefs. It will not address the arguments any further here and supports the positions previously outlined in its briefs.

Jeffrey Keevil

Depreciation and Amortization Expense

Staff thoroughly addressed all arguments surrounding this matter in its *Initial* and *Responsive* briefs. It will not address the arguments any further here and supports the positions previously outlined in its briefs.

Jeffrey Keevil

Retail Revenue

Staff thoroughly addressed all arguments surrounding this matter in its *Initial* and *Responsive* briefs. It will not address the arguments any further here and supports the positions previously outlined in its briefs.

Jeffrey Keevil

Property Taxes

Staff thoroughly addressed all arguments surrounding this matter in its *Initial* and *Responsive* briefs. It will not address the arguments any further here and supports the positions previously outlined in its briefs.

Jeffrey Keevil

Common Property Removed from Plant and Accumulated Depreciation

Staff thoroughly addressed all arguments surrounding this matter in its *Initial* and *Responsive* briefs. It will not address the arguments any further here and supports the positions previously outlined in its briefs.

Jeffrey Keevil

Affiliate Transactions

Staff thoroughly addressed all arguments surrounding this matter in its *Initial* and *Responsive* briefs. It will not address the arguments any further here and supports the positions previously outlined in its briefs.

Jurisdictional Allocations

Again, Staff notes that approval of the terms of the *Global Stipulation* would constitute a complete resolution of this issue. However, if the *Stipulation* is not approved in total by the Commission, it should approve the jurisdictional allocation factors used in Staff's case. In its Responsive Brief, Empire states that it generally agrees with the methodologies used by Staff to develop its jurisdictional demand and energy allocators.[37] However, it

[37] *The Empire District Electric Company's Responsive Brief*, P. 22.

presents three instances where it does not agree with Staff's application of its jurisdictional allocators.

First, Empire states that the test year balances that Staff utilized for FERC accounts 501 (Fuel) are incorrect.[38] After further review of its workpapers, Staff agrees with Empire in this regard. There are several 501 subaccounts that fit into three categories: those 100% attributed to Missouri, those 100% attributed to three other states (Kansas, Oklahoma, and Arkansas), and those attributed to all four states. Staff placed the 100% Missouri accounts into a 501.1 account to which a 100% allocation factor would be applied. Staff included a negative $872,592 fully attributed to Kansas, Oklahoma, and Arkansas 501 accounts from the Company's Test Year that resulted in reducing the amount in Staff's 501 account that should have been allocated to Missouri operations by $719,884 using Staff's 82.5% allocation factor.[39]

Second, Empire asserts that the jurisdictional allocator Staff used for FERC account 565414 should have been a retail only allocator.[40] Subaccount 565414 is for the SPP Fixed Charge[41] – Native Load and is of one of many subaccounts that make up the total of production and transmission expense. Staff applies a fixed allocation factor to all Production and Transmission Expenses, except for variable production expenses, to which Staff applies a variable allocation factor. The "retail only allocator" referred to by Empire in its Responsive Brief is similar to the "On System" Retail Revenue factor Staff uses to apply to Sales Expenses (accounts 912 and 916). Therefore, based upon the

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[38] *Id.*
[39] *See* Ex. 124: *Staff True-Up Accounting Schedules*, Schedule 9, P. 3, Ll. 6-7.
[40] *The Empire District Electric Company's Responsive Brief*, P. 22.
[41] *See* Ex. 57, Jurisdictional Allocations Workpaper, P. 2; Ex. 156, *Supplemental Testimony of Kimberly Bolin*, Schedule KKB-sup1, P.1.

information available to it, Staff recommends that is has applied the correct allocation factors.

Finally, on page 23 of its Responsive Brief, Empire asserts that Staff incorrectly applied its jurisdictional allocator to all depreciation expense accounts to derive a Missouri retail test year amount. However, Empire is mistaken. Staff did apply an allocation factor to its test year depreciation expense, but this practice has no impact on the ending Missouri Jurisdictional Depreciation Expense. The calculation of depreciation expense in Staff's accounting schedule is different from other expense items. For most expenses, Staff's calculation starts with the test year and then adjustments are made. However, Schedule 5 of Staff's True-Up Accounting Schedules shows the depreciation rates are applied to the Missouri Jurisdictional plant amounts (calculated on Schedule 3, where individual allocation factors are applied to each plant account), which results in a depreciation expense in the amount of $73,369,381.[42] This amount is then reflected on Schedule 9, line 154, column k, along with another adjustment in the amount of $(1,945,499),[43] which was made to remove depreciation expense cleared to other operations and maintenance expense accounts. Staff's total depreciation expense is $71,423,882.[44] Staff could have used any number in column c on Schedule 9 as test year depreciation expense and the ending result would have still been the same, depreciation expense of $71,423,882. Therefore, Staff's application of its jurisdictional allocators to Empire's depreciation expense accounts was appropriate.

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[42] *See* Ex. 124 *Staff True-Up Accounting Schedules*, Schedule 9, P. 4.
[43] *See Id.* at Schedule 10, P. 17.
[44] *See Id.* at Schedule 9, P. 5.

OPC, in its Responsive Brief, simply reiterates its position that any allocation factors for affiliate transactions should be based on the costs and values of the goods or services provided and received.[45] As such, no further response to OPC is required on this issue.

While Staff agrees with Empire that it used the incorrect test year balances for FERC account 501, resulting in a reduction of $719,884 to the amount in Staff's 501 account that should be allocated to Empire's Missouri operations, the remaining issues raised by Empire are baseless. Therefore, should the Commission not approve the *Global Stipulation* as a full resolution of this case, it should approve the jurisdictional allocation factors used in Staff's cost of service, subject to the correction of the amounts included in Staff's FERC account 501.

Mark Johnson

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic mail, or First Class United States Postal Mail, postage prepaid, on this 18th day of May, 2020, to all counsel of record.

/s/ Whitney Payne

[45] *The Office of the Public Counsel's Response Brief*, P. 20.