

Exhibit No. 129

Exhibit No.:
Issue(s): LIPP Expense, ADIT,
PISA Depreciation Expense
Witness: Keith D. Foster
Sponsoring Party: MoPSC Staff
Type of Exhibit: Surrebuttal Testimony
Case No.: ER-2021-0312
Date Testimony Prepared: January 20, 2022

MISSOURI PUBLIC SERVICE COMMISSION
FINANCIAL AND BUSINESS ANALYSIS DIVISION
AUDITING DEPARTMENT

SURREBUTTAL TESTIMONY

OF

KEITH D. FOSTER

THE EMPIRE DISTRICT ELECTRIC COMPANY,
d/b/a Liberty

CASE NO. ER-2021-0312

Jefferson City, Missouri
January 2022

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1 **SURREBUTTAL TESTIMONY**

2 **OF**

3 **KEITH D. FOSTER**

4 **THE EMPIRE DISTRICT ELECTRIC COMPANY,**
5 **d/b/a Liberty**

6 **CASE NO. ER-2021-0312**

7 Q. Please state your name and business address.

8 A. Keith D. Foster, 200 Madison Street, Suite 440, Jefferson City, MO 65101.

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

10 A. I am a Utility Regulatory Supervisor for the Missouri Public Service
11 Commission ("Commission").

12 Q. Are you the same Keith D. Foster who contributed to Staff's Cost of Service
13 Report filed on October 29, 2021, in this case?

14 A. Yes, I am.

15 **EXECUTIVE SUMMARY**

16 Q. Please summarize your surrebuttal testimony in this proceeding.

17 A. In this testimony, I will address Empire witness Charlotte T. Emery's
18 Rebuttal testimony concerning the regulatory balance and amortization of Empire's
19 Low-Income Pilot Program (LIPP) expense, Accumulated Deferred Income Tax (ADIT)
20 with regards to the FAS 123 and account 190330 Deferred Tax Assets, and the removal of
21 Plant-in-Service Accounting (PISA) depreciation expense.

22 **LOW-INCOME PILOT PROGRAM (LIPP) EXPENSE**

23 Q. Do you agree with Ms. Emery's rebuttal testimony that Staff's LIPP regulatory
24 asset balance is incorrect?

1 A. No. Staff followed prior Commission orders in correctly calculating the
2 LIPP amortization.

3 Q. Prior to September 16, 2020, the effective date of the tariff resulting from the
4 July 23, 2020, *Amended Report and Order* in case number ER-2019-0374, how much was
5 Empire authorized to spend in support of the experimental LIPP?

6 A. Per the Commission's August 10, 2016, *Order Approving Stipulation and*
7 *Agreement* in Empire's case number ER-2016-0023, page 5, item 5 "Empire shall establish an
8 experimental low-income pilot program with a total program budget of \$250,000, no later
9 than January 1, 2017, with a goal of studying the impact removing the customer charge for
10 certain low-income residential customers has on the company's disconnection and bad debt
11 percentages."

12 Q. Was Empire authorized to spend any more than the \$250,000 program budget
13 as ordered above by the Commission?

14 A. No. In fact, in the same *Order*, continuing on to page 6, it states: "The program
15 shall be implemented by January 1, 2017, or as soon as possible thereafter, and shall run until
16 either the funds are exhausted or until rates are implemented from Empire's next general rate
17 case, **whichever occurs first**. [Emphasis added.]"

18 Q. Were the funds exhausted before Empire's next general rate case?

19 A. Yes. According to the general ledger entries through January 31, 2020, the end
20 of the true-up period in the "next general rate case," Case No. ER-2019-0374, the total funds
21 expended were \$288,015, which is \$38,015 more than the \$250,000 set by the Commission.

22 Q. Did Staff exclude the \$38,015 from its LIPP regulatory asset balance in that
23 rate case?

Surrebuttal Testimony of
Keith D. Foster

1 A. Yes. Staff witness Kimberly Bolin included only \$250,000 in her calculation.

2 Q. Did the Commission authorize the continuation of the LIPP in Case No.
3 ER-2019-0374?

4 A. Yes, in the April 15, 2020, *Global Stipulation and Agreement*, item 21. “The
5 Company’s Low-Income Pilot Program will remain in place with no changes made in this case,
6 and the Company will track all costs until the next rate case.”

7 Q. What is the date in which rates were implemented in Case No. ER-2019-0374?

8 A. The effective date of the tariff resulting from the July 23, 2020, *Amended Report*
9 *and Order* was September 16, 2020, which is the date rates authorized by the *Order* went
10 into effect.

11 Q. Between the end of the true-up period, January 31, 2020, and the effective date
12 of rates on September 16, 2020, did Empire expend anything additional for its LIPP?

13 A. Yes. According to the general ledger entries for account number 182344
14 reviewed in the current case, Empire recorded an additional \$54,990 in expense for its LIPP.

15 See the following table of these entries:

16

| Unit | Account | Dept | Product | Year | Period | Jrnl Date | Journal ID | Line Descr | Sum Amount |
|-------|---------|------|---------|------|--------|-----------|------------|-------------------------------|---------------|
| GL001 | 182344 | 000 | RV | 2020 | 2 | 2/29/2020 | LIPP-REV | LowInc Rate Pilot ER-2016-002 | \$8,317.00 |
| GL001 | 182344 | 000 | RV | 2020 | 3 | 3/31/2020 | LIPP-REV | LowInc Rate Pilot ER-2016-002 | (\$46,332.00) |
| GL001 | 182344 | 000 | RV | 2020 | 8 | 8/31/2020 | LIPP-REV | LowInc Rate Pilot ER-2016-002 | \$93,005.00 |

17 Q. Did you notice anything interesting about these general ledger entries?
18

19 A. Yes. For the month of February 2020, there is an entry of \$8,317 and then for
20 March 2020, there is a negative \$46,332 entry. As I mentioned above, Staff calculated \$38,015
21 in expenditures in excess of the \$250,000 cap that Staff excluded in ER-2019-0374. \$38,015

1 plus the \$8,317 recorded in February 2020 is \$46,332. So it appears at March 2020, Empire
2 reversed out its total expenditures in excess of the \$250,000.

3 Q. Were there any other general ledger entries before September 16, 2020?

4 A. Yes. As shown in the table above, there is one additional entry in August 2020,
5 for \$93,005. With the other entries taken into account, this represents the sole amount Staff has
6 excluded in this case from its LIPP regulatory asset calculation.

7 Q. Did you notice anything else about the general ledger entries for Empire's
8 account number 182344?

9 A. Yes I did. Empire records the monthly amortization expense in this account as
10 well. With the exception of September 2020, there are transactions of a negative \$3,472.22
11 recorded each month through the update period, June 30, 2021.

12 Q. What does the \$3,472.22 represent?

13 A. Established in case number ER-2019-0374, this is the monthly amount of the
14 six-year amortization of the \$250,000 that Empire was allowed to spend for its LIPP as ordered
15 in Case No. ER-2016-0023.

16 Q. What was the amount recorded in September 2020?

17 A. Negative \$1,736.11, which is exactly one-half of the monthly amortization,
18 representing the period September 16-30, 2020, coinciding with the effective date of the tariff.

19 Q. In Staff's calculation of the regulatory asset and amortization in this case, did
20 Staff include all prudent LIPP expenses incurred by Empire since September 16, 2020?

21 A. Yes, Staff included \$69,095 that was expended from September 2020 through
22 June 30, 2021, the end of the update period for this case.

23 Q. Would you please summarize Staff's position on this issue?

1 A. In Empire rate case number ER-2016-0023, Empire was authorized to
2 implement an LIPP with a budget of \$250,000. Empire spent in excess of the \$250,000
3 before rates were established and effective September 16, 2020 in the next rate case, number
4 ER-2019-0374. Empire was allowed to continue the program with the implementation of the
5 rates in that case. However, the Commission did not authorize Empire to recover any costs that
6 exceeded the \$250,000 cap ordered by the Commission, and, therefore is not entitled to recover
7 those costs in this rate case.

8 **ACCUMULATED DEFERRED INCOME TAX (ADIT)**

9 Q. How does Staff respond to Empire witness Ms. Emery's rebuttal testimony
10 concerning Staff's exclusion of general ledger account 190125 from the ADIT balances Staff
11 included in its rate base recommendation?

12 A. The general ledger account she refers to is the FAS 123 deferred tax asset for
13 stock-based compensation. Staff's position is since it is not including any stock-based
14 compensation in normalized payroll levels, as stated in the Cost of Service report on page 82,
15 then the deferred tax impact of that expense should not be included as well.

16 Q. Do you agree with Ms. Emery's rebuttal testimony that the Deferred Tax
17 Asset recorded in general ledger account 190330 is non-electric and should be excluded from
18 Staff's rate base calculation?

19 A. Account 190330 is Deferred Income Tax for Post-Retirement Benefits Other
20 than Pensions (PBOP) Costs. Empire Electric has consistently included this account in its ADIT
21 calculations and workpapers for the last several electric rate cases: Nos. ER-2019-0374,
22 ER-2016-0023, ER-2014-0351, ER-2012-0345, ER-2011-0004, and ER-2010-0130. Staff has
23 also correspondingly included this account in its ADIT calculations for the same rate cases.

1 Given both Empire and Staff have included this Deferred Tax Asset consistently for over
2 ten years of rate cases, before considering excluding this account from Staff's ADIT
3 calculations in this rate case, Staff would need a more compelling explanation from Empire
4 other than it is now suddenly "non-electric."

5 **PLANT-IN-SERVICE ACCOUNTING (PISA) DEPRECIATION EXPENSE**

6 Q. Do you agree with Ms. Emery's rebuttal testimony that a \$5,482 adjustment to
7 the Test Year for PISA depreciation expense is appropriate?

8 A. Yes, I do. In its adjustments to establish PISA Amortization Expense in account
9 403013, Staff inadvertently did not include an adjustment to offset the negative \$5,482 balance
10 in the Test Year for that account. I have included that adjustment in the revised EMS submitted
11 with Staff's surrebuttal filing.

12 Q. Does this conclude your surrebuttal testimony in this case?

13 A. Yes it does.

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Request of The Empire)
District Electric Company d/b/a Liberty for)
Authority to File Tariffs Increasing Rates for)
Electric Service Provided to Customers in its)
Missouri Service Area)

Case No. ER-2021-0312

AFFIDAVIT OF KEITH D. FOSTER

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

COMES NOW KEITH D. FOSTER and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing *Surrebuttal Testimony of Keith D. Foster*; and that the same is true and correct according to his best knowledge and belief.

Further the Affiant sayeth not.

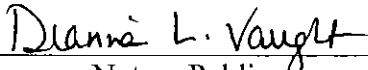


KEITH D. FOSTER

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 12th day of January, 2022.

DIANNA L. VAUGHT
Notary Public - Notary Seal
State of Missouri
Commissioned for Cole County
My Commission Expires: July 18, 2023
Commission Number: 15207377



Notary Public