

Exhibit No.:
Issue(s):
Witness/Type of Exhibit:
Sponsoring Party:
Case No.:

NPV of ADIT
Riley/Surrebuttal
Public Counsel
EF-2024-0021

SURREBUTTAL TESTIMONY

OF

JOHN S. RILEY

Submitted on Behalf of the Office of the Public Counsel

UNION ELECTRIC COMPANY
D/B/A AMEREN MISSOURI

CASE NO. EF-2024-0021

March 22, 2024

SURREBUTTAL TESTIMONY
OF
JOHN S. RILEY
UNION ELECTRIC COMPANY
D/B/A AMEREN MISSOURI
CASE NO. EF-2024-0021

1 **Q. What is your name and business address?**

2 A. John S. Riley, PO Box 2230, Jefferson City, Missouri 65102.

3 **Q. Are you the same John S. Riley who prepared and filed rebuttal testimony in this case**
4 **on behalf of the Office of the Public Counsel?**

5 A. Yes.

6 **Q. What is the purpose of your surrebuttal testimony?**

7 A. I will be responding to Staff witness Mr. Keith Major’s rebuttal conclusion on the Net Present
8 Value (“NPV”) of the Rush Island Accumulated Deferred Income Tax balances (ADIT &
9 EDIT), specifically illustrating his inconsistency with Ms. Kimberly Bolin’s testimony
10 concerning the NPV of ADIT in Case No. EO-2022-0193. I will also point out his conflict
11 with the Commission’s Amended Report and Order as clarified in that case as well as the
12 Commission’s position in the Appellate case where the Court specifically reviewed the issue
13 of ADIT in that report and order.¹

¹ [Empire Dist. Elec. Co. v. PSC, 672 S.W.3d 868.](#)

1 **NPV OF RUSH ISLAND ADIT**

2 **Q. What is the net present value of the Rush Island accumulated deferred income tax**
3 **balances?**

4 A. Using the Company's \$136,696,234 as the starting point and applying a discount rate of an
5 expected 5.59% over a 15-year period produces an NPV of the ADIT balances of
6 \$87,311,890².

7 **Q. What amount does Mr. Majors include in the securitization costs for the NPV of the**
8 **ADIT balances?**

9 A. Mr. Majors agrees with Ameren's witness Mr. Lansford and only reduced the securitization
10 balance by \$49,178,167 for the NPV of the ADIT balances.

11 **Q. Is the methodology Staff witness Mr. Majors and Ameren Missouri witness Mr.**
12 **Lansford used to calculate the NPV of the ADIT balances consistent with the**
13 **methodology Staff witness Ms. Kimberly Bolin used in The Empire Electric Company's**
14 **d/b/a Liberty securitization case for its Asbury generating plant?**

15 A. No. I've included Ms. Bolin's rebuttal testimony and the corresponding workpaper that
16 provides the calculation of Staff's NPV of the Asbury ADIT as JSR-S-01. Essentially, Ms.
17 Bolin calculated the NPV of the Asbury ADIT by way of discounting the annualized payments
18 by the expected bond rate and tallied the balance. She argued that Liberty discounted the

² I agree with Mr. Lansford's NPV calculation as it applies to the \$136 million, as this produces the NPV of ADIT equaling \$87,311,890. I do not agree with the double discounting to arrive at \$49,384,345.

1 Asbury ADIT balance twice. Liberty discounted the payments once and then discounted the
2 balance again.

3 Ameren Missouri essentially did the same procedure for Rush Island. The Company
4 workpapers indicate that Ameren Missouri's \$49 million balance is the result of starting with
5 the original deferred tax balance (\$136,696,234) from which it subtracted the NPV of ADIT
6 (\$87,311,890) to produce its interpretation of the NPV of Tax Benefits (\$49,384,345).
7 $\$136,696,234 - \$87,311,890 = \$49,384,345$. See Lansford workpaper attached as JSR-S-02.

8 **Q. Did Mr. Majors provide any schedules or workpapers to support his agreement with**
9 **Ameren Missouri's NPV of the ADIT balances methodology?**

10 A. Mr. Majors used Mitchell Lansford's NPV ADIT Excel spreadsheet and made a slight
11 adjustment to the beginning ADIT balance but left all the functions in that spreadsheet
12 untouched. His totals are slightly different due to the initial balance adjustment, but otherwise
13 he adheres to Lansford's conclusion of \$49 million. I also started with Mr. Lansford's
14 spreadsheet.

15 **Q. Does Mr. Majors explain why the Commission's Staff accepted a methodology for**
16 **calculating the NPV of retired generating plant ADIT balances that it rejected in the**
17 **last securitization case where it addressed the issue?**

18 A. No.

1 **Q. What is your opinion of the argument that the present value of ADIT is the summation**
2 **of the discounted cash flows versus the present value of ADIT is subtracted from the**
3 **original ADIT balance to produce the NPV of the tax benefits?**

4 A. I believe the Missouri Western District Court of Appeals was exactly correct when it said,
5 “Asbury’s entire ADIT balance is, in fact, a 'tax benefit.’”³ This statement is in agreement
6 with the Commission’s Amended Report and Order in Case No. EO-2022-0193. (Schedule
7 JSR-S-03) As it did in Case No. EO-2022-0193, Ameren Missouri is arguing that Missouri’s
8 securitization statutes mean something different than what both the Commission and the Court
9 said that they mean. As the Commission quoted in its Amended Report and Order:

10 Conclusions of Law

11 LL. Section 393.1700.2(3)(c)m requires a financing order to include:

12 [A] procedure for the treatment of accumulated deferred income taxes and
13 excess deferred income taxes in connection with the retired or abandoned or to
14 be retired or abandoned electric generating facility, or in connection with retired
15 or abandoned facilities included in qualified extraordinary costs. The
16 accumulated deferred income taxes, including excess deferred income taxes,
17 shall be excluded from rate base in future general rate cases and the net tax
18 benefits relating to amounts that will be recovered through the issuance of
19 securitized utility tariff bonds shall be credited to retail customers by reducing
20 the amount of such securitized utility tariff bonds that could otherwise be issued.
21 The customer credit shall include the net present value of the tax benefits,
22 calculated using a discount rate equal to the expected interest rate of the
23 securitized utility tariff bonds, for the estimated accumulated and excess
24 deferred income taxes at the time of securitization including timing differences
25 created by the issuance of securitized utility tariff bonds amortized over the
26 period of the bonds multiplied by the expected interest rate on such securitized
27 utility tariff bonds.

³ Missouri Court of Appeals, Western District Case No. WD85800, Last line of page 14 and top of page 15 attached as JSR-S-04

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2 Decision

3 The ADIT offset to the Asbury Energy Cost balance is properly calculated using
4 the methodology used by Staff witness Kim Bolin.⁴

5 Nowhere in that statutory quote does the Legislature mention anything about revenue
6 requirement calculations. It only specifies that the NPV of ADIT be deducted from the
7 securitized utility tariff bonds. Based on my education and experience, I agree with the
8 Commission and the Court that to read more into this section to argue that there should be
9 some extra calculation is wrong.

10 To further understand that the ADIT balance is the tax benefit, one should realize that for
11 regulatory purposes in Missouri ADIT is Accumulated Deferred Income Tax provided to the
12 company through the rate making process as an interest free loan. It is income tax expense
13 the Company's customers pay to the Company in advance of that income tax anticipated to
14 become due many years in the future. Income tax isn't calculated twice. ADIT is the
15 difference between accelerated and straight-line depreciation, multiplied by the composite tax
16 rate. The ADIT calculation is a rate base component but it is income tax, and in and of itself,
17 it is *the whole tax benefit*.

18 **Q. Would you summarize your position on the NPV of ADIT for purposes of securitization?**

19 A. Yes. Mr. Major's total agreement with Ameren Missouri's double discounting of the NPV of
20 ADIT is not only contrary to Ms. Kimberly Bolin's testimony in the Liberty securitization
21 case, it is contrary to the Commission's Amended Report and Order in that case, the argument

⁴ Case No. EO-2022-0193, Amended Report and Order, page 54.

1 the Commission’s attorney John Borgmeyer⁵ made to Missouri Western District Court of
2 Appeals and, more importantly, the opinion of the Missouri Western District Court of
3 Appeals. Staff witness Majors provides no explanation for why he performs a complete 180
4 to the Staff’s policy. The Commission should continue to use the methodology it adopted in
5 Liberty’s securitization case for the NPV of ADIT to include as the reduction to the energy
6 transition costs. Depending on the starting point of the ADIT balance, this should be
7 somewhere near \$87,311,890.

8 **Q. Does this conclude your surrebuttal testimony?**

9 A. Yes.

⁵ Mr. Borgmeyer’s Brief on behalf of the Commission is attached as JSR-S-05.

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Petition of Union Electric)
Company d/b/a Ameren Missouri for a Financing)
Order Authorizing the Issue of Securitized Utility) Case No. EF-2024-0021
Tariff Bonds for Energy Transition Costs related)
to Rush Island Energy Center)

AFFIDAVIT OF JOHN S. RILEY

STATE OF MISSOURI)
) **ss**
COUNTY OF COLE)

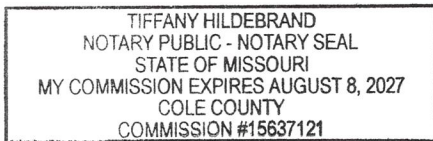
John S. Riley, of lawful age and being first duly sworn, deposes and states:

1. My name is John S. Riley. I am a Utility Regulatory Supervisor for the Office of the Public Counsel.
2. Attached hereto and made a part hereof for all purposes is my surrebuttal testimony.
3. I hereby swear and affirm that my statements contained in the attached testimony are true and correct to the best of my knowledge and belief.

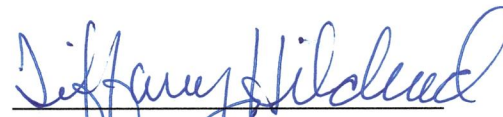


John S. Riley
Utility Regulatory Supervisor

Subscribed and sworn to me this 20th day of March 2024.



My Commission expires August 8, 2027.



Tiffany Hildebrand
Notary Public