

Exhibit:

Issue(s): Severance, PAYGO, PISA,
Solar rebates,
Riverton 12 O&M tracker,
Department 115 Wind
O&M expense,
Non-FAC wind expense

Witness: Jared Giacone

Sponsoring Party: MoPSC Staff

Type of Exhibit: Surrebuttal / True-Up Direct
Testimony

Case No.: ER-2024-0261

Date Testimony Prepared: September 17, 2025

MISSOURI PUBLIC SERVICE COMMISSION

FINANCIAL AND BUSINESS ANALYSIS DIVISION

AUDITING DEPARTMENT

SURREBUTTAL / TRUE-UP DIRECT TESTIMONY

OF

JARED GIACONE

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

CASE NO. ER-2024-0261

*Jefferson City, Missouri
September 2025*

**** Denotes Confidential Information ****

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1 **SURREBUTTAL / TRUE-UP DIRECT TESTIMONY**

2 **OF**

3 **JARED GIACONE**

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

6 **CASE NO. ER-2024-0261**

7 Q. Please state your name and business address.

8 A. My name is Jared Giacone and my business address is 615 East 13th Street,
9 Kansas City, Missouri 64106.

10 Q. Are you the same Jared Giacone that filed direct testimony in this case on
11 July 2, 2025, and rebuttal testimony on August 18, 2025?

12 A. Yes.

13 Q. What is the purpose of your surrebuttal / true-up direct testimony?

14 A. My surrebuttal testimony responds to the testimony of Empire witness
15 Charlotte T. Emery regarding the base level of property tax, severance, the PAYGO tracker,
16 solar rebates and Department 115—wind Operations & Maintenance (“O&M”) expense.

17 My true-up direct testimony addresses Staff’s recommendations for the true-up
18 adjustments for:

- 19 • Severance;
- 20 • PAYGO;
- 21 • Plant In Service Accounting (“PISA”);
- 22 • Solar rebates;
- 23 • Riverton 12 Operations & Maintenance (“O&M”) tracker;
- 24 • Department 115—Wind O&M expense;
- 25 • Non-Fuel Adjustment Clause (“FAC”) wind project expense.

PROPERTY TAX TRACKER

Q. Did Empire address in the present case whether a particular revenue or cost amount was specifically identified in any of the stipulation and agreements from the prior general rate Case No. ER-2021-0312?

A. Yes. Charlotte T. Emery's direct testimony page 5, footnote 1 in the present case agrees with Staff's position that a particular expense item such as property tax was not specifically identified in any of the prior general rate case stipulation and agreements. The direct testimony of Charlotte T. Emery page 5, footnote 1 states:

Based on comparing to Company's surrebuttal position in docket ER-2021-0312, which resulted in a black box settlement. The Parties agreed to a total net operating income and did not agree to any particular revenue or costs amounts to be used to calculate the revenue increase.

Q. Does Staff agree that the ER-2021-0312 black box "Non-Unanimous Stipulation and Agreement" did not agree to any particular revenue or cost amounts to be used to calculate the revenue increase?

A. Yes. Staff agrees with Ms. Emery's direct testimony that no particular revenue or cost amounts, including a cost amount for property tax, was agreed to in ER-2021-0312.

Q. Is Empire including in this case a cost amount for property tax set as a base level in ER-2021-0312 for the property tax tracker?

A. Yes. Based on Empire's response to Staff Data Request 0298, which states:

The Company's most recent rate case, Case No. ER-2021-0312, resulted in an Order approving Stipulation and Agreements **which did not specifically state a baseline of property tax**. However, within the first partial stipulation the signatories agreed to a starting net operating income available amount, which represented Staff's net operating income reflected in their surrebuttal filing (minus any expenses and taxes associated with Asbury). **Therefore, to develop the Property Tax Regulatory Asset balance, the Company utilized the amount that**

1 **was included in the Commission Staff's EMS Surrebuttal**
2 **calculation for Property Taxes in the amount of \$24,807,249.**
3 [Emphasis added.]

4 Q. Does Staff agree that using the property tax amount from Staff's
5 Exhibit Modeling System ("EMS") Surrebuttal revenue requirement calculation from
6 Case No. ER-2021-0312 is appropriate to establish the base level of property tax for the
7 property tax tracker?

8 A. No. Staff's EMS revenue requirement calculation was not approved by the
9 Commission and was not included as an attachment to the stipulation. What the Commission
10 approved is the Non-Unanimous Stipulation and Agreement which agreed to a starting net
11 operating income available. The Non-Unanimous Partial Stipulation and Agreement states in
12 paragraph 2:

13 **While not agreeing to the specific methodologies and arguments**
14 **used to derive the balance, the Signatories agree to a starting net**
15 **operating income available of \$104,315,916, which represents Staff's**
16 **net operating income available reflected in its case as of the**
17 **surrebuttal filing,** including Staff's billing determinants as of May
18 2021, minus any expenses and associated taxes reflected in Staff's case
19 related to Asbury. Any expense issue that is still to be addressed during
20 the hearing will increase the starting net operating income amount,
21 therefore reducing overall revenue requirement, if the issue is decided
22 differently than what is reflected in Staff's net operating income
23 available. [Emphasis added.]

24 Q. Is the specific amount of property tax that's included within the starting net
25 operating income available of \$104,315,916 identified anywhere else in the stipulation or any
26 attachments to the stipulation?

27 A. No. That is why the Commission should set a base level of property tax for the
28 property tax tracker in the present case.

1 **SEVERANCE**

2 Q. Did Staff propose a disallowance of severance costs in direct testimony?

3 A. Yes. As stated in my direct testimony beginning on page 14, I proposed
4 disallowance of severance costs from capital (plant) and expense.

5 Q. Did Empire respond in rebuttal testimony?

6 A. Yes. Charlotte T. Emery's rebuttal testimony, page 8 addressed capitalized
7 severance and page 44 addressed severance expense.

8 Q. Does Empire agree to the removal of severance from capital and expense?

9 A. Yes. However, Empire noted that Staff's adjustments were total company and
10 not Missouri's allocated portion. I have corrected the adjustments to remove just the Missouri
11 allocated portion of severance from capital and expense in Staff's true-up direct
12 accounting schedules.

13 **PAYGO**

14 Q. Please summarize Empire's position on the PAYGO tracker and
15 regulatory liability.

16 A. The rebuttal testimony of Charlotte T. Emery¹ disagrees with Staff's position to
17 discontinue the PAYGO tracker primarily due to a perceived volatility argument.

18 Q. Do trackers inherently incentivize a utility to control the cost or revenue
19 being tracked?

20 A. No. Tracking costs or revenues guarantee the utility will receive full recovery
21 and removes the inherent incentive for a utility to control its cost or increase its revenue. Absent

¹ ER-2024-0261 Rebuttal testimony of Charlotte T. Emery page 25, line 12.

1 a tracker a utility has an incentive to influence variable cost or revenue to maximize the benefits
2 of regulatory lag. One of the premises of historical ratemaking is to promote efficient utility
3 operations and provide the utility that incentive to control and contain costs and maximize
4 revenue. Singling out a revenue or expense item to be tracked should only be done in unique
5 situations and should be subject to scrutiny. For further discussion of the regulatory approach
6 to trackers, see the rebuttal testimony of Karen Lyons in this case.

7 For PAYGO revenues, the utility has some control in the variability if they are not
8 tracked. That means without a tracker the utility has incentive and control to maximize wind
9 production which would maximize PAYGO revenues. If the PAYGO revenues are tracked then
10 the incentive and control to maximize production is absent.

11 The PAYGO tracker was initially included in the Fourth Partial Stipulation and
12 Agreement from the ER-2021-0312 case because the wind farms were just being placed in
13 service and no production had been established. Although there was an unexpected major
14 forced outage that significantly limited production, an outage of that magnitude is not normal
15 and would not be expected going forward. The forced outage which caused the variability in
16 PAYGO revenues was not the reason the PAYGO tracker was originally established. It was
17 initially established because production data was not available since the units were just placed
18 in service in the prior case. Empire's hindsight argument that the forced outage variability was
19 the basis and justification for the tracker to be continued is flawed.

20 Since PAYGO revenues are based on wind production, a normal level of production
21 like what was experienced in 2024, should be used to normalize a level of PAYGO revenues in
22 the revenue requirement and not track it.

1 Q. Why did Staff not include an amortization of the PAYGO regulatory balance
2 in direct?

3 A. Staff did not include an amortization of the PAYGO regulatory balance at direct
4 through the update period of September 30, 2024, because the annual 2024 PAYGO payment
5 had not been finalized and the balance was projected to flip from a regulatory asset to a
6 regulatory liability between the update period and the true-up date based on Staff's
7 understanding at the time. In my direct testimony on page 26 I stated Staff would consider the
8 regulatory balance during the true-up phase.

9 Q. Did the regulatory balance flip from a regulatory asset to a regulatory liability
10 as of the March 31, 2025 true-up date?

11 A. No. The regulatory balance only flips from a regulatory asset to a regulatory
12 liability if you consider the first quarter PAYGO calculation, which is premised on a
13 "base case" or projected normalized level of wind production for the remaining 3 quarters of
14 2025. The base case or projected production for the remaining 3 quarters of 2025 is not known
15 and not measurable as of the true-up date. The 2025 actual PAYGO payment will not be known
16 or measurable until 2025 production is verified which is December 31, 2025 at the earliest.
17 Historically, the PAYGO payment has been received from the tax equity partners in the first
18 quarter following the calendar year end. The first quarter 2025 estimated PAYGO calculation
19 should not be included in the tracker since it is premised on estimated data, not known and
20 measurable data, and is not reflective of actual cash flow.

21 Since the annual PAYGO payment is only received from the tax equity partners once
22 per year, the \$4 million base should not be divided up by quarter. In other words, although the
23 true-up date in this case is March 31, 2025, \$1 million (or 1/4th) of the annual PAYGO tracker

1 base should not be included in the regulatory balance because the annual PAYGO tracker base
2 is compared or tracked to the singular annual PAYGO payment that Empire receives from
3 the tax equity partners. The most recent known and measurable annual PAYGO payment was
4 for 2024, received by Empire from the tax equity partners in the first quarter of 2025. That is
5 why the regulatory balance should be measured at December 31, 2024 which results in a
6 regulatory asset.

7 Q. What does Staff recommend for the PAYGO asset in its true-up
8 revenue requirement?

9 A. In order to maintain the matching principle, which is matching revenues and
10 investment with expenses, Staff recommends amortizing the PAYGO asset measured at
11 December 31, 2024, which is based on the actual PAYGO payments through the most
12 recent 2024 annual payment tracked against the \$4 million annual base established in
13 ER-2021-0312. Staff recommends amortizing the regulatory asset over three years and does
14 not recommend including the regulatory balance in rate base.

15 Q. Please summarize Staff's recommendation to the Commission.

16 A. Staff has four recommendations for the Commission:

- 17 1. Discontinue the PAYGO tracker.
- 18 2. Normalize PAYGO revenues in the revenue requirement at
19 ** [REDACTED] **. **
- 20 3. Amortize the regulatory asset as of the 2024 annual PAYGO
21 payment over three years with no rate base treatment.
- 22 4. Order the 2025 annual PAYGO payment that continues to be
23 tracked through the effective date of rates in the present
24 proceeding tracked against the \$4 million base amount of the
25 tracker for 2025 to be addressed in Empire's next general rate
26 proceeding.

1 **PISA**

2 Q. Please explain Staff's true-up adjustment for PISA.

3 A. Staff updated the PISA regulatory asset and related amortization through the
4 March 31, 2025, true-up date.

5 Q. What is the PISA regulatory asset balance as a percentage of total rate base?

6 A. Using the rate base from Empire's rebuttal revenue requirement² and using
7 Staff's calculation for the PISA regulatory asset as of the March 31, 2025, true up date, Empire's
8 PISA regulatory asset is almost 8% of total rate base.

9 Q. Have you evaluated the PISA regulatory asset as a percentage of rate base for
10 the other electric utilities in Missouri?

11 A. Yes.

12 Q. How does Empire's almost 8% of rate base compare with the PISA regulatory
13 asset balances as a percent of rate base for the other Missouri electric utilities?

14 A. Empire's PISA regulatory asset is the highest percent of total rate base of any
15 electric utility in Missouri even though they were the last electric utility in Missouri to elect
16 PISA. Below is a table of my findings of all PISA assets since utilities have elected the PISA
17 deferrals:

18 *continued on next page*

² ER-2024-0261 Rebuttal testimony of Charlotte T. Emery, Schedule CTE-1.

1

	Rate Base	PISA rate base (all vintages)	PISA as a % of rate base
Empire ER-2024-0261	\$2,641,531,478	\$209,928,201	7.95%
Evergy Missouri West ER-2024-0189 Staff True-Up Accounting Schedule filed in EFIS* item #220	\$3,000,381,257	\$115,305,548	3.84%
Ameren ER-2024-0319 Staff True-Up Accounting Schedule filed in EFIS* item #235	\$13,874,607,287	\$601,259,101	4.33%
Evergy Missouri Metro ER-2022-0129 Staff True-Up Rebuttal Accounting Schedule filed in EFIS* item #281	\$3,185,758,926	\$55,218,871	1.73%
Evergy Missouri West ER-2022-0130 Staff True-Up Rebuttal Accounting Schedule filed in EFIS* item #299	\$2,492,437,670	\$44,841,354	1.80%
Ameren ER-2022-0337 Staff True-Up Rebuttal Accounting Schedule filed in EFIS* item #241	\$11,264,755,281	\$416,019,657	3.69%
Empire ER-2021-0312 Staff Direct Accounting Schedule filed in EFIS* item #75	\$2,095,946,278	\$12,597,366	0.60%
Ameren ER-2021-0240 Staff True-Up Rebuttal Accounting Schedule filed in EFIS* item #178	\$10,149,243,629	\$219,187,319	2.16%
Ameren ER-2019-0335 Staff Direct Accounting Schedule filed in EFIS* item #87	\$7,920,321,132	\$48,077,393	0.61%
*EFIS: Electronic Filing and Information System			

2

1 Q. When did Empire, Evergy Missouri West, Evergy Missouri Metro and Ameren
2 elect PISA?

3 A. Empire elected PISA on August 12, 2020.³ Evergy Missouri West and
4 Evergy Missouri Metro elected PISA on January 1, 2019.⁴ Ameren elected PISA on
5 September 1, 2018.⁵

6 Q. Did you perform any analysis of the percent of total plant being placed in service
7 on a monthly basis that Empire is considering PISA eligible?

8 A. Yes. Due to the outlying amount of the PISA regulatory asset as a percent of
9 total rate base, I performed additional analysis to determine how much of plant being placed in
10 service on a monthly basis that Empire is considering PISA eligible. The average portion of
11 capital spending that is PISA eligible for the period of June 1, 2022 through March 31, 2025,
12 is 72%. So, on average, Empire is considering 72% of total plant placed in service on a monthly
13 basis to be PISA eligible.

14 Q. Is there a cap on the amount of PISA investment?

15 A. Yes. There is a revenue requirement impact cap outlined in the Revised Statutes
16 of Missouri ("RSMo") Section 393.1656. Although the latest effective date of Section 393.1656
17 is August 28, 2025, the revenue requirement impact cap did not change and is the same as the
18 previous version of the statute that was effective August 28, 2022.

19 Q. Did you review the revenue requirement impact cap?

³ EO-2019-0046.

⁴ EO-2019-0047 / EO-2019-0045.

⁵ EO-2019-0044.

1 A. Yes. I submitted and reviewed Staff Data Request 0414, where Empire
2 provided a calculation for the revenue requirement impact. The revenue requirement
3 impact cap calculation shows that PISA could impact the revenue requirement by
4 approximately \$60 million without triggering a limitation on rate recovery.

5 Q. Did Empire exceed the revenue requirement impact cap?

6 A. No. I updated the revenue requirement impact calculation that Empire provided
7 in response to Staff Data Request 0414 and based on the true-up balance of the PISA regulatory
8 asset, the result is that Empire is approximately at 46% of the cap or roughly \$30 million.
9 Empire could have had PISA investment more than double what was included as of the
10 March 31, 2025, true-up date before exceeding the revenue requirement impact cap. In other
11 words, Empire's filed revenue requirement request could have been \$30 million higher solely
12 from PISA and before any sort of cap on PISA deferrals would have been hit. Based on
13 Empire's approximate \$152 million revenue deficiency requested in this case, PISA's impact
14 is approximately 20% of the revenue requirement request. However, it could have been
15 roughly 33% of a revenue requirement request if the maximum amount of PISA investment
16 was made within the revenue requirement impact cap limitations. If the maximum amount
17 of PISA investment was made, the PISA regulatory asset as a percent of rate base could have
18 been approximately 14% of total rate base as opposed to the approximate 8% that it is.

19 **SOLAR REBATES**

20 Q. What was Empire's response to Staff's direct testimony for solar rebates?

21 A. The rebuttal testimony of Charlotte T. Emery, page 9 states the following in
22 response to the question whether Empire agrees with Staff's adjustment for solar rebates:

1 No, Staff's proposed disallowances for rebates on systems operational
2 after December 31, 2023 are not justified. Many rebate commitments
3 were made between the initial discussions about ending the program and
4 the effective date of the new tariffs, and those commitments were
5 honored and paid. Liberty believes its decision to involve solar advocates
6 and installation contractors early in stakeholder conversations may have
7 triggered a "doorbuster effect," prompting a surge of applications as
8 customers rushed to secure rebates before the tariff change. However, at
9 the update period, Staff's proposed regulatory asset balance compared to
10 the Company's has a minor difference. In order to reduce contested
11 issues, the Company is willing to accept Staff's balance for this
12 regulatory asset once incorporating the rebates paid after December 31,
13 2023, contingent on the opportunity to review the balances Staff
14 proposes at the conclusion of the true-up period.

15 Q. How do you respond?

16 A. Empire's response ignores the limitations set out in a Commission
17 approved tariff. Staff's position was based on the tariff language which clearly states the
18 December 31, 2023, system operational date, and my direct testimony included a copy of the
19 solar rebate tariff as Schedule JG-d5.

20 Q. Is Staff including any change to solar rebates in true-up?

21 A. Yes. I discovered that I did not reflect the test year balance in my direct
22 adjustment but Staff's position for only including solar rebates paid for systems that became
23 operational on or before the December 31, 2023 date does not change. I corrected the test year
24 error in Staff's true-up direct accounting schedule. The Commission should order Staff's solar
25 rebate balance as revised in Staff's true-up accounting schedules to correct the test year error
26 because it complies with the approved solar rebate tariff language.

RIVERTON 12 O&M TRACKER

Q. Does Empire agree with Staff's position to no longer include the Riverton 12 O&M regulatory balance in rate base and to no longer include any amortization expense in the present proceeding?

A. Yes.

Q. Should the amortization expense currently being collected in rates continue to be tracked through the effective date of rates in the present case?

A. Yes. As I stated in my direct testimony on page 14, beginning on line 4, Empire should continue to track the monthly amortization being collected in rates and include any overcollection of funds received through the effective date of rates in the present case as an offset in their next general rate proceeding. Staff has included this on the regulatory amortization tracker sponsored by Staff witness Nathan Bailey, CPA.

DEPARTMENT 115 EXPENSES

Q. Are you updating Staff's adjustment for Department 115 Wind O&M expense?

A. Yes. I stated in my direct testimony that Staff would consider updating these costs in the true-up phase of the case due to issues at direct testimony. Empire provided analysis of a three-year average of the costs for 2022-2024 which I reviewed and have adopted.

NON-FAC WIND PROJECT EXPENSE

Q. Was non-FAC wind project expense agreed to by the parties to be included in true-up?

A. No. However, there was confusion with the direct and subsequent substitute direct workpapers provided by Empire. In direct testimony, Staff did not reflect the revised

1 analysis Empire provided in their substitute direct workpapers for the wind O&M service fee
2 and for wind insurance which had material changes. I discovered the error during the true-up
3 phase of the case and I reflected Empire's revised substitute direct analysis in my true-up
4 adjustment for the wind O&M service fee and for wind insurance items. I did not change the
5 other non-FAC wind project expense accounts and they do not have a material difference in
6 balance either.

7 Q. Does this conclude your surrebuttal / true-up direct testimony?

8 A. Yes it does.

