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**

STATEMENT OF POSITIONS

COMES NOW the Staff of the Missouri Public Service Commission (Staff), and provides its *Statement of Positions*. These positions are based on the *List of Issues* filed April 8, 2020, and include responses to all of the sub-issues as originally filed in that document. Staff's position is that the *Global Stipulation and Agreement* filed April 15, 2020, should be approved by the Commission as a full resolution of all of the issues in this matter. However, the Office of the Public Counsel has objected to portions of the *Agreement,* therefore, Staff has included its filed positions in addition to its settlement position for some issues to the extent that the Commission does not approve the *Agreement.* The Office of the Public Counsel may not dispute all sub-issues, however, at the time of filing it was unclear exactly what issues in this matter it intended to present for the Commission's determination. Staff for its positions states:

1. 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?

Staff's Position: Staff recommends, based upon its expert analysis, a return on common equity ("ROE") range of 9.05% to 9.80%, with a point estimate of 9.25%. [Staff Direct Report, p. 16 to 18].

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

Staff's Position: The appropriate capital structure for determining the allowed ROR is Empire District Electric Company's ("Empire") consolidated capital structure, as of September 30, 2019, of 52.43% common equity and 47.57% long-term debt. [Chari Surrebuttal, p. 12, line 15]. As stipulated by Condition 5 of the 'Stipulation and Agreement' of the merger case No. EM-2016-0213, Staff finds Empire's capital structure more economical than Liberty Utilities Company ("LUCo"). [Staff Direct Report, p. 12, lines 19 to 23].

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

Staff's Position: The correct cost of debt to be used for setting Empire's authorized ROR is Empire's consolidated embedded cost of debt of 4.57%, as of September 30, 2019. [Chari Surrebuttal, p. 14, lines 1 to 2]. The embedded cost of debt includes 2.15% cost of debt, as adjusted by Staff in compliance with 'Affiliate Transactions Rules', for $90 million 'Related Party Note'. [Chari Surrebuttal, p. 13, lines 10 to 13 and 17 to 18].

Staff's recommended authorized ROR is 7.02%, calculated as the weighted average cost of debt (4.57%) and recommended authorized ROE (9.25%). The weights are 47.57% long-term debt and 52.43% common equity, respectively. (See Exhibit 1)

2. Rate Design, **Other Tariff and Data Issues**

a. ***Should the GP and TEB rate schedules be fully consolidated?***

Staff's position: Staff considers the resolution of this issue as provided in the Global Stipulation reasonable in the context of the interplay of issues resolved therein. However, in the event the resolution of this case involves a change in Empire's revenue requirement, Staff's position is as follows: Yes. There is not at this time an apparent cost-related distinction between the service of customers on these rate schedules. Due to the seasonality of Empire's demand charges and the hours use rate structure of these rate schedules, it is reasonable to merge these rate schedules at this time. The overall decrease expected in this case will mitigate any customer impacts that may preclude merger of these schedules under ordinary circumstances. The consolidation of Empire's rate schedules is an interim step in the modernization of Empire's rate structures. Time-variant charges, potentially including a coincident demand charge, better reflect any differences in cost causation between customers served on these rate schedules. (Staff CCoS Report page 18).

b. ***Should the CB and SH rate schedules be partially consolidated?***

Staff's position: Staff considers the resolution of this issue as provided in the Global Stipulation reasonable in the context of the interplay of issues resolved therein. However, in the event the resolution of this case involves a change in Empire's revenue requirement, Staff's position is as follows: Yes. The values of the customer charge, all summer energy blocks, and first non-summer blocks should be aligned, resulting in partial consolidation of these rate schedules. The assumed distinction for the SH and CB rate schedules is that space heating customers will use significantly more energy in the non-summer months, and will have a higher load factor than similarly-sized CB customers. Under this assumption, it is not unreasonable to discount the tail block for non-summer usage of SH customers so they do not over-contribute to the cost of maintaining the transmission and distribution system; and it is also assumed that more usage will occur off-peak, thus a discount for off peak usage's lower energy cost and reduced impact on generating capacity is warranted. The alignment of rate elements within these rate schedules is an interim step in the modernization of Empire's rate structures. Any discrepancy in cost of service is better recognized with time-variant charges, potentially including a coincident demand charge. (Staff CCoS Report page 16).

c. ***Should "grandfathered" multifamily customers taking service through a single meter be given the option of being served on the CB/SH rate schedule?***

Staff's position: Staff considers the resolution of this issue as provided in the Global Stipulation reasonable in the context of the interplay of issues resolved therein. However, in the event the resolution of this case involves a change in Empire's revenue requirement, Staff's position is as follows: Yes. Currently, multiple-family dwellings within a single building that are served from one meter instead of separately metered are served on the Residential tariff. The customer's bill is calculated by multiplying each customer charge and kWh block by the number of dwelling units. Unless a customer obtains a variance from the Commission, multiple-family dwellings, such as apartment buildings have been required to be separately metered after June 1, 1981 according to Commission Rule 20 CSR 4240-20.050.2. However, there are buildings that were built prior to June 1, 1981 that are grandfathered and continue to be metered from one meter point. Staff suggests Empire modify its tariff to allow such master-metered customers to be served on the CB tariff instead of the Residential tariff. (Staff CCoS Report page 34).

d. ***How should Empire's revenue requirement be allocated amongst Empire's customer rate classes (Class revenues responsibilities)?***

Staff's position: Staff considers the resolution of this issue as provided in the Global Stipulation reasonable in the context of the interplay of issues resolved therein. However, in the event the resolution of this case involves a change in

Empire's revenue requirement, Staff's position is as follows: Typically Staff assumes a CCOS study is accurate to around 5% plus or minus of each studied class's revenue requirement. In this case, that is not a reasonable assumption. However, given (1) the magnitude of overall revenue requirement decrease contemplated in this case, (2) the results of Staff's CCOS study in File No. ER-2016-0023, (3) likely future investment in metering systems, (4) the intent to phase out the overly simplistic PFM rate schedule and transition all customers to modern time-variant rate designs, and (5) an overall goal of minimizing customer impacts associated with unnecessary bill swings from case to case, Staff maintains its class revenue responsibility and rate design variations as a reasonable outcome in this case, regardless of the unavailability of a typically-reliable CCOS from any party. (Lange Surrebuttal at page 13)

Staff recommends that the Feed & Grain rate schedule revert to its pre-tax reduction tariffed revenue level. Staff recommends that the Residential, Contract Transmission, and Lighting rate schedules retain the current level of revenue production which is net of the current temporary tax reduction rider, and that the CB/SH, GP/TEB, and LPS class revenue requirements be adjusted by the following process, in the event that imputed load shapes are relied upon for rate schedules on which few customers take service:[1]

> Reduce class revenue requirements by the level of the temporary tax reduction;
>
> Determine the amount of additional reduction available after the above-referenced reductions have been applied, (approximately $18.5 million at Staff's recommended revenue requirement);
>
> Further reduce the CB/SH and LPS revenue requirements by 25% each of the amount identified in step 2;
>
> Further reduce the GP/TEB revenue requirements by 50% of the amount identified in step 2.
>
> (Staff CCoS Report page 2)

[1] The provided class names refer to the indicated rate schedules: "Residential"- Residential Service; "CB/SH" – Commercial Service and Small Heating Service; "GP/TEB"- General Power Service and Total Electric Building Service; "LPS" - Large Power Service; "Feed & Grain" – Feed Mill and Grain Elevator Service, Schedule PFM; Contract Transmission - Special Transmission Service; and Lighting – Schedules SPL, PL, LS, MS, and other derivative schedules.

If it is preferred to use customer-specific loads for the classes with few customers, then the LPS reduction should be reduced to 23% of the Step 2 amount, and Praxair should be reduced by 2% of the Step 2 amount. (Lange Rebuttal page 18)

e. ***How should the rates for each customer class be designed?***

Staff's Position: Staff considers the resolution of this issue as provided in the Global Stipulation reasonable in the context of the interplay of issues resolved therein. However, in the event the resolution of this case involves a change in Empire's revenue requirement, Staff's position is as follows:

<u>Residential rate design</u>: Consistent with the recommendation that the existing residential customer charge be maintained, Staff recommends that the recommended reduction to the class revenue requirement be applied as an equal amount to each energy rate element. This results in customer effective rates being held constant to those currently experienced by customers pursuant to the temporary tax rider.

In the event that decreases to the non-customer portion of the residential revenue requirement are ordered that are in excess of those contemplated in Staff's studied revenue requirement allocation, Staff recommends the decrease to the residential revenue requirement be implemented by first setting the charges for usage in excess of 600 kWh to the "current effective" rates that result from applying the temporary tax reduction to the current tariffed rates. The additional decrease would then be applied as the same percentage decrease to the charges applicable to 0-600 kWh of usage for each season.

In the event the reduction applicable to residential energy charge recovery does not exceed the approximate $8.5 million currently generated by the application of the temporary tax reduction to the residential class, then the tail block charges should be set equal to the current tariff tail block charges, with the decrease applied as an equal percentage reduction to the charges for usage from 0-600 kWh per month, by season. (Staff CCoS Report, page 15)

In the event that the Commission orders a reduction to the Residential class in excess of the temporary tax rider amount, Staff recommends that the reduction be applied to the first energy block for each season, effectively creating a summer incline and reducing the winter decline. This approach would reduce the impact experienced by customers and facilitate a transition to time-variant rates in a future proceeding. (Lange Rebuttal, page 22).

<u>CB/SH Alignment and Rate Design</u>: For the reasons discussed in response to issue 2.b., for implementing any overall reduction in the revenue requirement of the realigned CB and SH schedules, collectively the CB/SH class, Staff recommends a multistep process that includes isolating the cost of energy to

serve load within the energy charge from further adjustment. After isolating the energy costs, for the CB/SH class, Staff recommends the decrease be applied to the charges for usage within each rate schedule applicable to the first 700 kWh of usage each month, maintaining the consistency of these rate elements across the two rate schedules. At Staff's recommended level of class revenue responsibility, one third of the percentage reduction applied to the energy-isolated first blocks should be applied to the CB energy-isolated winter tail block, and one half of the percentage reduction applied to the energy-isolated CB winter tail block should be applied to the energy-isolated SH winter tail block. The adjustment of winter tail blocks is only appropriate if the failure to apply this step would result in inverted rate designs. (Staff CCoS Report, page 17).

<u>GP/TEB Consolidation and Rate Design</u>: For the reasons discussed in response to issue 2.a., it is reasonable to merge these rate schedules at this time. For implementing any overall reductions in the revenue requirement of the consolidated GP/TEB schedule, Staff recommends a multistep process that includes isolating the cost of energy to serve load within the energy charge from further adjustment. After isolating the energy costs, Staff recommends the decrease be applied as an equal percentage to the charges for usage net of energy and each other charge as tariffed. (Staff CCoS Report, page 19).

<u>LP Rate Design</u>: For implementing any overall reductions in the revenue requirement of the LP rate schedule, Staff recommends a multistep process that includes isolating the cost of energy to serve load within the energy charge from further adjustment. After isolating the energy costs, Staff recommends the decrease be applied as an equal percentage to the charges for usage net of energy and each other charge as tariffed. (Staff CCoS Report, page 19). Unfortunately, the hours use rate design fails to recognize the relationship between the time of energy consumption and the value of the energy consumed. Instead, it relies on simplified assumptions of the relationship between the coincidence of customer load and load factor. The relationship of the LP tail block charge to the cost of acquiring the energy through the SPP integrated market should be reviewed as part of any final rate design. (Lange Rebuttal, page 18).

<u>PFM Rate Design:</u> Staff recommends that the Feed & Grain rate schedule revert to its pre-tax reduction tariffed revenue level. (Staff CCoS Report, pages 1 and 20). Staff generally recommends that non-residential revenue requirement changes from the revenues produced by existing rates be implemented as an equal percentage adjustment to all rate elements as isolated for the voltage-adjusted cost of energy obtained to serve load. (Staff CCoS Report, page 3)

Contract Transmission and Special Contract – Praxair rate design: Staff recommends the existing relationship of on-peak, off-peak, and shoulder rates be realigned to reflect the relationship observed in the simple averages of the test period market energy prices used to determine the cost of energy to serve load in Staff's production modeling. The energy-isolated recovery from each rate element should next be reduced by the class-applicable energy-isolated equal percentage adjustment. The energy prices by time and season should then be added back into the rate. (Staff CCoS Report, page 22)

f. ***What should be the amount of the residential customer charge?***

Staff's position: Consistent with the Global Agreement, and for the reasons described below, Staff recommends the residential customer charge of $13.00 be retained. The functionalized residential customer charge calculated within Staff's CCOS is $11.91. Costs included in the calculation of the Residential customer charge are the costs necessary to make electric service available to the customer, regardless of the level of electric service utilized. Examples of such costs include monthly meter reading, billing, postage, customer accounting service expenses, as well as a portion of the costs associated with the required investment in a meter, the service line ("drop"), and other billing costs. The costs included for recovery through the customer charge consist of the following:

- Distribution – services (investment and expenses)
- Distribution – meters (investment and expenses)
- Distribution – customer installations
- Customer deposit
- Customer meter reading
- Other customer billing expenses
- Uncollectible accounts (write-offs)
- Customer service & information expenses
- Sales expense

Consistent with Staff's rate design recommendation to maintain the residential class' current cost responsibility net of the temporary tax rider, Staff recommends the customer charge be maintained at $13.00. This will mitigate potential rate shock in the next rate proceeding associated with the expected inclusion of AMI meter costs in Empire's revenue requirement. (Staff CCoS Report, pages 14-15)

g. Should Empire continue its Low-Income Pilot Program as is, or modify it?

Staff's Position: Consistent with the Global Stipulation and Agreement, the Low-Income Pilot Program will remain in place with no changes made in this case. The Company will track all costs until the next rate case. The Company, Staff, and OPC will meet at least twice prior to the filing of Empire's next rate case to discuss the Company's Low Income Pilot Program and whether or not modifications are warranted. It is Staff's position that this is a reasonable resolution to this issue.

h. ***Should Empire be ordered to consolidate the PFM rate schedules into the GP/TEB rate schedule in a future proceeding?***

Staff's position: Yes, Consistent with the Global Agreement, Staff recommends the Feed Mill rate schedule be consolidated into the GP/TEB schedule in a future rate proceeding. Given the relatively small number of customers taking service on this schedule, Staff encourages Empire to work one-on-one with customers to understand the impacts of this transition. If a well-designed time-variant rate is in place for the consolidated GP/TEB class at the time of transition, customer impacts should be minimal and may result in overall bill reductions for customers that utilize energy primarily in times of low capacity and energy costs. (Staff CCoS Report, page 20). This is consistent with the Global Agreement

i. ***Should Empire be ordered to incorporate shoulder months into the Special Contract / Praxair rate structures in the next rate proceeding?***

Staff's position: Staff considers the resolution of this issue as provided in the Global Stipulation reasonable in the context of the interplay of issues resolved therein. However, in the event the resolution of this case involves a change in Empire's revenue requirement, Staff's position is as follows: Yes. Staff suggests, based on observed trends in market prices, that in Empire's next rate proceeding, it present a proposal to better capture the seasonality of rates, such as through shifting the summer season to begin in mid-May as opposed to mid-June, and through implementing shoulder month pricing and peak winter month pricing. (Staff CCoS Report, page 23) See also Staff's Response to Issue 2.j.

j. ***Should Empire be ordered to work to incorporate shoulder months into the rate structures of all non-lighting rate schedules?***

Staff's position: Staff considers the resolution of this issue as provided in the Global Stipulation reasonable in the context of the interplay of issues resolved therein. However, in the event the resolution of this case involves a change in Empire's revenue requirement, Staff's position is as follows: Yes. When sufficient metering and billing technology has been deployed, Staff recommends that Empire adopt time-variant rate structures as discussed in the Staff Report on Distributed Energy Resources, filed April 5, 2018, in File No. EW 2017-0245, concerning residential and utility-wide rate design. In the more immediate future, pending Empire's deployment of AMI and broad-scale billing technology which are necessary for more broadly-deployed ToU, Staff recommends Empire work towards a more seasonally appropriate incorporation of a "shoulder" season. Empire has consistently high demands and usage in the months of December, January, and February. It is most appropriate to charge out the usage in these months at a higher rate than is charged for usage in October, April or similar months. Empire should also begin retaining determinants associated with creation of a coincident peak demand charge to facilitate study of this charge type as a potential element of a more modern rate structure in the future. (Staff CCoS Report, page 23)

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?***

Staff's position: Staff considers the resolution of this issue as provided in the Global Stipulation reasonable in the context of the interplay of issues resolved therein. However, in the event the resolution of this case involves a change in Empire's revenue requirement, Staff's position is as follows: Yes. (Staff CCoS Report, page 35)

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?***

Staff's position: Staff considers the resolution of this issue as provided in the Global Stipulation reasonable in the context of the interplay of issues resolved therein. However, in the event the resolution of this case involves a change in Empire's revenue requirement, Staff's position is as follows: Yes. Staff is aware of utilities that have deployed AMI and have deployed new customer information systems in a manner that does not facilitate the collection of interval data by class or by customer aggregations. Staff recommends Empire include elements in its customer information systems to leverage AMI meter data with customer data – such as voltage, rate schedule, applicable voltage adjustments, net metering customer, etc., in order to produce accurate load research data in a variety of configurations when sufficient AMI meters have been deployed. Class-level or sub-class level hourly load information is necessary for weather normalization studies, and to produce class-level coincident and non-coincident peak information, which is used for allocations, among other things. If possible, retention of load research data by circuit would be beneficial in that it may enable targeted demand response programs in the future. (Staff CCoS Report, pages 35 - 36)

m. ***Should Empire be ordered to retain individual hourly data for future bill comparisons?***

Staff's position: Yes. Consistent with the Global Agreement, to facilitate future customer selection of rate options and to estimate the impact of a transition to time-variant rate structures, Staff recommends that Empire retain the data necessary to develop a minimum of the 12 most recent months' comparison bills for customers upon installation of AMI metering. (Staff CCoS Report, page 36)

n. ***Should Empire be ordered to retain coincident peak determinants for use in future rate proceedings***

Staff's position: Yes. Consistent with the Global Agreement, Empire should begin retaining determinants associated with creation of a coincident peak demand charge to facilitate study of this charge type as a potential element of a more modern rate structure in the future. (Staff CCoS Report, page 23)

o. ***How should the amount collected from customers related to the SBEDR charge be billed, and should there be a separate line item on customers' bills?***

Staff's Position: Staff recommends that the reduced level of revenues arising from the application of LLCEDR discounted rates be allocated to all of Empire's customer rate classes in accordance with Section 393.1640, which states that the increase shall be implemented through the application of a uniform percentage adjustment to the revenue requirement responsibility of all customer rate classes. Further Staff recommends that the reduced level of revenues be recoverable from all customers through a separate line item on the customer's bill. (Kliethermes Rebuttal, page 9)

p. ***By when should Empire move customers served on CB/SH that exceed the demand limits of those schedules to the appropriate rate schedule.***

Staff's Position: Staff considers the resolution of this issue as provided in the Global Stipulation reasonable in the context of the interplay of issues resolved therein. However, in the event the resolution of this case involves a change in Empire's revenue requirement, Staff's position is as follows: An issue that complicates implementation of the SRLE or any RSM is the presence of extraordinarily large customers within the CB/SH class that are likely more appropriately served on a different rate schedule. For the twelve months of most recent customer data available, total usage by CB and SH customers was approximately 400 million kWh, by approximately 22,900 customers. However, only 525 of those customers (less than 3%) are responsible for over 71.5 million kWh of the usage (over 17%). The decision of one or more of these customers to switch to the GP class would result in a sizable adjustment under the SRLE to compensate Empire for either a customer terminating service, or even for a customer switching the rate schedule under which that customer receives service. (Staff CCoS Report, page 10)

Empire's CB rate schedule is available for those "whose electric load is not consistently in excess of 40 kW," (Mo PSC No. 5, Sec. 2, 18th Revised Sheet No. 1). Empire's SH rate schedule is available for those "whose electric load is not consistently in excess of 40 kW during the Summer Season," (Mo PSC No. 5, Sec. 2, 18th Revised Sheet No. 2). AMI metering will enable exceedances of these tariffed limits to be more readily observed.

q. ***What, if any, revenue neutral interclass shifts are supported by the class cost of service study?***

Staff's Position: Staff considers the resolution of this issue as provided in the Global Stipulation reasonable in the context of the interplay of issues resolved therein. However, in the event the resolution of this case involves a change in Empire's revenue requirement, Staff's position is as follows: No CCOS study submitted in this case is reliable for rate making purposes. (Lange Surrebuttal, page 13)

The factors leading to this conclusion include the concerns with data quality described by Michael Stahlman and Robin Kliethermes in their rebuttal testimony. Staff's estimated bill and data sufficiency concerns led Staff to determine that none of the three submitted CCOS studies are reliable due to the unavailability of reliable data to establish class and system peaks and billing determinants. Also, as discussed in the CCOS Report, Empire has significant rate switching and rate misalignment issues involving the CB and SH rate schedules, the GP and TEB rate schedules, and the PFM and GP/TEB rate schedules. (Lange Rebuttal, page 21; Lange Surrebuttal, page 13).

Staff maintains its class revenue responsibility and rate design variations as a reasonable outcome in this case, (described in part 2.d.) regardless of the unavailability of a reliable CCOS from any party. (Lange Surrebuttal, page 13)

r. ***How should any revenue requirement increase or decrease be allocated to each rate class?***

Staff's Position: Staff considers the resolution of this issue as provided in the Global Stipulation reasonable in the context of the interplay of issues resolved therein. However, in the event the resolution of this case involves a change in Empire's revenue requirement, Staff's position is as follows: See response to Issue 2.d. Typically Staff assumes a CCOS study is accurate to around 5% plus or minus of each studied class's revenue requirement. In this case, that is not a reasonable assumption. However, given (1) the magnitude of overall revenue requirement decrease contemplated in this case, (2) the results of Staff's CCOS study in File No. ER-2016-0023, (3) likely future investment in metering systems, (4) the intent to phase out the overly simplistic PFM rate schedule and transition all customers to modern time-variant rate designs, and (5) an overall goal of minimizing customer impacts associated with unnecessary bill swings from case to case, Staff maintains its class revenue responsibility and rate design variations as a reasonable outcome in this case, regardless of the unavailability of a typically-reliable CCOS from any party. (Lange Surrebuttal,page 13)

s. ***How should any residential revenue requirement increase or decrease be apportioned to the energy (kWh) rates?***

Staff's Position: See Staff response to issue 2.e.

t. ***What, if any, changes to the CB, SH, GP and TEB customer charge are supported by the class cost of service study?***

Staff's Position: See Staff response to issue 2.q.

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?***

Staff's Position: See Staff response to issue 2.e.

v. ***How should any CB and SH revenue requirement increase or decrease be apportioned to the energy (kWh) rates?***

Staff's Position: See Staff response to issue 2.e.

w. ***How should any GP and TEB revenue requirement increase or decrease be apportioned to the demand (kW) and energy (kWh) rates?***

Staff position: See response to 2.e.

x. ***How should any LP revenue requirement increase or decrease be apportioned to the demand (kW) and energy (kWh) rates?***

Staff's Position: See response to issue 2.e. A customer's NCP demand is not relevant to Empire's capacity requirements. The usage of a customer in the interval associated with the system peak is the determinant relevant to Empire's capacity requirements. There may have been a time where customer usage was so uniform that it could reasonably be assumed that a customer's NCP demand would coincide with system peak, but that is certainly not the case today. Therefore, it is no more reasonable to recover the costs associated with system peak demands via a customer's NCP demand than it is to recover those costs via a customer's energy consumption, and it is potentially less reasonable to do so. Also, Empire has represented that its recent decisions to increase its capacity have been related to environmental compliance requirements and energy market opportunities. Further, Empire's ongoing acquisitions of wind capacity are poorly suited to meeting coincident peak customer demand. (Lange Rebuttal, page 9)

y. ***What, if any, changes to the current SC-P energy (kWh) rates should be made to align with Market Prices?***

Staff's Position: See Staff response to issue 2.e.

z. ***How should production-related costs be allocated to each rate class?***

Staff position to issues 2.z – 2.cc.: In general, the Commission should not order any particular allocation method as the appropriate method will vary case-to-case with utility characteristics and data availability.
No CCOS study submitted in this case is reliable for rate making purposes. (Lange Surrebuttal page 13)

The factors leading to this conclusion include the concerns with data quality described by Michael Stahlman and Robin Kliethermes in their rebuttal testimonies, and billing determinants are uncertain. Staff's estimated bill and data sufficiency concerns led Staff to determine that none of the three submitted CCOS studies are reliable due to the unavailability of reliable data to establish class and system peaks and billing determinants. Also, as discussed in the CCOS Report, Empire has significant rate switching and rate misalignment issues involving the CB and SH rate schedules, the GP and TEB rate schedules, and the PFM and GP/TEB rate schedules. (Lange Rebuttal, page 21; Lange Surrebuttal, page 13).

The RAP publication, "Smart Rate Design for a Smart Future," authored by Jim Lazar and Wilson Gonzalez, provides significant impartial guidance on these issues, as discussed throughout the testimonies of Lange and Kliethermes and the CCoS Report, and attached as Appendix 3 to the CCOS Report.

aa. How should plant accounts 364, 366 and 368 be classified?

Staff's Position: See Staff response to issue 2.z.

bb. How should primary and secondary distribution plant facility costs be allocated to each rate class?

Staff's Position: See Staff response to issue 2.z.

cc. How should General plant facility costs be allocated to each rate class?

Staff's Position: See Staff response to issue 2.z.

2. Jurisdictional Allocation Factors

a. ***What is the appropriate jurisdictional allocation factors to be used in the cost of service?***

Staff's Position: Staff's methodology for calculating the jurisdictional allocation factors used in determining its cost of service recommendation have not changed nor been disputed by Empire Electric in rate case filings over at least the last ten years. Even though now owned by Liberty Utilities, Empire Electric still serves the same four states it did before the acquisition and, therefore, Staff is not aware of any reason there would be any significant difference, if any, in how costs are jurisdictionally allocated to Missouri operations under the new ownership structure. The only known difference between Staff's and Empire's jurisdictional allocation approaches is that Empire bases its allocation factors on the prior calendar year's numbers, while Staff, for most factors, uses the most current numbers available which, in this case, is the true-up period ending January 31, 2020. See Staff's Cost of Service Report page 32.

3. WNR and SRLE Adjustment Mechanisms

a. ***Should the Commission approve, reject, or approve with modifications Empire's proposed Weather Normalization Rider?***

Staff's Position: Consistent with the Global Stipulation, the Commission should reject. The proposed WNR is impossible to implement[2] and does not correspond to the weather normalization process used in rate cases to determine normal weather.[3] As the proposed WNR adjusts, on an individual basis, usage from the prior billing period, it may constitute prohibited retroactive ratemaking.[4] The individual customer adjustment to future bills based on an individual's prior bill also is a violation of the filed rate doctrine.[5] Under Empire's approach, an individual customer will not know what rate that customer will have to pay in the next billing cycle, as that charge will be calculated on the prior billing cycle.[6] Without a filed, published rate, or ability to calculate the usage that rate is based on before that usage occurs, customers cannot make decisions to react or plan for that charge.[7] While Empire has expressed willingness to consider modifications, Empire has not provided any details about any modifications.[8]

b. ***Is it lawful for the Commission authorize Empire to implement a Sales Reconciliation to Levelized Expectations ("SRLE") mechanism, such as those Staff and Empire are proposing in this case?***

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[2] Rebuttal of Michael L. Stahlman, p. 3, ll. 12-18.
[3] Rebuttal of Michael L. Stahlman, p. 2, ll. 9-15.
[4] ***Lightfoot v. City of Springfield,*** 361 Mo. 659, 669, 236 S.W.2d 348, 353 (Mo.1951).
[5] ***State ex rel. AG Processing, Inc. v. Public Service Com'n ex rel. State*** Missouri Court of Appeals, Western District, 311 S.W.3d 361 (Mo. 2010).
[6] *Id.*
[7] *The filed rate doctrine's rule against retroactive ratemaking has an underlying policy of predictability, meaning that if a utility is bound by the rates which it properly filed with the appropriate regulatory agency, then its customers will know prior to purchase what rates are being charged, and can therefore make economic or business plans or adjustments in response; in other words, the approved tariffs are to provide advance notice to customers of prospective charges, allowing the customers to plan accordingly.311 S.W.3d 361*
[8] Surrebuttal of Michael L. Stahlman, p. 2, ll. 7-9.

Consistent with the Global Stipulation, the Commission can authorize the SRLE mechanism, as the Commission has previously promulgated rules governing applications for rate cases.[9] As a general rate case is the only avenue for a utility to request a SRLE mechanism,[10] these application requirements also govern the SRLE request.

c. ***Should the Commission adopt Staff's Sales Reconciliation to Levelized Expectations Proposal ("SRLE") or approve the SRLE with modifications as suggested by the Company?***

Staff's Position: Staff considers the resolution of this issue as provided in the Global Stipulation reasonable in the context of the interplay of issues resolved therein. However, in the event the resolution of this case involves a change in Empire's revenue requirement, Staff's position is as follows: Yes. (Staff CCoS Report page 3). An advantage of the SRLE is the elimination of the throughput disincentive, whether Empire promulgates energy efficiency programs pursuant to MEEIA[11] or otherwise, for the Residential, CB, and SH rate schedules. Thus, if Empire pursues a MEEIA program the "TD" adjustment found in the mechanisms of other utilities would be subsumed within the SRLE design for the Residential, CB, and SH rate schedules. (Staff CCoS Report page 12).

The company's concerns are not unreasonable, but they are offsetting. Customer growth or customer losses are not eligible for protection under 386.266.3 RSMo, which limits the protection of an RSM to the impact on utility revenues of increases or decreases in residential and commercial customer usage due to variations in either weather, conservation, or both. The selection of the 400kWh level represents balancing the opportunity for additional revenues associated with customer growth (and retaining customer risk associated with customer losses) with covering the changes in gross usage associated with the impacts of weather and conservation pursuant to the statute. (Lange Surrebuttal page 2) Staff would not oppose a reasonable modification to the Empire "Electric Distribution Policy" tariff provisions to reduce (1) the 1,000' of overhead electric service provided at no cost to residential customers not in a subdivision pursuant to Sheet 17a, (2) the Construction Allowance made available to refund to the developers of Residential Subdivisions pursuant to Sheet 17b, and (3) the estimated revenues considered for SH & CB customers pursuant to Sheet 17c, to exclude an approximation of the assumed revenue contribution of new residential customers in excess of 400 kWh per month, and 700 kWh per month for new commercial customers. A reasonable adjustment of these amounts within the line extension policy would reduce the company's exposure to incremental

[9] 20 CSR 4240-3.030.
[10] 386.266(5) RSMo.
[11] Section 393.1075, RSMo.

costs caused by addition of distribution facilities when new customers connect to the system. (Lange Surrebuttal page 3)

4. 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?

i. Staff's Position: As indicated in paragraph 6 of the Global Stipulation and Agreement, Staff supports the continuation of the FAC at the current sharing mechanism of 95%/5%. This means that at the end of an FAC accumulation period, if the actual costs exceed the estimated costs, customers are billed 95% of the difference and Empire absorbs 5%. In contrast, if the actual costs are lower than estimated costs, Empire returns 95% of the difference to customers and Empire keeps the 5%. It is Staff's position that the current sharing percentage is consistent with prior Commission rulings and the sharing percentages of other Missouri regulated electric utilities with FACs. Through Staffs review in this case, and previous reviews in Empire prudence review cases, Staff found no reason to support changing the sharing mechanism at this time. Staff found no evidence of imprudence in the last eight FAC prudence reviews, and it is Staff's opinion that the Company is properly managing its fuel and purchased power costs. For all these reasons, Staff recommends the current 95%/5% sharing mechanism. (Mastrogiannis Rebuttal pages 2-3)

b. What FAC-related reporting requirements should the Commission impose?

i. Staff's Position: Staff recommended the Commission order Empire to continue providing the following information in between rate cases, to aid Staff in performing FAC tariff, prudence, and true-up reviews:

   i. Monthly SPP market settlements and revenue neutrality uplift charges;
   ii. Notification to Staff within 30 days of entering a new long-term contract for purchased power, transportation, coal, natural gas, or other fuel (natural gas spot transactions are specifically excluded);
   iii. Notification to Staff within 30 days of changes to a purchased power contract;

iv. Monthly natural gas fuel reports that include all transactions (spot and longer term), including terms, volumes, price, and analysis of number of bids;
v. Every Empire hedging policy in effect at the time the tariff changes ordered by the Commission in this rate case go into effect;
vi. Notification to Staff within 30 days of any material change in Empire's fuel hedging policy and Staff access to new policies;
vii. Missouri Fuel Adjustment Interest calculation workpapers in electronic format with all formulas intact when Empire files for a change in its cost adjustment factor;
viii. Notification to Staff within 30 days of any revisions to Empire's internal policies for participating in the SPP and Staff access to the new policies;
ix. Access to all natural gas, nuclear fuel, coal, and transportation contracts and policies upon Staff's request, at Empire's corporate office in Joplin, Missouri; and
x. Notification to Staff within 30 days of the effective date of every natural gas contract Empire enters into and Staff opportunity to review the contract at Empire's corporate office in Joplin, Missouri; (Staff Direct COS page 99)

ii. Consistent with the Global Stipulation, OPC and other parties to this case shall be provided the notices and the additional reported FAC submission information requested by Staff in Direct COS testimony.
iii. Consistent with paragraph 6.d. of the Global Stipulation and Agreement the Company will work with the stakeholders to determine the appropriate unit commitment data to support the analysis underlying Empire's unit self-commitment decisions in advance of the next fuel prudence review.

c. What is the appropriate base factor?

i. Staff's Position: Consistent with the Global Stipulation and Agreement, it is Staff's position that there will be no change to the current base factor of 24.15.

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?

i. Staff's Position: Consistent with paragraph 6 of the Global Stipulation and Agreement, it is Staff's position that there will be no change to the FAC Base in this proceeding, except in the limited circumstances mentioned in the provisions. Therefore, there is no change in the percentage of transmission costs; they will remain the same which is 34% for SPP and 50% for MISO transmission costs, and no percentage for transmission revenues.

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?

i. Staff's Position: Consistent with paragraph 6.e. of the Global Stipulation and Agreement, Staff's position regarding the MJMEUC issue, is the level of revenues will represent an offset to lost revenues from the current municipal customer contracts and thus will be retained by the Company until the allocations are reexamined in the next general rate case. Staff's recommendation for Empire to file additional reporting requirements with its FAC monthly reports and Fuel Adjustment Rate filing workpapers will be adopted. These additional reporting requirements will demonstrate that the energy purchased from Liberty-Empire related to MJMEUC's agreement will be billed to the cities (Staff understands these cities to be Monett and Mt. Vernon, Missouri) via MJMEUC and will thereby reduce a portion of the fuel expense that is allocated and billed to Liberty-Empire's retail customers. This reduced portion of fuel expense will clearly illustrate that the energy purchased for these specific cities via MJMEUC is not flowing through the FAC in order to be collected from all Liberty-Empire's retail customers.

iii. Should any wind project costs or revenues flow through the FAC before the wind projects revenue requirements are included in base rates?

i. Staff's Position: No. Consistent with paragraph 7 of the Global Stipulation and Agreement, Staff's position with respect to Empire's North Fork Ridge, Neosho Ridge, and Kings Point wind projects, is that the FAC tariff language shall be revised and clarified to explicitly prohibit costs associated with the wind projects and revenue generated from the wind energy sold to the

Southwest Power Pool ("SPP") from being passed through to customers via the Fuel Adjustment Clause before the wind projects' revenue requirements are included in rates.

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

i. Staff's Position: No. Consistent with paragraph 6.b. of Global Stipulation and Agreement, Staff's position is that the FAC tariff should be modified to remove the provision allowing short-term capacity costs to flow through the FAC until June 1, 2021.

e. When should Empire be required to provide its quarterly FAC surveillance reports?

i. Staff's Position: Consistent with paragraph 6g of the Global Stipulation and Agreement, Staff's position is that Empire's quarterly FAC surveillance report submissions should be provided as follows:

Quarter Ending	Submission Deadline
March 31	End of May
June 30	End of August
September 30	End of November
December 31	End of February

5. Credit Card Fees

a. Should Empire's credit card fees be included in Empire's revenue requirement?

Staff's Position: Yes. The Commission has allowed other utilities operating in the State of Missouri to include credit card fees in the revenue requirement. See Staff's Cost of Service Report pages 103-105

b. If so, what level of fees should be included?

Staff's Position: $1,308,320. This reflects the test year number of customers who paid with credit cards multiplied by the rate charged to Empire. See Staff's Cost of Service Report, page 82, Bolin Surrebuttal page 5 and Exhibit XXXX, the updated workpapers

6. **Rate Case Expense**

   a. ***How much of Empire's rate case expenses should be included in Empire's revenue requirement?***

   Staff's Position: The appropriate amount of Rate Case Expense to be borne by the ratepayers annually is $71,676; this includes the 50/50 sharing between the Company and ratepayers with a 2-year normalization of rate case expense, with the normalized cost of depreciation study from the prior case, and the normalized cost of line loss study included. See Staff's Cost of Service Report page 73 and Niemeier Surrebuttal pages 8-9

   b. ***Should Empire's prudent rate case expenses be normalized or amortized, and over what period of time?***

   Staff's Position: Prudent rate case expense should be normalized over a 2 year period.

   c. ***Should Empire's prudent rate case expenses be shared between Empire's shareholder and Empire's retail customers? If so, how?***
   Staff's Position: Yes. Empire's prudent rate case expense should be shared on a 50/50 basis between Empire's shareholders and Empire's retail customers. See Staff's Cost of Service Report pages 73-76 and Bolin Surrebuttal page 5-7

7. **Management expense**

   a. ***Should any of Empire's management expenses not be included in Empire's revenue requirement?***

   Staff does not take a position on this issue.

8. **Allowance for Funds Used During Construction**

   a. ***What metric should be used for Empire's carrying cost rate for funds it uses during construction that are capitalized?***

   Staff does not take a position on this issue.

9. Cash Working Capital

a. ***What is the appropriate expense lag days for measuring Empire's income tax lag for purposes of cash working capital?***

Staff's Position: Staff is recommending an income tax expense lag of 39.38 days based on the Internal Revenue Code requirement for filing and paying corporate income taxes on a quarterly basis

b. ***What is the appropriate expense lag days for cash vouchers?***

Staff's Position: The appropriate expense lag days for cash vouchers is 35.14 days. Staff used the Company's sample to calculate the weighted average for the invoices included in the sample. Staff's method and recommended lag days of 35.14 days accounts for a weighting of the dollar amount of invoices in the sample. It is Staff's position that the sample was representative of all invoices and no additional analysis is needed beyond the results that the sample produced. Cash Vouchers was discussed in the Surrebuttal Testimony of Jared Giacone on pages 5-8

c. ***Should bad debt expense be a component of cash working capital? If so, what is the appropriate lag days?***

Staff's Position: Yes. Bad debt expense should be a component line item within the cash working capital accounting schedule in order to remove the dollar amount of bad debt expense from cash vouchers. Bad debt is a non-cash item. The Company does not expend cash for bad debt. Since there is no working capital requirement, the appropriate revenue and expense lag days for this line item would be zero. Bad Debt Expense was discussed in the Surrebuttal Testimony of Jared Giacone on pages 3-5.

d. ***What is the appropriate expense lag days for employee vacation?***

Staff's Position: Since filing Surrebuttal testimony12, Staff received a data request regarding the number of employees who deferred vacation in 2019 to the 2020 calendar year. The Company's unwritten policy is that deferred vacation must be used by the end of the first quarter of the year it is deferred to. Therefore, employees who deferred vacation would have a 227.5 day lag and those who did not defer vacation would have a 182.5 day lag (which assumes the vacation leave is used evenly throughout the calendar year). The deferred vacation lag of 227.5 days is calculated by taking the full calendar year

[12] Surrebuttal Testimony of Jared Giacone, Page 3, Lines 7-8

of 365 days plus 90 days of the first quarter of the following year and dividing by 2. In 2019, there were 275 employees who deferred vacation to 2020 and 393 employees who did not defer vacation to 2020. A weighted average for the total lag was calculated as follows:

A	B	C	D	E
Description	# of Employees	Service Period	Weight (B x C)	Weighted Lag (D / B)
Deferred	275	227.5	62,562.5	
Not Deferred	393	182.5	71,722.5	
	668		134,285	201.02 days

The appropriate expense lag days for employee vacation is 201.02 days.

10. Accumulated Deferred Income Tax

a. ***Should Empire's booked accumulated federal income tax include a reduction for net operating loss?***

Staff's Position: Yes. See Staff's Cost of Service Report pages 24-25.

b. ***Should FAS 123 deferred tax asset for stock-based compensation be included in ADIT balances for rate base?***

Staff's Position: No. The FAS 123 deferred tax asset for stock-based compensation should not be included in rate base since Staff is not including any stock-based compensation in normalized payroll levels. See Staff's Cost of Service Report pages 24 to 25 and Foster Surrebuttal/True-Up Direct page 2.

11. 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?***

Staff's Position: The Staff recommends that the Global Stipulation be approved, which contains provisions requiring an amortization of this regulatory liability of $5,000 on a monthly basis until Empire's next rate, during which the amortization period for this item will be re-examined. See Section 3.g of the Global Stipulation.

12. Asbury

a. ***Is it lawful to require Empire's customers to pay for Asbury costs through new rates?***

Staff's Position: Staff recommends 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 Sections 24 – 26 of the Global Stipulation.

b. ***Is it reasonable to require Empire's customers to pay for Asbury costs through new rates?***

Staff's Position: Staff recommends 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 Sections 24 – 26 of the Global Stipulation.

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: Staff recommends 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 Sections 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.

13. Fuel Inventories

a. ***What is the appropriate number of burn days to use for Asbury fuel inventory?***

Staff's Position: The appropriate number of burn days for the Asbury fuel inventory is 18 days. Staff determined this number of days based on information provided by the Company in response to Staff Data Request Nos. 0044 and 0210 which was the most current information available to the Staff at the time of the surrebuttal/true-up filing. See Staff's Cost of Service Report pages 23-24 and McMellen Surrebuttal pages 1-2.

14. Energy Efficiency

a. ***Should Empire's cost of service include an amount for promoting energy efficiency and demand-side management?***

Staff's Position: Yes. Consistent with the Global Agreement, there should be no changes to the level of funding for energy efficiency.

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?***

Staff's Position: *No.* Empire anticipates filing a MEEIA application in the near future. If a MEEIA application is approved, EM&V will be required. (Kiesling Surrebuttal Page 2.) Therefore, *Staff recommends EM&V* be reviewed in the context of the MEEIA filing*.*

15. Operation and Maintenance Normalization

a. ***What is the appropriate level of operation and maintenance expense to be included in the cost of service?***

Staff's Position: Before Jurisdictional Allocations are applied the appropriate normalized level for operation and maintenance expense to be included in cost of service is $28,877,386.

b. ***Should inflation factors be used to calculate operation and maintenance expense?***

Staff's Position: No

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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?***

Staff's Position: The appropriate normalized average of years to be used for Riverton is 3 years. The appropriate normalized average of years for State Line Combined Cycle Unit, the Common Unit and State Line Unit 1 unit is 5 years. See Staff's Cost of Service Report 71-72 and Sarver Surrebuttal pages 6-8.

16. Pension and OPEB (FAS 87 and FAS 106)

a. ***Should "regulatory accounting" or "acquisition accounting" be used in setting rates for pensions and OPEBs?***

Staff's Position: Staff is still awaiting more information on this issue. Until the requested information is received from Empire and reviewed, acquisition accounting should be used. Acquistion accounting is based upon the unadjusted data presented in actuarial reports Sarver Surrebuttal Pages 2-3
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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?***

Staff's Position: No. Staff does not typically include "below the line" costs in its rate recommendations. "Below the line" costs refer to certain expenses that are presumptively subject to disallowance from utility rates, such as political lobbying costs. According to the Electric Uniform System of Accounts, account 426 is a "below the line" account. Sarver Surrbuttal Page 2. Regarding the Prepaid Pension, see the response to Issue 12e below.

c. ***Should the "payment basis" or the "expense basis" be used to calculate SERP? In addition, what allocation percentage is appropriate.***

Staff's Position: Payment basis should be used to calculate SERP. SERP costs are not pre-funded. The allocation percentage used for SERP expense should be 82.15%. Sarver Rebuttal Pages 2-4. Sarver Surrbuttal Page 3 - 4.

d. ***What should the appropriate rate base and tracker amortization balances be for accounts 182353 and 254101?***

Staff's Position: The appropriate rate base balance for account 182353 is ($1,578,563) and the tracker amortization is ($315,713). Staff used a 5 year amortization for the tracker. Sarver Surrebuttal Page 4.
The appropriate rate base amount for account 254101 is ($639,992) and tracker amortization is ($127,998). Staff used a 5 year amortization for the tracker. Sarver Surrebtutal Page 4.

e. ***What is the appropriate balance of prepaid pension?***

Staff's Position: The appropriate total company balance for prepaid pension as of January 31, 2020 to include in rates is $27,784,306 and after applying jurisdictional allocations the Missouri Jurisdictional amount should be $24,325,577.

17. Affiliate Transactions

a. ***Are Empire's transactions with its affiliates imprudent?***

Staff's Position: The vast majority of The Empire District Electric Company ("Empire") transactions with its affiliates made during the test year and true-up period in this case were prudently incurred. Empire operates as part of a shared services model.[13] As such, most affiliate transactions entered into by Empire are for corporate support services necessary to support the operation of the utility, such as corporate governance, financial services, regulatory strategy, human resources, information technology, accounting services, legal services, etc.[14] The upstream affiliate charges for these services are calculated at cost, with no profit margin included,[15] and allocated to Empire, either directly or indirectly in accordance with its Cost Allocation Manual (CAM).[16] As explained in the Rebuttal Testimony of Staff Witness Mark L. Oligschlaeger, the provision of corporate services to a number of affiliates on a centralized basis, as is done for Empire by its upstream affiliates, should be inherently more cost-effective than having each affiliate, including regulated utilities, provide the services for themselves.[17] In the course of its audit in this case, Staff performed a review of the costs allocated from upstream affiliates to Empire and, in its Direct Cost of Service Report, proposed an adjustment to properly assign a portion of common costs to Empire's non-regulated operations.[18] With this adjustment, it is Staff's position that Empire's transactions for services with its upstream affiliates are prudently incurred.

However, it is Staff's position that the interest being charged Empire by Liberty Utilities Corp. (LUCo) associated with the June 2018 $90 million refinancing of Empire's first mortgage bonds, as discussed on pages 11 through 15 of the direct testimony of OPC witness Robert E. Schallenberg, is imprudent.[19] While LUCo claims to have charged a market-based interest rate to Empire, LUCo obtained the money for this refinancing at a lower interest rate than the 4.53% it is charging Empire.[20] This issue is reasonably resolved by the Global Stipulation filed in this matter on April 15, 2020. However, if the Global Stipulation is not approved by the Commission, Staff recommends an appropriate cost of debt for this promissory note to be 2.15%, and has reflected

[13] Direct Testimony of Empire Witness Jill Schwartz, pg. 3.
[14] Rebuttal Testimony of Staff Witness Mark L. Oligschlaeger p. 3; Schwartz Direct, pp. 4-6.
[15] Oligschlaeger Rebuttal, p. 6.
[16] Staff Direct Cost of Service Report, p. 29.
[17] Oligschlaeger Rebuttal, p. 6
[18] Staff Direct Cost of Service Report, p. 32
[19] Rebuttal Testimony of Staff Witness Kimberly K. Bolin, p. 12.
[20] Surrebuttal Testimony of Staff Witness Kimberly K. Bolin, p. 11.

this adjustment in its recommended cost of debt used to determine Empire's rate of return.[21]

b. ***Do Empire's transactions with its affiliates comply with Commission Rule 20 CSR 4240-20.015 (Affiliate Transactions)?***

Staff's Position: Though Empire's Cost Allocation Manual (CAM) has yet to be approved by the Commission,[22] it is Staff's position that Empire's affiliate transactions substantially comply with the Commission's Affiliate Transaction Rules. As detailed in the rebuttal testimony of Staff Witness Mark L. Oligschlaeger, and the direct and rebuttal testimonies of Empire Witness Jill Schwartz, the large majority of costs allocated to Empire from affiliates are for the provision of shared corporate support functions,[23] as defined by the Commission's Affiliate Transactions Rules.[24] Pursuant to those same rules, Empire is able to provide preferential service, information, and/or treatment[25] to its affiliates with regard to the provision of corporate support services, and thus, is able to take advantage of those affiliates that serve as centralized service providers. The intent of the Commission's Affiliate Transactions Rules is to prevent regulated utilities from subsidizing their non-regulated operations.[26] Empire transacts with its upstream affiliates for centralized services at cost, with no profit margin included,[27] and thus, allocations from Empire's service company affiliates do not involve the same perverse incentives for abuse as transactions between a regulated affiliate with a non-

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[21] Bolin Surrebuttal pp. 11-12.

[22] As detailed in Staff's Direct Cost of Service Report on pages 27 through 28, and in the Rebuttal testimony of Staff Witness Mark L. Oligschlaeger on pages 3 through 4, multiple dockets have been opened over several years with the goal of Empire obtaining a Commission approved CAM; most recently, Case No. AO-2017-0360. On December 30, 2019, all parties filed a *Status Report and Joint Motion to Stay Proceeding*, requesting the Commission stay the matter due to the likelihood of a formal rulemaking proceeding considering changes to the Commission's Affiliate Transaction Rules.

[23] Surrebuttal of Empire Witness Jill Schwartz, pg. 5; Rebuttal Testimony of Mark L. Oligschlaeger, p. 6.

[24] *See* Commission Rule 20 CSR 4240-20.015(1)(D) Corporate support means joint corporate oversight, governance, support systems and personnel, involving payroll, shareholder services, financial reporting, human resources, employee records, pension management, legal services, and research and development activities.

[25] 20 CSR 4240-20.015(2)(B) states, "Except as necessary to provide corporate support functions, the regulated electrical corporation shall conduct its business in such a way as not to provide any preferential service, information or treatment to an affiliate entity over another party at any time.

20 CSR 4240-20.015(1)(H) defines "preferential service" as information or treatment or actions by the regulated electrical corporation which places the affiliated entity at an unfair advantage over its competitors.

20 CSR 4240-20.015(1)(J) defines "unfair advantage" as an advantage that cannot be obtained by nonaffiliate entities or can only be obtained at a competitively prohibitive cost in either time or resources.

[26] *See* the PURPOSE statement of Commission Rule 20 CSR 4240-20.015.

[27] Oligschlaeger Rebuttal, p. 6.

regulated, profit-seeking affiliate.[28] Further, as stated above, the provision of corporate services to a number of affiliates on a centralized basis, as is done for Empire by its upstream affiliates, should be inherently more cost-effective than having each affiliate, including regulated utilities, provide the services for themselves.[29] Finally, Staff views the prospect of mass competitive bidding by Empire for upstream affiliate services as very likely to be non-productive and not cost effective, and sees good cause for Empire to not primarily rely on said practice to determine the reasonableness of obtaining services from its upstream affiliates. Further, under these circumstances, it is Staff's position that Empire has sufficiently demonstrated that, except for its June 2018 $90 million financing through LUCo, its transactions with upstream affiliates for the provision of centralized services are consistent with the intent of the asymmetric pricing standards contained within the Affiliate Transaction Rules.[30]

In regard to the $90 million refinancing described above, it is Staff's position that it is most likely a violation of the Commission's Affiliate Transaction Rules.[31] Empire signed a promissory note with LUCo that had a 4.53% interest rate. LUCo obtained the funds to loan Empire the $90 million by accessing its credit facility, at a significantly lower interest rate than what it charged Empire,[32] thus resulting in a financial advantage to LUCo. This issue is reasonably resolved by the Global Stipulation filed in this matter on April 15, 2020. However, if the Global Stipulation is not approved by the Commission, Staff recommends an appropriate cost of debt for this promissory note to be 2.15%, and has reflected this adjustment in its recommended cost of debt used to determine Empire's rate of return.[33]

c. ***What amount should be included in Empire's revenue requirement for its transactions with its affiliates?***

Staff's Position: Staff has not compiled a listing of the amounts of affiliate transactions included in Empire's cost of service. The costs associated with

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[28] Oligschlaeger Rebuttal pp. 5-6
[29] Oligschlaeger Rebuttal p. 6.
[30] 20 CSR 4240-20.015(2)(A) provides that "A regulated electrical corporation shall not provide a financial advantage to an affiliate entity. For the purposes of this rule, a regulated electrical corporation shall be deemed to provide a financial advantage to an affiliated entity if –
It compensates an affiliate entity for goods or services above the lesser of –
The fair market price; or
The fully distributed cost to the regulated electrical corporation to provide the goods or services for itself; or
It transfers information, assets, goods or services of any kind to an affiliate entity below the greater of –
The fair market price; or
The fully distributed cost to the regulated electrical corporation.
[31] Rebuttal Testimony of Staff Witness Kimberly K. Bolin, pp.11-12.
[32] Bolin Rebuttal, p. 11.
[33] Surrebuttal Testimony of Staff Witness Kimberly K. Bolin pp. 11-12.

affiliate transactions are recorded in most of the accounts for Empire and therefore were reviewed as part of an individual auditor's assignments in the course of Staff's case. This issue is reasonably resolved by the Global Stipulation filed in this matter on April 15, 2020. However, if the Global Stipulation is not approved by the Commission, Staff's recommended amount for affiliate transactions to be included in Empire's revenue requirement is included in Staff's positions on various expense items in this case. Therefore, Staff recommends no separate amount for affiliate transactions be included in Empire's revenue requirement.

18. Riverton 12 O&M Tracker

a. ***Should the Riverton 12 O&M Tracker continue****?*

Staff's Position: Staff recommends that the Commission approve the Global Stipulation in this case, under which this tracker would continue until at least Empire's next rate case. See Section 4.g and Appendix A to the Global Stipulation.

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?***

Staff's Position: The unamortized balance for the tracker regulatory asset it $14,258,325 and the related annual amortization is $2,851,665. Sarver Surrebuttal Page 9.

c. ***What level of O&M expense should be included in the cost of service for Riverton 12?***

Staff's Position: Staff included a normalized operation and maintenance expense level in the cost of service of $8,133,625 before jurisdictional allocations are applied. Staff used a 3 year normalization of historical costs to determine its recommended level. *See Staff's Cost of Service Report Page 71-72 and* Sarver Rebuttal Page 4-5

19. Software Maintenance Expense

a. ***What is the appropriate normalized level for software maintenance expense?***

Staff's Position: The appropriate amount for software maintenance expense to include in rates before the jurisdictional allocation is applied is $836,858. Sarver Surrebuttal Page 9.

20. Advertising Expense

a. ***What is the appropriate amount of advertising expense to include?***

Staff's Position: The appropriate amount to allow for advertising expense is $129,196. See Staff's Cost of Service Report pages 79-80, Niemeier Surrebuttal pages 2 -5.

21. Customer Service

a. ***Is Empire providing satisfactory customer service?***

Staff's Position: Empire's customer service is below the Commission Staff's expectation for several reasons. Staff presented an evaluation of Empire's declining Contact Center performance in Staff's COS Report, pages 101& 102, filed on January 15, 2020. This deterioration in Contact Center metrics began in 2017, although it appears performance has begun to improve. Although Staff generally agrees with Empire's corrective actions, it recommended that Empire establish a deadline for meeting its contact center performance goals and communicate its progress toward reaching those goals in its monthly reports and periodic meetings with Commission Staff.

Staff also presented an evaluation of a significant number of estimated bills that Empire frequently produced, especially since November 2017, on pages 1 - 3 of its Surrebuttal Testimony filed on March 27, 2020. The frequency of estimated bills was a predominant concern that customers expressed at the February 2020 local public hearings for this proceeding in Bolivar, Joplin, and Branson. As a result of its evaluation, Staff offered several recommendations in its Surrebuttal Testimony on pages 8 & 9 related to increased reporting, maintaining adequate meter reading staffing levels, and correcting its practices related to several rule violations.

i. **If not, what should the Commission order to ensure better customer service?**

Staff's Position: In Staff's opinion, the Commission should order Empire to implement the recommendation related to improving Contact Center performance offered on page 102 of Staff's COS Report filed on January 15, 2020. Empire should also be required to implement the recommendations presented in Staff's Surrebuttal testimony on pages 8 & 9, filed on March 27, 2020, related to increased reporting, maintaining adequate meter reading staffing levels, and correcting practices related to several rule violations. In Staff's opinion, Empire's timely actions to implement these recommendations should have a positive impact on its customer service.

b. ***Is Empire providing reliable service?***

Staff's Position: Empire's reliability metrics from 2008 through 2018 indicate that its system reliability has improved over time. Despite improved system reliability, the customers expressing reliability concerns may be experiencing more outages than the system average SAIFI of 1.12 per year. Additionally, some customers may be experiencing momentary outages that Empire is unable to track. Although interruptions, momentary or sustained, are upsetting to customers, Empire's overall system reliability has continued to improve, therefore it is unlikely there are widespread reliability issues.

i. If not, what should the Commission do?

Staff is not opposed to Empire benchmarking against other utilities and presenting this information in its future annual reliability reports. However, Staff suggests that the benchmark indicate whether the other utility is following the IEEE 1366-2003 standard or another standard, this information is easily found in the EIA datasets. Further, Staff suggest the benchmark not include calendar year 2013 as the EIA data for that year is likely incorrect.

22. 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?***

Staff's Position: Yes, consistent with the terms of Section 9 of the Global Stipulation. The provision of this additional data related to estimated meter readings would enable the Commission Staff to monitor and evaluate, on a timely basis, the effect of Empire's actions to minimize the number of estimated meter readings. This information would facilitate the Commission Staff's ability to recommend corrective action, if warranted.

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?**

Staff's Position: Yes, consistent with the terms of Section 9 of the Global Stipulation. As conveyed in Staff's Surrebuttal Testimony, pages 4 & 5, Staff clearly demonstrated how the number of estimated bills increased when meter reading staffing levels were lower than the authorized meter reading staffing level. It is appropriate for Empire to evaluate its authorized meter reading staffing level and ensure that appropriate meter reading staffing is maintained.

c. **Should Empire be ordered to initiate action to more clearly communicate on customer's bills when they are based on estimated usage?**

Staff's Position: Yes, consistent with the terms of Section 9 of the Global Stipulation. As discussed in Staff's Surrebuttal Testimony on page 6, customers testified at Empire's local public hearings that their bills did not include notations about estimated meter readings. While Staff could not identify examples where notations about estimation were not included, estimated notations were found on the second page of the bills in a fairly inconspicuous manner. In Staff's opinion, the provision of a more obvious notation that a bill is based on estimated meter readings would make it easier for customers to understand the basis for their bills.

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?**

Staff's Position: Yes, consistent with the terms of Section 9 of the Global Stipulation. Staff cited an example of a Commission rule violation on page 6 of its Surrebuttal Testimony where a customer with an informal complaint had not received the required information regarding estimated bills and their option to report usage. This is information Empire should send to all customers that receive estimated bills for three consecutive billing periods. This requirement is stated in Commission Rule 20 CSR 4240-13.020(3).

d. **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?**

Staff's Position: Yes, consistent with the terms of Section 9 of the Global Stipulation. Staff cited an example of a Commission rule violation on page 7 of its Surrebuttal Testimony where a customer with an informal complaint received an adjusted bill due to underestimated usage and was not offered the required amount of time to pay the amount due on past actual usage. This requirement is stated in Commission Rule 20 CSR 4240-13.025(1)(C).

e. **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)?**

Staff's Position: Yes, consistent with the terms of Section 9 of the Global Stipulation. Staff cited an example of a Commission rule violation on page 7 of its Surrebuttal Testimony where a customer with an informal complaint was billed for 37 days and that 288 customers received a bill for more than 35 days in this same billing cycle. Commission Rule 20 CSR 4240-13.015(1)(C) requires Empire to bill all customers for a billing period of not less than 26 days or no more than 35 days except for initial, corrected, or final bills.

f. **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?**

Staff's Position: Yes, consistent with the terms of Section 9 of the Global Stipulation. The significant number of estimated bills was a predominant concern expressed by customers at the local public hearings in Bolivar, Joplin, and Branson. This concern warrants immediate attention by Empire. The Commission is responsible for ensuring that these customer concerns are addressed satisfactorily. Empire's timely reporting by September 1, 2020, of actions taken to minimize the number of estimated bills will facilitate the Commission's Staff's ability to verify that appropriate actions were taken.

23. Material and Supplies

a. ***What is the appropriate balance for material and supplies to be included in the cost of service?***

Staff's Position: Staff believes the appropriate amount to include in the 13-month average of Materials and Supplies is $32,773,580. See Staff's Cost of Service Report page 22, Niemeier Surrebuttal pages 6 -7.

b. ***What is the appropriate balance to remove from inventory as it relates to Non-Electric items?***

Staff's Position: The appropriate balance to remove from inventory as it relates to Non-Electric items is $76,714 before Missouri jurisdictional allocations. See Niemeier Surrebuttal pages 6-7.

24. Asset Retirement Obligations

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

Staff's Position: The amounts classified as "asset retirement obligations" by Empire will, under the terms of Section 4.g and Appendix B within the Global Stipulation, be accounted for as new regulatory assets/liabilities, with accounting and ratemaking treatments for each specified within the Global Stipulation in the next rate proceeding. Staff recommends that the Global Stipulation be approved.

25. 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***

Staff's Position: No. The impact of installing the LED light fixtures for private lighting customers with mercury vapor light fixtures is not material to warrant special accounting deferral treatment. Staff estimates the annual cost of replacing all 8,500 mercury vapor lights within a one year time frame would be $448,195 and the lost revenue would be $127,415. See Bolin Rebuttal pages 9-1

b. ***Should a tracker be established for the costs associated with replacement of mercury vapor light fixtures with LED light fixtures for Municipal customers?***

Staff's Position: No. The impact of installing the LED light fixtures for Municipal customers with mercury vapor light fixtures is not material to warrant special accounting deferral treatment. Staff estimates the annual cost of replacing all 5,400 mercury vapor lights within a one year time frame would be $282,333 and the lost revenue would be $79,056. See Bolin Surrebuttal pages 7-9

26. May 2011 Tornado Unamortized AAO Balance

a. ***Should the unamortized AAO Balance for the May 2011 Joplin Tornado be included in rate base?***

Staff's Position: No. By not allowing recovery of the unamortized AAO balance, Empire's shareholders and ratepayers share the risk. This regulatory treatment has been accepted by the Commission for other AAOs associated with natural disasters, and should be adopted in this case as well. See Bolin Surrebuttal pages 2-4

27. Depreciation and Amortization Expense

a. ***What is the appropriate level of depreciation and amortization expense of plant to include in the cost of service?***

Staff's Position: The appropriate amount of depreciation expense to allow is $71,423,882 and the appropriate amount of amortization of electric plant is $3,387,871. See Staff's True-Up Accounting Schedules

b. ***Should depreciation expense for transportation equipment that was charged through a clearing account be removed from depreciation expense?***

Staff's Position: Yes. The amounts in the clearing accounts are charged to construction projects that will eventually be plant in service, in which the costs will be recovered through depreciation over the life of the assets. See Staff's Cost of Service Report page 90

i. What are the authorized depreciation rates for accounts 371 & 373 to be used in the cost of service?

Staff's Position: The depreciation rates for accounts 371 and 373 should remain at the ordered rates of 4.67% and 3.33%, respectively.[34]

28. Iatan/Plum Point Carrying Costs

a. ***What is the appropriate level of unamortized Iatan/Plum Point Carrying Costs to include in rate base?***

Staff's Position: The appropriate amount as of January 31, 2020, the true-up date in this case is as follows:
Iatan 1 - $3,939,778
Iatan 2 - $2,148,142
Plum Point - $100,923

[34] Depreciation rates were last ordered in Case No. ER-2016-0023.

These amounts reflect construction disallowances ordered in previous cases before this Commission. See Staff's Cost of Service Report, pages 25-27 and Staff's True-Up Accounting Schedules

b. ***What is the appropriate level of Iatan/Plum Point Carrying amortization to include in amortization expense?***

Staff's Position: Based upon the balances used above the appropriate level of amortization expense for the carrying costs are $84,729 for Iatan 1, $44,828 for Iatan 2 and $1,987 for Plum Point. See Staff's Cost of Service Report pages 53-54

29. Incentive Compensation

a. ***What is the appropriate level of incentive compensation to be included in the cost of service?***

b.

Staff's Position: The appropriate level of cash incentives based on performance goals to include in the cost of service is $1,245,016. Staff determined this level by reviewing all incentive goals and disallowing all actual payouts to Empire employees associated with achievement of goals that benefit Empire's shareholders and not Empire's ratepayers.

Also, executive stock awards should not be included in the cost of service because these awards are based on measures that primarily benefit shareholders, such as shareholder return (maximizing the dividends paid to shareholders) and stock price goals (the value of the stock increasing over time). There is no direct benefit to the ratepayers associated with these awards, therefore, Staff disallowed all of the stock awards for this case.

See Staff's Cost of Service Report pages 66-68, Newkirk Rebuttal pages 2-3, and Newkirk Surrebuttal pages 2-3.

30. Customer Demand Program (DSM)

a. ***What is the appropriate rate base amount for the customer demand program?***

Staff's Position: After surrebuttal was filed an error was found in the formula of the supporting workpaper specifically for the calculation of the regulatory asset balance. This error has been corrected. The appropriate balance for the DSM program regulatory asset is $4,267,998. *See Staff's Cost of Service Report page 52, Newkirk Rebuttal pages 1-2, Newkirk Surrebuttal page 4 and Exhibit No. XXXXXX* *b.* ***What is the appropriate amortization amount for the customer demand program?***

Staff's Position: The appropriate level of amortization expense for the DSM program is $1,447,308.

31. Bad Debt Expense

a. ***What is the appropriate level of bad debt expense to be included in the cost of service?***

Staff's Position: The appropriate level of Bad Debt Expense to include in rates is $1,883,442. Staff determined this normalized level by using a five-year average of the actual write-offs ending March 31, 2019 to develop the effective uncollectible rate of 0.4016% which was then applied to Staff's annualized revenues amount to calculate the above level of expense. See Staff's Cost of Service Report page 79.

32. Retail Revenue

a. ***What is the appropriate amount to remove from retail revenue for unbilled revenue, franchise tax revenue, and FAC revenue?***

Staff's Position: The appropriate amount to remove for unbilled revenues is $6,391,485. The appropriate amount to remove for franchise tax revenues is $9,923,350. The appropriate amount to remove for FAC revenues is $17,047,207. These amounts represent the total amounts recorded in the general ledger for test year. Since these accounts are only pass-through accounts, the purpose of Staff's adjustment is to zero out each account as to have no effect on the cost of service. See Staff's Cost of Service Report pages 49-51 and Newkirk Surrebuttal pages 1-2.

b. ***What is the level of billing determinants per rate schedule that should be used to calculate retail rate revenue in this case?***

Staff's Position: Staff considers the resolution of this issue as provided in the Global Stipulation reasonable in the context of the interplay of issues resolved therein. However, in the event the resolution of this case involves a change in Empire's revenue requirement, Staff's position is as follows: Staff's true-up billing determinants as provided below and in the true-up workpapers of Michelle Bocklage and Byron Murray, and filed on April 17 in this matter as additional evidence should be used to calculate retail rate revenue in this case. The level of retail revenue is provided in Staff's true-up accounting schedules.

Final Billing Determinants	Total	Summer	Winter
Residential			
Customers	1,584,876	528,292	1,056,584
First 600 kWh	804,199,567	272,826,945	531,372,622
Over 600 kWh	874,037,676	265,133,807	608,903,870
Total kWh	1,678,237,243	537,960,751	1,140,276,492
Commercial			
Customers	218,280	72,760	145,520
First 700 kWh	94,469,871	31,463,636	63,006,235
Over 700 kWh	226,970,566	88,572,087	138,398,480
Total kWh	321,440,438	120,035,722	201,404,715
Small Heating			
Customers	36,252	12,084	24,168
First 700 kWh	17,861,680	6,564,188	11,297,492
Over 700 kWh	65,507,120	21,767,525	43,739,595
Total kWh	83,368,801	28,331,714	55,037,087
Total Electric Building			
Customers	11,268	3,756	7,512
kW Billing Demand	1,273,270	393,446	879,824
kW Facilities Demand	1,738,838	578,697	1,160,141
First 150 Hrs Use	177,729,956	54,887,161	122,842,795
Next 200 Hrs Use	143,745,032	51,687,632	92,057,400
All Additional kWh	32,381,761	13,551,066	18,830,696
Total kWh	353,856,749	120,125,859	233,730,890
General Power			
Customers	21,516	7,172	14,344
kW Billing Demand	3,022,039	1,072,561	1,949,478
kW Facilities Demand	3,111,880	1,125,724	1,986,156
First 150 Hrs Use	369,887,968	133,114,935	236,773,032
Next 200 Hrs Use	353,224,637	131,908,842	221,315,794
All Additional kWh	143,582,466	55,589,840	87,992,626
Total kWh	866,695,070	320,613,618	546,081,452

Final Billing Determinants	Total	Summer	Winter
Large Power Class			
Customers	480	240	240
Billing Demand	1,562,697	560,784	1,001,913
Facilities Demand	1,649,224		
First 350 Hrs. Use	531,680,256	191,870,888	339,809,368
All Additional kWh	265,232,977	96,899,199	168,333,778
Total kWh	796,913,233	288,770,087	508,143,146
Feed Mill & Grain Elevator Service			
Customers	120	40	80
First 700 kWh	59,626	21,083	38,543
Over 700 kWh	401,700	125,900	275,800
Total kWh	461,326	146,983	314,343
Special Transmission Contract: Praxair			
Customers	12	4	8
Billed Demand kW	98,482	32,853	65,629
Facility Demand kW	98,965	32,950	66,015
On-Peak Period	25,570,840	4,727,202	20,843,638
Shoulder Period	6,618,083	6,618,083	-
Off-Peak Period	36,500,690	12,151,333	24,349,357
Total Usage	68,689,613	23,496,618	45,192,995
Lighting			
Miscellaneous Service			
Total Usage	150,222	53,418	96,804
Muncipal Street Lights			
Total Usage	18,032,613	5,352,415	12,680,198
Private Lighting			
Total Usage	12,859,554	4,312,125	8,547,429
Special Lighting			
Total Usage	857,151	314,163	542,988

c. ***Should the billing adjustment and the retail revenues be trued up to January 31, 2020 in the cost of service?***

Staff's Position: Staff considers the resolution of this issue as provided in the Global Stipulation reasonable in the context of the interplay of issues resolved therein. However, in the event the resolution of this case involves a change in Empire's revenue requirement, Staff's position is as follows: Yes the billing adjustments should be trued up to January 31, 2020, however the adjustments to retail revenue for unbilled revenue, franchise tax revenue and FAC revenue should not be trued up and left at test year amounts.

33. Other Revenue

a. ***What is the appropriate normalized level of revenue for rent revenue, other electric revenue, and fly ash revenues?***

Staff's Position: See Staff's Cost of The appropriate normalized level for rent revenue is $986,268. The appropriate normalized level for other electric revenue is $888,968. The appropriate normalized level for fly ash revenue is $48,018. All three normalized levels with found by using a three year average. See Staff's Cost of Service Report pages 49-51 and Newkirk Surrebuttal page 4.

34. 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?***

Staff's Position: The appropriate amount of tax cut and job act revenue to remove from test year revenues is $7,760,076. See Staff's Cost of Service Report page 49.

b. ***Should revenues associated with the tax cut and job act stub period be removed from revenue?***

Staff's Position: Yes. Empire recorded an accrual amount for the tax cut and job act stub period. This should be removed from the test year. The amount recorded was $11,728,453. See Staff's Cost of Service Report page 49.

35. Property Insurance

a. ***What is the appropriate test year amounts before comparing to the current premium amounts?***

Staff's Position: The appropriate test year amount for Property Insurance is $2,137,160 (Missouri Jurisdictional). This is the amount of property insurance recorded in Empire's general ledger. See Staff's Cost of Service Report pages 77-78 and Arabian Surrebuttal page 3

36. Injuries and Damages

a. ***What is appropriate amount of injuries and damages expense to include in the cost of service?***

Staff's Position: Staff determined that the appropriate amount of Injuries and Damages expense is $312,562 Total Company. Staff used a five- year average to determine the amount included in the cost of service. See Staff's Cost of Service Report page 81.

37. Payroll and Overtime

a. ***What is the appropriate test year amount of payroll expense?***

Staff's Position: The appropriate test year amount for payroll expense is $40,750,944.   This test year amount includes regular payroll, overtime payroll and incentive compensation.   Staff compared this test year to regular payroll and overtime payroll, then added an adjustment for allowed incentive compensation. See Staff's Cost of Service Report page 62, Bolin Surrebuttal page 4

b. ***What is the appropriate test year amount for overtime expense?***

Staff's Position: Test year for overtime expense is one of the components lumped into the payroll expense test year amount which includes regular payroll, overtime payroll, and incentive compensation. See Staff's Cost of Service Report page 62.

38. Retention Bonuses

a. ***Should proposed retention bonuses for lineman be included in the cost of service?***

Staff's Position: No, retention bonuses have not been implemented by the company. Staff only included known and measurable payroll amounts in the cost of service. See Arabian Surrebuttal page 2.

39. Employee Benefits

a. ***What is the appropriate level of employee benefits to include in the cost of service?***

Staff's Position: The appropriate level of employee benefits included in the cost of service is $7,506,683 Total Company. Staff used a three - year average for Dental, Vision, Healthcare, and Life Insurance to determine the annualized level included in the cost of service. See Staff's Cost of Service Report page 63

40. Property Taxes

a. ***What is the appropriate amount of property taxes to include in the cost of service?***

Staff's Position: The appropriate amount of property tax expense is $25,138,294. Staff determined this annualized level by applying Empire's tax rate to plant in service balances as of December 31, 2019 which are the most current known and measurable balances used in the property tax assessment process. See Staff's Cost of Service Report page 78-79 and Barron Surrebuttal pages 1 – 3.

b. ***What is the proper method to be used for calculating the property tax amount to be included in the cost of service?***

Staff's Position: Staff calculated the property rate by dividing the 2019 property taxes paid by the December 31, 2018 total property. This property tax rate was then applied to the total property as of December 31, 2019 to determine annualized property tax. Not included in the property tax calculation is the 2019 Plum Point taxes paid, Staff added this to the annualized property tax to determine the total annualized property tax. See Staff's Cost of Service Report page 78-79 and Barron Surrebuttal pages 1 - 3

41. Dues and Donations

a. ***What is the appropriate amount of dues and donations that should be included in the cost of service?***

Staff's Position: The appropriate amount of dues and donations that should be included in the cost of service is $130,086. Staff excluded from the cost of service is $203,473 for dues and donations. See Staff's Cost of Service Report page 76

b. ***Should Edison Electric Institute dues be included in the cost of service?***

Staff's Position: No. The primary function of Edison Electric Institute (EEI) is to represent the interests of the electric utility industry in the legislative and regulatory arenas. This role includes EEI's engagement in lobbying activities. EEI does not provide any direct benefit to ratepayers and is not necessary for the provision of safe and adequate service. See Staff's Cost of Service Report page 77.

42. Outside Services

a. ***What is the appropriate amount of outside services to include in the cost of service?***

Staff's Position: The appropriate amount of outside service expense is $2,036,670. This was calculated by using a five year average of outside services incurred by Empire. See Staff's Cost of Service Report page 82

43. Common Property Removed from Plant and Accumulated Depreciation

a. ***What is the appropriate method and amount for removal of common property from plant in service and accumulated depreciation?***

Staff's Position: To determine Staff's plant in service and accumulated depreciation adjustments Staff applied the Company's mass rate percentage to their January 31, 2020 plant in service and accumulated depreciation balances for general plant accounts 389 through 398. The appropriate amount for removal of common property from plant in service and accumulated depreciation is $11,059,772. See Staff's Cost of Service Report page 19 and Barron Surrebuttal pages 3-4

44. Retirement

a. ***Should Empire be required to externally fund, through a Rabbi Trust, its SERP benefits obligation?***

Staff's Position: Staff recommends that the Global Stipulation be approved, which contains provisions at Section 29 addressing possible external funding of SERP benefits in the future.

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.*

Staff does not take a position on this issue.

c. ***In addition, should the company be required to designate a contact person for EDRA to contact regarding these matters?***

Staff does not take a position on this issue.

45. 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?***

Staff's Position: No. Empire signed a promissory note with LUCo with a 4.53% interest rate. LUCo obtained the funds to loan Empire the $90 million by accessing its credit facility, at a significantly lower interest rate than what it charged Empire.[35] Empire has reflected this higher cost of debt in its cost of capital. This issue is reasonably resolved by the Global Stipulation filed in this matter on April 15, 2020. However, if the Global Stipulation is not approved by the Commission, Staff recommends an appropriate cost of debt for this promissory note to be 2.15%, and has reflected this adjustment in its recommended cost of debt used to determine Empire's rate of return.[36]

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?***

Staff's Position: Yes. Empire's book capital structure remains more economical than LUCo's book capital structure. Therefore, although Staff accepts that a consolidated capital structure is the appropriate capital structure for setting Empire's ROR, Staff still maintains that Empire's capital structure is more economical than LUCo's capital structure.[37]

[35] Rebuttal Testimony of Staff Witness Kimberly K. Bolin, p. 11.
[36] Surrebuttal Testimony of Staff Witness Kimberly K. Bolin, pp. 11-12.
[37] Surrebuttal Testimony of Staff Witness Peter Chari, p. 14.

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?***

Staff's Position: No. Empire signed a promissory note with LUCo that had a 4.53% interest rate. LUCo obtained the funds to loan Empire the $90 million by accessing its credit facility, at a significantly lower interest rate than what it charged Empire.[38] This issue is reasonably resolved by the Global Stipulation filed in this matter on April 15, 2020. However, if the Global Stipulation is not approved by the Commission, Staff recommends an appropriate cost of debt for this promissory note to be 2.15%, and has reflected this adjustment in its recommended cost of debt used to determine Empire's rate of return.[39]

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?***
Staff's Position: Empire has complied with this condition. Empire provided Staff access of such documents in response to Staff Data Request number 9.

Respectfully submitted,

/s/ Whitney Payne
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[38] Bolin Rebuttal p. 11.
[39] Bolin Surrebuttal pp. 11-12.

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 17th day of April, 2020, to all counsel of record.

/s /Whitney Payne