

Exhibit No. 209

Exhibit No.: 209
Issue(s): Asbury AAO Balances/
Storm URI Tax Benefit
Witness/Type of Exhibit: Riley/Surrebuttal
Sponsoring Party: Public Counsel
Case No.: EO-2022-0040 and EO-2022-0193

SURREBUTTAL TESTIMONY

OF

JOHN S. RILEY

Submitted on Behalf of the Office of the Public Counsel

THE EMPIRE DISTRICT ELECTRIC COMPANY

CASE NOS. EO-2022-0040 AND EO-2022-0193

May 27, 2022

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

In the Matter of the Petition of The Empire)
 District Electric Company d/b/a Liberty to)
 Obtain a Financial Order the Authorizes the) Case No. EO-2022-0040
 Issuance of Securitized Utility Tariff Bonds for)
 Qualified Extraordinary Costs)


In the Matter of the Petition of The Empire)
 District Electric Company d/b/a Liberty to)
 Obtain a Financing Order that Authorizes the) Case No. EO-2022-0193
 Issuance of Securitized Utility Tariff Bonds for)
 Energy Transition Costs Related to the Asbury)
 Plant)

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.

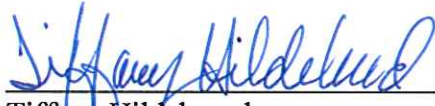


 John S. Riley
 Utility Regulatory Supervisor

Subscribed and sworn to me this 27th day of May 2022.


 My Commission expires August 8, 2023.

TIFFANY HILDEBRAND
 My Commission Expires
 August 8, 2023
 Cole County
 Commission #15637121



 Tiffany Hildebrand
 Notary Public

TABLE OF CONTENTS

| Testimony | Page |
|--------------------------------|-------------|
| Asbury AAO Balances | 1 |
| Storm URI Securitization Costs | 8 |

SURREBUTTAL TESTIMONY

OF

JOHN S. RILEY

THE EMPIRE DISTRICT ELECTRIC COMPANY

FILE NOS. EO-2022-0040 & EO-2022-0193

1 **Q. Are you the same John S. Riley who prepared and prefiled rebuttal testimony in these**
2 **cases on behalf the Office of the Public Counsel?**

3 A. Yes.

4 **Q. Why are you filing surrebuttal testimony?**

5 A. This testimony responds to the Staff's rebuttal testimony on several issues. First, the
6 adjustments provided in rebuttal testimony should recognize that the general rate schedule
7 tariff sheets from Case No. ER-2021-0312 will become effective June 1, 2022. For my
8 rebuttal testimony, I had extended my calculation to the end of June so I provide adjustments
9 to some of my calculations. I will also address some of Staff's line item balances as well as
10 its lack of inclusion of some costs and rate base items for the Asbury Accounting Authority
11 Order ("AAO") consideration.

12 I also explain my calculation of the tax impact of Storm Uri on the amount that the
13 Commission could allow Empire to securitize for Storm Uri.

14 **ASBURY AAO BALANCES**

15 **Q. Would you provide a brief history of the Asbury AAO?**

16 A. The Commission ordered the AAO in its Amended Report & Order in Case No. ER-2019-
17 0374. The plant was included in rates due to the retirement falling outside the test year
18 established in the case. In short, the Commission felt that the impact of excluding all costs
19 and rate base associated with Asbury could not be measured at that time. To quote part of
20 that decision:

1 “ However, even if OPC is correct and the retirement of Asbury
2 should be set as the day it last generated power in December 2019, the
3 retirement still occurred after March 31, 2019, the end of the test year.
4 OPC ignores the essential reason the Commission initially rejected its
5 request to true-up isolated adjustments for Asbury. When determining
6 if events outside the test year should be included, the Commission
7 considers whether the proposed adjustments are known and
8 measurable and are representative of the conditions anticipated during
9 the time rates will be in effect.

10 Regardless of whether Asbury retired on December 12, 2019,
11 or after March 1, 2020, the impacts of the Asbury retirement are not
12 known or measurable.”¹

13 The Global Stipulation and Agreement, in paragraph 25, lists several categories of rate base
14 and expenses to track within the AAO.

- 15 a) Rate of return on Asbury Plant,
16 b) Accumulated Depreciation,
17 c) Accumulated and Excess Deferred Income Tax,
18 d) Fuel inventories assigned to the Asbury Plant,
19 e) Depreciation expense,
20 f) All non-fuel/ non-labor operating and maintenance expense,
21 g) All labor charges for maintaining and operating the Asbury Plant,
22 h) Property taxes assigned to the Asbury Plant,
23 i) Any costs associated with the retirement of the Asbury Plant, including
24 Dismantlement and decommissioning – Non-Empire labor excluded
25

26 The Commission, in its Amended Report and Order, also granted OPC’s request to track:²

- 27 a. Cash Working Capital and income tax gross up associated with Asbury
28 b. Any fuel or SPP revenues or expenses associated with Asbury that do not flow through
29 the [fuel adjustment clause (“FAC”)], and
30 c. Revenues from scrap value or value of items sold.

¹ *Amended Report and Order*, Case No. ER-2019-0374, page 116, line 3-11.

² Page 120.

1 **Q. What did Staff do, or not do, with regard to the Asbury AAO?**

2 A. It appears from Staff's workpapers that it leaned very heavily on the Company's
3 calculations and did little to verify what Empire presented. Staff also apparently did not
4 follow the Commission's order concerning the tracking of the AAO categories since the
5 categories excluded by Empire were also the ones excluded by Staff.

6 **Q. Which categories did Staff exclude?**

7 A. First of all, Staff was silent on Cash Working Capital ("CWC"). It is not difficult to identify
8 and isolate the components of CWC that are directly related to the rate base/expense items
9 in this AAO. Cash working capital calculations specific to Asbury consist of amounts
10 developed in the AAO liabilities. The CWC components specific to Asbury are payroll,
11 income taxes, fuel, property taxes and interest.

12 Staff's next exclusion was labor expense. Staff provides no explanation for this exclusion.
13 The Company footnotes its workpapers with "**labor expense baseline is zero as these**
14 **employees are being retained and their time is still an incurred cost; therefore no**
15 **AAO liability is incurred**" As I testified in rebuttal, this is a misappropriation. There are
16 labor costs associated with a retired plant. Those costs were built into rates and ratepayers
17 are paying for these Asbury employee positions until June 1, 2022, when new rates from
18 Case No. ER-2022-0312 take effect. Empire's assertion that these employees have been
19 retained and, therefore, are not a liability associated to Asbury is completely wrong. The
20 labor associated to Asbury until June 1 provided no value to ratepayers, but were funded
21 by them. These employees moved from working at Asbury should be providing value to
22 the other operations and, therefore, are labor associated with those operations, not Asbury.
23 After June 1 those employees are no longer a liability associated to Asbury, so I am not
24 extending my adjustment past June 1.

1 **Q. Did Staff miscalculate or fail to substantiate Empire numbers for anything else**
2 **related to the Asbury AAO?**³

3 A. Yes, specifically, “Asbury Fuel Inventories” of a positive \$1,532,832. As I pointed out in
4 my rebuttal testimony, this was a contested amount from a FAC case, and has nothing to
5 do with the AAO. To compound the problem, Staff followed Empire’s attempt at including
6 this amount as an addition. The original \$3,947,465 for 60 days’ burn supply of coal from
7 the ER-2019-0374 case is an asset amount to be used as a reduction. This should not be a
8 point of contention with Staff since one of Staff witness McMellen’s workpapers
9 substantiates the \$3.9 million as the amount of included coal, and it is known that coal was
10 never purchased or actually existed at Asbury at any time after December 12, 2019, which
11 is before the January 1, 2020, start date of the AAO.

12 **Q. Do you have different ADIT and Excess ADIT balances than Empire and Staff prior**
13 **to making Net Present Value calculations?**

14 A. Yes. In this case, both Empire witness Emery and Staff witness Bolin have developed
15 differing amounts for the Company ADIT balance. No one seems to dispute the original
16 Company assessments brought forward in Figure 5 & 6 of Sanderson’s direct testimony in
17 the ER-2021-0312 case. The ADIT adjustment related to Asbury was \$32,275,034⁴ and
18 the Excess ADIT was \$16,934,393.

³ Avoiding differences of opinion as in retired plant balance.

⁴ I have updated my original ADIT amount of \$32,201,280 to reflect this true-up balance of \$32,275,034.

1 **Q. Why are your ADIT and Excess ADIT balances different from those of Staff and**
2 **Empire?**

3 A. The deferred tax balances should not be amortized, nor should they be subject to the NPV
4 calculation. The balances to be considered are those from January 1, 2020. Once the plant
5 is no longer used and useful the clock stops on amortization and depreciation reductions to
6 the assets. There is no continued reduction in deferred taxes after January 1, 2020, and the
7 depreciation amounts built into the AAO liabilities represent a dollar amount that is being
8 collected in rates until June 1, 2022, and should offset the Asbury AAO regulatory asset
9 balance.

10 **Q. Are there any other AAO categories that you view contain errors as opposed to**
11 **differences of opinion?**

12 A. Yes. Property taxes. As I pointed out in my rebuttal testimony, property taxes are assessed
13 (become a liability) each January 1 and are payable by December 31 of that same year.
14 This AAO started January 1, 2020, and has carried on into 2022. That is three years of
15 property taxes liability—January 1st of 2020, 2021, and 2022. Now for CWC, the tax
16 calculation would be for 29 months, however, on a cost basis there are three years of taxes
17 due. \$2,860,004 X 3 years equals \$8,580,012.

18 **Q. What other AAO amounts do Staff and Empire not address?**

19 A. Neither Company nor Staff mention a return on the other asset recognized in the AAO.
20 That would be the coal inventory. The coal inventory was provided a rate of return in the
21 rate case and ratepayers are paying in rates for that revenue requirement now. That return

1 paid by the ratepayers should be acknowledged in this AAO.⁵ This is not a far-fetched
2 concept. Not only should return on the \$3.9 million worth of coal be included, but return
3 of it as well and the tax markup on both should be calculated as well. Staff included neither
4 return of nor the tax markups of each. Staff may be just adhering to a narrow interpretation
5 of the AAO and only considered the Asbury plant ROR, but it should embrace the complete
6 calculation on all the assets of the AAO so that customers receive the amounts due back to
7 them.

8 **Q. Did Staff or Empire include any amounts that you did not?**

9 A. Yes. Staff included the Company entry of \$3,936,502 for Non-labor Asbury Retirement/
10 Decommissioning Costs. I believe this number should be substantiated and tracked just as
11 the AAO language directs. But as I have pointed out before, these costs should not be
12 included in the final AAO calculation but addressed in the next general rate case along with
13 the other expenditures and impoundment costs that will be incurred.

14 **Q. To what is your “tax on Abandonment” line on your Schedule JSR-S-01 referring?**

15 A. There is an income tax loss associated with the early retirement of the Asbury plant in the
16 2020 consolidated tax return of which Empire is a part, as well as all the Asbury related
17 equipment and furniture that was discarded in the last three months of 2019.

18 **Q. How does this tax on Abandonment amount fit into the Asbury AAO?**

19 A. It falls under the line (i) “Any costs associated with the retirement of the Asbury Plant.”
20 The tax savings created by the abandonment is as real as the calculation of deferred tax on

⁵ That coal is also a CWC component.

1 a new asset in rate base. After viewing the line item “loss on abandonment” the calculation
2 is simple. Loss multiplied by the composite tax rate should be the adjustment. As I stated
3 in my rebuttal testimony, the Company is attempting to sell bonds to collect money upfront
4 and paying no tax themselves due to this tax savings. Ratepayers should not be denied the
5 benefit of this obvious tax advantage.

6 **Q. Would you please summarize your differences and agreements with the components**
7 **of Staff’s net Asbury AAO balance?**

8 A. Some of my calculated amounts are different than what Staff presents due to the use of
9 different asset balances, weighted average cost of capital (“WACC”), or timeframes. I am
10 not arguing those differences because I believe that the particulars to those line items can
11 be worked through and some consensus reached. Staff and I differ fundamentally in the
12 fuel (coal) balance and Staff’s omission from the AAO balance for labor expense inclusion,
13 Asbury retirement cost and profit and tax calculations. The largest two amounts that Staff
14 did not address that I included were the CWC calculations and the tax effect on the asset
15 abandonment. These two items represent over \$32 million in reductions to the AAO
16 balance.

17 The one obvious agreement between Staff and I is that the CCR Impoundment should not
18 be included in the AAO balance but addressed in a future rate case. This balance has been
19 removed from the Schedule.

20 **Q. What is your updated Asbury AAO balance?**

21 A. With minor adjustments across the spreadsheet calculations and the elimination of the
22 impoundment balance, the balance to consider for securitization is a negative \$23,060,115.
23 Factor in the Company’s methodology for carrying charges totaling \$1,183,380 and the
24 final amount due ratepayers is \$24,243,495.

1 . As I testified in rebuttal, this balance should remain on the books as a regulatory liability
2 that offsets the impoundment and dismantling costs as they are incurred. An updated
3 liability page is included in JSR-S-1.

4 **STORM URI SECURITIZATION COSTS**

5 **Q. Does Staff agree with your assertion in your rebuttal testimony that there is a tax**
6 **reduction offset to the Storm Uri costs that Empire wishes to securitize?**

7 A. I do not know. Staff did not present any adjustment for taxes in the rebuttal testimony of
8 its witnesses.

9 **Q. Why should the Commission include this tax adjustment?**

10 A. If it does not, Empire and its affiliates will enjoy this reduction in Empire's income taxes
11 without ever having to include it in any revenue requirement and, therefore, never having
12 to allow the ratepayer to benefit from the tax windfall intended to offset the losses Empire
13 is asking customers to pay for. If the Commission doesn't accept and make the adjustment
14 against the securitization amount, it is a permanent detriment to the ratepayer.

15 **Q. Why would it be a permanent detriment?**

16 A. Empire has already settled Case No. ER-2021-0312 and the 2021 consolidated tax return
17 has yet to be filed with the IRS. This income tax advantage is not covered by an AAO so
18 reaching back to pull the tax break forward in the next general rate case would appear to

1 be too far a reach.⁶ I believe the only platform where the Commission can review and act
2 on this tax deduction is this securitization case.

3 **Q. Can the Commission consider this tax effect in this case?**

4 A. It appears that inclusion of income taxes could be allowed under a couple of different
5 sections of the §393.1700. (7) **“Energy transition costs”** ...

6 (a) Pretax costs with respect to a retired or abandoned or to be retired
7 or abandoned electric generating facility that is the subject of a petition
8 for a financing order filed under this section where such early
9 retirement or abandonment is deemed reasonable and prudent by the
10 commission through a final order issued by the commission, include,
11 **but are not limited to**, the undepreciated investment in the retired or
12 abandoned or to be retired or abandoned electric generating facility and
13 any facilities ancillary thereto or used in conjunction therewith, costs
14 of decommissioning and restoring the site of the electric generating
15 facility, other applicable capital and operating costs, accrued carrying
16 charges, **and deferred expenses**, with the foregoing to be reduced by
17 applicable tax benefits of accumulated and excess deferred income
18 taxes, insurance, scrap and salvage proceeds, and may include the cost
19 of retiring any existing indebtedness, fees, costs, and expenses to
20 modify existing debt agreements or for waivers or consents related to
21 existing debt agreements;

22 (b) Pretax costs that an electrical corporation has previously
23 incurred related to the retirement or abandonment of such an electric
24 generating facility occurring before August 28, 2021;

25 (8) **“Financing costs”** includes all of the following:

26 (a) Interest and acquisition, defeasance, or redemption premiums
27 payable on securitized utility tariff bonds;

⁶ This tax advantage appears to be in a timeframe that will “fall through the cracks” of traditional ratemaking. It seems that the event will be too far in the past to be dealt with in the next general rate case.

1 (b) Any payment required under an ancillary agreement and any
2 amount required to fund or replenish a reserve account or other
3 accounts established under the terms of any indenture, ancillary
4 agreement, or other financing documents pertaining to securitized
5 utility tariff bonds;

6 (c) Any other cost related to issuing, supporting, repaying,
7 refunding, and servicing securitized utility tariff bonds, including
8 servicing fees, accounting and auditing fees, trustee fees, legal fees,
9 consulting fees, structuring adviser fees, administrative fees, placement
10 and underwriting fees, independent director and manager fees,
11 capitalized interest, rating agency fees, stock exchange listing and
12 compliance fees, security registration fees, filing fees, information
13 technology programming costs, and any other costs necessary to
14 otherwise ensure the timely payment of securitized utility tariff bonds
15 or other amounts or charges payable in connection with the bonds,
16 including costs related to obtaining the financing order;

17 (d) Any taxes and license fees or other fees imposed on the
18 revenues generated from the collection of the securitized utility tariff
19 charge or otherwise resulting from the collection of securitized utility
20 tariff charges, in any such case whether paid, payable, or accrued;

21 **(e) Any state and local taxes, franchise, gross receipts, and**
22 **other taxes or similar charges, including commission assessment**
23 **fees, whether paid, payable, or accrued;** (emphasis added)

24 The point to understand here is that the amount to securitize isn't just about fuel and
25 purchase power costs. These costs should be offset by all benefits that may also materialize.

26 **Q. Do you have any insight on what Staff's position may be on your tax adjustment?**

27 A. Yes, Staff has historically not deviated from its traditional income tax calculations within
28 its accounting schedules. Recognizing this windfall will be out of the "norm" of Staff's
29 body of tax thought. That being said, Staff has included this line of thinking where benefits
30 should offset costs that are included in securitization in its rebuttal testimony. To quote:
31 **"there were also additional (excess) revenues received by Liberty during this event.**

1 **Liberty has already received the benefit of these revenues and that gain to Liberty**
2 **resulting directly from Winter Storm Uri should be offset against the securitization**
3 **costs⁷.”**

4 My tax adjustment falls right in line with that sentence. “Liberty has already received the
5 **benefit...** and that **gain** to Liberty **resulting directly from Winter Storm Uri** should be
6 **offset against the securitization costs.**” (Emphasis added) The only difference between
7 OPC and Staff is that Staff is talking about a revenue windfall and I’m talking about a tax
8 windfall. They are both a benefit realized by the Company due to Winter Storm Uri that
9 should offset the extraordinary costs.

10 **Q. Have you made any changes to the tax adjustment for Storm Uri costs you testified to**
11 **in your rebuttal testimony?**

12 A. No, but I would like to explain how I calculated it.

13 **Q. How did you calculate it?**

14 A. Schedule JSR-R-08 indicates that Empire expects approximately \$204 million as a Storm
15 Uri cost tax reduction on the consolidated group federal income tax return. I merely
16 multiplied that number by the composite tax rate of 23.84% to come up with an initial cost
17 of \$48,753,024. The gross up (1.313) will raise the amount to \$64,012,721. This amount
18 should offset any amount that the Company is seeking for securitization so the carrying
19 charges allowed in the calculations should be reduced. When the Commission decides on

⁷ Amanda McMellen rebuttal, EO-2022-0040/0193, page 5, lines 12-15

Surrebuttal Testimony of
John S. Riley
Case Nos. EO-2022-0040 & EO-2022-0193

1 the proper rate of return to apply to the balance, less the tax benefit, the balance for
2 securitization will be attained.

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

4 A. Yes.

The Empire District Electric Company
EO-2022-0193
Missouri Asbury Securitization
Asbury Securitization Costs

| Line No. | Description | Company | | OPC | | |
|----------|---|---|--------------------|---|---------------------|---------------------------------|
| | | Total | | Total | | |
| | | Asbury (Retired Plant) Proposed ER-2022-0193 | | Asbury (Retired Plant) Proposed OPC Balances | | |
| 1 | Net Retired Asbury Plant | \$ | 159,414,474 | \$ | 139,838,566 | Line 29 |
| 2 | Asbury Environmental Regulatory Assets | | 1,494,657 | \$ | - | Addressed in future case |
| 3 | Asbury Fuel Inventories | | 1,532,832 | \$ | (3,947,465) | Sanderson, McMellen WP |
| 4 | Asbury Excess ADIT | | (12,177,195) | \$ | (16,934,393) | Sanderson Testimony |
| 5 | Asbury AAO Liability | | (41,677,324) | \$ | (116,646,983) | This Schedule page 2 |
| 6 | Asbury ADIT | | (36,480,831) | \$ | (32,275,034) | Sanderson Testimony |
| 7 | Additional Asbury Decommissioning Costs (Phase 2) (1) | | 3,541,054 | \$ | 3,541,054 | Black & Veatch |
| 8 | Additional Asbury Decommissioning Costs (Phase 3) (1) | | 7,436,214 | \$ | 3,364,140 | Black & Veatch |
| 9 | Additional Asbury Asset Retirement Obligation Costs - Asbestos | | 2,807,540 | \$ | - | Addressed in future case |
| 10 | Additional Asbury Asset Retirement Obligation Costs - CCR Impoundment | | 18,473,530 | \$ | - | Addressed in future case |
| 11 | Total Asbury Costs to Securitize: (2) | \$ | <u>104,364,952</u> | \$ | <u>(23,060,115)</u> | |
| | Carry charges on Rate Base balance @ 6.77% | | | \$ | (1,183,380) | \$29,965,309@6.77% for 7 months |
| | Total due ratepayer | | | \$ | <u>(24,243,495)</u> | |
| | Asbury plant balance January 1, 2020 | \$ | 217,663,073 | | | Sanderson Testimony |
| | Accumulated Depreciation | \$ | (62,618,776) | | | Sanderson Testimony |
| | Cash Working Capital | \$ | (15,205,731) | | | This Schedule page 5 |
| | Asbury Rate Base (Net) | \$ | <u>139,838,566</u> | | | Net rate base |

| | | Liabilities through Jun-21 | Liabilities extended through May 2022 | Total Liabilities | |
|----|--|---------------------------------------|--|------------------------------|----------------------|
| 15 | Return on Asbury | \$ (10,958,602) | \$ (6,361,467) | \$ (17,320,069) | Page 3 |
| 16 | | | | | |
| 17 | Revenue from Scrap Removal | \$ (10,248) | | \$ (10,248) | |
| 18 | SPP rev/exp outside of the FAC | \$ - | | | |
| 19 | Depreciation Expense | \$ (16,298,010) | \$ (9,959,895) | \$ (26,257,905) | Page 6 |
| 20 | Other O&M Expenses | \$ (5,931,161) | \$ (3,624,598) | \$ (9,555,759) | Jun-22 |
| 21 | Labor Expense | \$ (4,337,820) | \$ (2,650,890) | \$ (6,988,710) | Jun-22 |
| 22 | Return on Coal Inventory | \$ (422,004) | \$ (244,973) | \$ (666,977) | page 7 |
| 23 | Fed/State Income tax on Asbury & Coal profit | | | \$ (2,956,013) | Page 3 |
| 24 | Property Taxes | \$ (2,860,004) | \$ (5,720,008) | \$ (8,580,012) | three years |
| 25 | Non labor Asbury Retirement Costs | \$ - | | \$ - | |
| 26 | Tax on Abandonment 2019 & 2020 - | <u>\$ (16,504,355)</u> | | <u>\$ (16,504,355)</u> | |
| 27 | | <u>\$ (57,322,204)</u> | | <u>\$ (88,840,048)</u> | |
| 28 | | | | | |
| 29 | | \$ 1.313 | | \$ 1.313 | |
| 30 | | | | | |
| 31 | Regulatory Liability | \$ (75,264,054) | \$ - | \$ (116,646,983) | Page 2 |
| 32 | | | | | |
| 33 | Net Regulatory Asset | \$ 60,627,047 | | \$ 19,244,118 | Net Asbury plus Coal |
| 34 | ADIT | \$ (32,275,034) | | \$ (32,275,034) | Sanderson testimony |
| 35 | Excess ADIT | \$ (16,934,393) | | \$ (16,934,393) | Sanderson testimony |
| 36 | Removal of AQCS improvements | \$ (122,412,831) | | | |
| 37 | | | | | |
| 38 | Remaining Asbury Plant to Amortize | <u>\$ (110,995,211)</u> | | <u>\$ (29,965,309)</u> | |

JSR-S-01,

| ROR calculations on Asbury | |
|--|--------------------|
| | \$ 217,663,073.00 |
| | \$ 62,618,776.00 |
| | \$ 155,044,297.00 |
| Less ADIT | \$ (52,536,441.00) |
| | \$ 102,507,856.00 |
| Monthly ROR 2016 rate case Dec. 13,2019-sep 15,2020 | 0.624% 9 |
| Return | \$ 5,753,765.96 |
| | \$ 102,507,856.00 |
| 6.77%/12 21 months | 0.56417% |
| Months | 9 |
| | \$ 5,204,836.39 |
| | \$ 102,507,856.00 |
| | 0.56417% |
| | 11 |
| | \$ 6,361,466.70 |
| | \$ 10,958,602.35 |
| Total Return AAO | \$ 17,320,069.04 |

Fed/State Tax

| ROR on Coal | |
|--------------------|-----------------|
| | \$ 3,947,465.00 |
| | 0.624% |
| | 9 |
| | \$ 221,571.21 |
| | \$ 2,414,632.00 |
| | 0.56417% |
| | 9 |
| | \$ 200,432.54 |
| | \$ 571,851.78 |
| | 23.84% |
| | \$ 136,329 |

| ROE Calculations | | | |
|-------------------------|-------------------|-------------------|-------------------|
| | 4.75% | 4.85% | 4.85% |
| | \$ 106,455,321.00 | \$ 106,455,321.00 | \$ 106,455,321.00 |
| ROE/month | 0.39583% | 0.40425% | 0.40425% |
| # months | 9 | 9 | 11 |
| | \$ 3,792,470.81 | \$ 3,873,110.72 | \$ 4,733,801.99 |
| | 23.84% | 23.84% | 23.84% |
| Fed/State Tax | \$ 904,125 | \$ 923,350 | \$ 1,128,538 |
| | | | \$ 2,956,013 |

| | | | | To June 2022 |
|----|--|------------------|-------------------|--------------------------------------|
| 1 | | | | |
| 2 | Asbury AAO June 30,2021 | Empire | OPC Adjustments | |
| 3 | | | | |
| 4 | Plant in Service | \$ (217,663,073) | \$ 217,663,073 | Asbury |
| 5 | Remaining Plant | \$ (2,277,616) | | Exclude from the AAO |
| 6 | Accumulated Depreciation | \$ 62,618,776 | \$ (62,618,776) | Less Asbury Accum Depr |
| 7 | Remaining Plant Accumulated Depreciation | \$ (90,624) | | Exclude from the AAO |
| 8 | Fuel Invenories | | | |
| 9 | Cash Working Capital | \$ (128,983) | \$ (15,205,731) | Page 4 |
| 10 | ADIT | \$ (63,372) | \$ - | Addressed on line 16 |
| 11 | Excess ADIT | \$ 878,783 | \$ - | Addressed on line 17 |
| 12 | | | | \$ 155,044,297.00 |
| 13 | Net Rate Base/ Regulatory Asset | \$ 159,414,474 | \$ 139,838,566 | |
| 14 | Asbury Environmental Reg. Assets | \$ 1,494,657 | | future rate case |
| 15 | Coal Inventory | \$ 1,532,832 | \$ (3,947,465) | ER-2019-0374 |
| 16 | Asbury ADIT (NPV @ 13 yrs) | \$ (4,747,535) | \$ (32,275,034) | Sanderson Testimony |
| 17 | Asbury Excess ADIT | \$ (12,177,195) | \$ (16,934,393) | Sanderson Testimony |
| 18 | AAO Liabilities | \$ (41,677,324) | \$ (116,646,983) | * |
| 19 | Asbury Decommissioning Costs(Phase 2)88.53% | \$ 3,541,054 | \$ 3,541,054 | \$4 million Adjusted |
| 20 | Asbury Decommissioning Costs(Phase 3)88.53% | \$ 7,436,214 | \$ 3,364,140 | Salvage value of \$4,705,000 per B&V |
| 21 | ARO Asbestos | \$ 2,807,540 | \$ - | future rate case |
| 22 | CCR Impoundment 88.53% | \$ 18,473,530 | \$ - | future rate case |
| 23 | Asbury Energy Transition Costs to Securitize | \$ 136,098,247 | \$ (23,060,115) | |
| | Carry charges on negative balance June-Dec | | \$ (1,183,380.00) | \$29,416,458@6.77% for 7 months |
| | Total Securitization | | \$ (24,243,495) | |
| | | | | Extended to June 2022 |
| 15 | Return on Asbury | \$ (14,486,088) | \$ (10,958,602) | \$ (6,361,467) \$ (17,320,069) * |
| 16 | | | | |
| 17 | Revenue from Scrap Removal | \$ (10,248) | \$ (10,248) | \$ (10,248) |
| 18 | SPP rev/exp outside of the FAC | \$ - | \$ - | |
| 19 | Depreciation Expense | \$ (13,914,240) | \$ (16,298,010) | \$ (9,959,895) \$ (26,257,905) * |
| 20 | Other O&M Expenses | \$ (5,931,161) | \$ (5,931,161) | \$ (3,624,598) \$ (9,555,759) * |
| 21 | Labor Expense | | \$ (4,337,820) | \$ (2,650,890) \$ (6,988,710) * |
| 22 | Return on Coal Inventory | | \$ (422,004) | \$ (244,973) \$ (666,977) * |
| 23 | Fed/State Income tax on Asbury & Coal profit | | | \$ (2,956,013) |
| 24 | Property Taxes | \$ (2,860,004) | \$ (2,860,004) | \$ (5,720,008) \$ (8,580,012) * |
| 25 | Non labor Asbury Retirement Costs | \$ 3,290,545 | \$ - | \$ - |
| 26 | Tax on Abandonment 2019 & 2020 - | | \$ (16,504,355) | \$ (16,504,355) * |
| 27 | | \$ (33,911,196) | \$ (57,322,204) | \$ (88,840,048) |
| 28 | | | | |
| 29 | | 1.313 | 1.313 | 1.313 |
| 30 | | | | |
| 31 | Regulatory Liability | \$ (44,526,314) | \$ (75,264,054) | \$ - \$ (116,646,983) |
| 32 | | | | |
| 33 | Net Regulatory Asset | | \$ 60,627,047 | \$ 19,244,118 |
| 34 | ADIT | | \$ (32,338,406) | \$ (32,275,034) |
| 35 | Excess ADIT | | \$ (16,055,610) | \$ (16,934,393) |
| 36 | Removal of AQCS improvements | | \$ (122,412,831) | |
| 37 | | | | |
| 38 | Remaining Asbury Plant to Amortize | \$ 159,140,741 | \$ (110,179,800) | \$ (29,965,309) |
| | Balance when considering the AQCS assets | | | \$ (152,378,140) |

| | Test Year | CWC Calculations annualized amount | Annual | Extended to June 2022 |
|-----------------------------------|----------------------|---------------------------------------|--------|--|
| CASH WORKING CAPITAL - CWC | | | | |
| 1 Tax on Asbury profit | \$7,488,711 | \$ 1,785,308.70 | 45.04 | 365 319.96 0.87660274 \$ 1,565,006.50 \$ 3,782,099.04 * |
| 2 Fuel inventory | | \$ 3,947,465.00 | 45.04 | 365 319.96 0.876603 \$ 3,460,359.66 \$ 8,362,535.85 * |
| 3 Tax on fuel profit | Profit \$ 288,382.00 | \$ 68,750.27 | 45.04 | 365 319.96 0.876603 \$ 60,266.69 \$ 145,644.51 |
| 4 Property taxes | | \$ 2,860,004.00 | 45.04 | 181.24 136.2 0.373150685 \$ 1,067,212.45 \$ 2,579,096.76 |
| Payroll | | \$ 2,891,880.00 | 45.04 | 12 33.04 0.090520548 \$ 261,774.56 \$ (632,621.86) |
| 5 interest | \$ 160,772,062.00 | 52.5%*.0376 \$ 3,176,663.00 | 45.04 | 91.11 46.07 0.126219178 \$ 400,955.79 \$ 968,976.50 |

Deduction from Plant Balance \$ 15,205,730.79

| | Asbury | Coal |
|----------|-----------------|--------------|
| | \$ 156,824,597 | \$ 3,947,465 |
| | 52.55% | 52.55% |
| | 3.76% | 3.76% |
| INTEREST | \$ 3,098,665.85 | \$ 77,997 |

Profit on Coal @ \$3,947,465

Profit on Asbury @ \$106,650,281

DEPRECIATION EXPENSE

Per Staff Accounting Schedules. Depreciation Expense

| | | |
|----------------------------------|----|------------|
| ER-2019-0374 for Asbury | \$ | 11,179,375 |
| ER-2021-0312 for remaining plant | \$ | 314,035 |
| Annualized depreciation for AAO | \$ | 10,865,340 |
| Monthly | \$ | 905,445 |
| January 2020 through June 2021 | \$ | 16,298,010 |
| through June 2022 | \$ | 9,959,895 |
| | \$ | 26,257,905 |

| | | | | | | |
|------------------------------|----------------|--------|-------------------|------------|------------|------------|
| | | | 2020 | 2021 | 2022 | |
| Profit on Coal @ \$3,947,465 | Jan -Sept 2020 | 7.484% | \$ 221,571 | | | |
| | Oct - Dec 2020 | 6.77% | \$ 66,811 | | | |
| | | | <u>\$ 288,382</u> | \$ 267,243 | \$ 111,351 | \$ 666,976 |

| | | | | | | |
|----------------------------------|-----------------|--------|--------------|--------------|--------------|---------------|
| | \$102,507,856 | | 2020 | 2021 | 2022 | |
| Profit on Asbury @ \$106,650,281 | Jan.- Sept 2020 | 7.484% | \$ 5,753,766 | | | |
| | Oct- Dec 2020 | 6.77% | \$ 1,734,945 | \$ 6,939,782 | \$ 2,891,576 | |
| | | | \$ 7,488,711 | \$ 6,939,782 | \$ 2,891,576 | \$ 17,320,069 |

| | | | |
|----------|-------------|----------------|--------------|
| INTEREST | | Asbury | Coal |
| \$ | 155,044,297 | \$ 155,044,297 | \$ 3,947,465 |
| | | 52.55% | 52.55% |
| | | 3.76% | 3.76% |
| INTEREST | | \$ 3,063,489 | \$ 77,997 |