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	))))	**File No. ER-2024-0261**

STAFF'S STATEMENT OF POSITIONS

COMES NOW, the Staff of the Missouri Public Service Commission ("Staff"), by and through the undersigned counsel, and for its *Statement of Positions* respectfully states as follows:

Capital Structure/ROE/Cost of Debt

1. **What is the appropriate rate of return?**

a. Return on Common Equity – what return on common equity should be used for determining rate of return?

Staff Position: Staff recommends an authorized ROE of 9.50% in a range of reasonableness of 9.00% to 10.0%.[1] This ROE is to be applied before any reductions the Commission may deem appropriate.

b. Capital Structure – what is the appropriate capital structure to use for ratemaking in this proceeding?

Staff Position: Staff did not take issue with Empire's revised proposed capital structure, including an equity ratio of 53.0%.[2]

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

Staff Position: Staff did not take issue with the Empire's proposed cost of debt at the true-up date of March 31, 2025. As part of its overall recommended rate of return of 7.16%, Staff included Empire's proposed cost of debt of 4.53%.[3]

d. If the Commission adopts Staff's and Empire's recommended capital structure, is it appropriate to set a ratemaking capital structure and cost of debt based on projections beyond the true-up cut-off date of March 31, 2025?

Staff Position: Staff did not take issue with Empire's revised proposed capital structure, including an equity ratio of 53.0%, or the proposed embedded cost of debt of 4.53%. However, Empire has not yet issued the proposed debt that was reflected in its pro-forma as of March 31, 2025, True-Up Date. Absent this debt issuance, Empire's proposed capital structure, including a 53.0% equity ratio, understates its actual equity balance in

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[1] Surrebuttal testimony of Christopher Walters at 15.
[2] *Id*.
[3] True-up Rebuttal Testimony of Christopher Walters at 2.

favor of ratepayers. If the debt issuance were materially different from what is included in the pro-forma, whether by amount or cost, the parties should have the opportunity to address future refunds in a future proceeding.

Rate Base Items

Plant & Accumulated Depreciation

2. What is the appropriate amount of plant in service and depreciation reserve to include in rate base?

a. What is the appropriate amount of common plant removal for plant and accumulated depreciation?

Staff Position: Staff included accumulated reserve balances which reflect the amounts directly related to the plant in service balances. Staff determined common and shared service plant according to the Cost Allocation Manual. Staff recommends the Commission approve annualized level of plant in service and depreciation reserve as of March 31, 2025.[4]

b. Should the Commission order Empire to retire general plant assets that will exceed their amortization period before the effective date of new rates?

Staff Position: Staff takes no position at this time but reserves the right to do so based upon the evidence presented at hearing.

c. Should Empire be allowed to earn a return on retired non-AMI meters that created a negative reserve balance?

Staff Position: Staff takes no position at this time but reserves the right to do so based upon the evidence presented at hearing.

d. Should Empire be allowed to earn a return on Empire's investment in non-AMI meters?

Staff Position: Staff takes no position at this time but reserves the right to do so based upon the evidence presented at hearing.

e. What is the appropriate balance of Iatan and PCB transformer costs to include as an offset to accumulated depreciation?

Staff Position: The offset to accumulated depreciation should equal Empire's actual cost of retirement incurred through the March 31, 2025, true-up date.[5]

f. Should the Commission include depreciation reserve accumulated beyond the March 31, 2025 true-up date?

Staff Position: No. The Commission should not adopt any discrete adjustments in this case.[6]

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[4] Surrebuttal True-up Testimony of Christopher L. Boronda pages 7, line 20 – page 8, line 16.

[5] Young surrebuttal, page 2.

[6] Young rebuttal, pages 3 – 7.

g. Should the Company recover reclassified Asbury stranded plant costs?

Staff Position: No. Empire had an opportunity to recover all stranded costs related to the retirement of the Asbury power plant through securitization. It's attempt to recover the cost in this rate case instead is a request for retroactive ratemaking to address an error on the part of the utility.[7]

h. Should Empire recover the cost of repairs to Riverton 10?

Staff Position: No. Empire's failure to comply with SPP's Generating Facility Replacement Request requirement forced it to undertake an unnecessary repair Riverton 10. Had Empire complied, the ** [redacted] ** repair on a unit it was actively seeking to replace would not have been required.[8] Empire avoided repairing Riverton 10 even after FERC denied a waiver and a borescope inspection of Riverton 11 revealed major reliability concerns. This delay in completing the now required Riverton 10 repair left Empire without either Riverton 10 or Riverton 11 from August 2023 to January 2024.[9]

i. Should the Commission order OPC's recommended disallowance of 2% of the rate base inclusion of transmission and distribution projects since Empire's last rate case over $1 million?

Staff Position: No. Staff recommends[10] the Commission order Empire to:

- Conduct an internal audit of authorization procedures for capital projects;[11] and
- Collaborate with Staff and OPC on recommended actions for Empire to take to reduce the duration of outages and to improve the reliability of its worst-performing circuits.

Additionally, Staff recommends Empire request two variances:

- To allow for the reporting of its reliability improvement program on the same day of its capital investment plan filing to ensure the filings are consistent;[12] and
- To allow its continued use of Institute of Electrical and Electronics Engineers (IEEE) Standard 1366-2022, Guide for Electric Power Distribution Reliability Indices as opposed to the standard required by Commission rules.[13]

j. Should Empire be allowed to earn a return on Empire's investment in new AMI meters?

Staff Position: Staff takes no position at this time but reserves the right to do so based upon the evidence presented at hearing.

Cash Working Capital

3. What is the appropriate value for the income tax expense lag in the Cash Working Capital schedule?

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[7] Young surrebuttal / true-up direct, pages 21 – 22.
[8] Page 7, Lines 1-13 of Brodrick Niemeier's Surrebuttal Testimony.
[9] Page 5, Line 13-Page 6, Line 7 of Brodrick Niemeier's Surrebuttal Testimony
[10] Surrebuttal testimony of Claire Eubanks, page 9, lines 1-14.
[11] Direct testimony of Matt Young, page 31, lines 6-8.
[12] Rebuttal testimony of Claire Eubanks, page 8, lines 17-19.
[13] Rebuttal testimony of Claire Eubanks, page 9, lines 7-9.

Staff Position: The appropriate value for the income tax expense lag in the Cash Working Capital schedule is 365 days, based upon the Report and Order in GR-2021-0108, page 29.[14]

Prepayments

4. What is the appropriate balance of prepayments?

Staff Position: The appropriate level of prepayments to include in Empire's rate base is a 13-month average ending March 31, 2025, for each prepayment account.[15]

5. What is the appropriate amount of materials and supplies to include in Empire's rate base?

Staff Position: The appropriate amount of materials and supplies to include in Empire's revenue requirement is a 13-month average ending March 31, 2025, for each materials and supplies account excluding clearing accounts.[16]

6. What is the appropriate amount of fuel inventory to include in Empire's rate base?

Staff Position: As calculated by Staff witness Nieto in Fuel and Purchased Power True-Up Direct Testimony workpaper, the amount of fuel inventory to include in Empire's rate base is $19,007,316.

Customer Deposits

7. What is the appropriate amount of customer deposits to include in Empire's rate base?

Staff Position: The appropriate level of customer deposits to include in Empire's rate base is a 13-month average ending March 31, 2025.[17]

Customer Advances

8. What is the appropriate amount of customer advances to include in Empire's rate base?

Staff Position: The appropriate level of customer advances to include in Empire's rate base is a 13-month average ending March 31, 2025.[18]

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[14] See Lindsey Smith Surrebuttal Testimony, page 2, line 2 to page 3, line 23.

[15] See Lindsey Smith True Up Direct Testimony, page 16, lines 4-15. (Empire agreeing to Staff's position on prepayments.)

[16] See Lindsey Smith Surrebuttal Testimony, page 11, line 10 to page 12, line 22.

[17] See Lindsey Smith True Up Direct Testimony, page 16, lines 4-15. Empire has agreed to Staff's position on customer deposits.

[18] See Lindsey Smith True Up Direct Testimony, page 16, lines 4-15. Empire has agreed to Staff's position on customer advances.

Regulatory Assets/Liabilities

9. What is the appropriate rate base and amortization expense for Plum Point deferred carrying costs?

> **Staff Position:** Staff recommends a rate base of $90,657 as of the true-up period and a normalized expense of $1,987 per year.[19]

10. What is the appropriate rate base and amortization expense for Iatan I deferred carrying costs?

> **Staff Position:** Staff recommends a rate base of $3,502,012 as of the true-up period and a normalized expense of $84,729 per year.[20]

11. What is the appropriate rate base and amortization expense for Iatan II deferred carrying costs?

> **Staff Position:** Staff recommends a rate base of $1,916,531 as of the true-up period and a normalized expense of $44,828 per year.[21]

12. What is the appropriate rate base and amortization expense for the Customer Program Collaborative (DSM) account?

> **Staff Position:** Staff recommends a rate base of $1,716,915 as of the true-up period and a normalized expense of $286,153 per year.[22]

13. What is the appropriate rate base and amortization expense for interruptible service credits incurred after the January 2022 implementation of the Company's MEEIA program? Should they be tracked separately from the Customer Program collaborative (DSM) vintage costs incurred prior to January 2022?

> **Staff Position:** No. Interruptible service credits have been incorporated by Staff in the DSM amortization schedule program which by commission report and order is amortized over a period of six years.[23]

14. What is the appropriate rate base and amortization expense balance for the PeopleSoft Costs?

> **Staff Position:** Staff recommends a rate base of negative $(78,258), the balance through the true-up date with no expense adjustment.[24]

15. What is the appropriate rate base amount and amortization expense for the Low-Income Pilot Program to include in Empire's cost of service?

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[19] Nathan Bailey, CPA surrebuttal / true-up direct testimony & Staff true-up cost of service report.
[20] Nathan Bailey, CPA surrebuttal / true-up direct testimony page & Staff true-up cost of service report.
[21] Nathan Bailey, CPA surrebuttal / true-up direct testimony page & Staff true-up cost of service report.
[22] Nathan Bailey, CPA surrebuttal / true-up direct testimony page 5-7 & Staff true-up cost of service report.
[23] Report and order File No. ER-2014-0351 item 20.
[24] Nathan Bailey, CPA surrebuttal / true-up direct testimony page 6.

Staff Position: Staff recommends including the asset balance as of March 31, 2025, in rate base and amortizing the balance over six years.[25] Staff recommends adjusting the test year amount to reflect the true up amount.[26]

16. What is the appropriate rate base balance for the prepaid pension asset, pension tracker, and OPEB tracker?

Staff Position: For Empire's Missouri jurisdictional balance of the prepaid pension asset, pension tracker, and OPEB tracker, rate base should reflect $33,299,061, ($26,112,015), and ($9,256,240) respectively.[27]

17. Should the solar initiative include rebates paid for systems that became operational after December 31, 2023?

Staff Position: No. The Commission approved tariff language explicitly used the December 31, 2023, system operational date and any rebates paid by Empire after that date should not be included in the solar initiative regulatory asset.[28]

18. What is the appropriate rate base and amortization expense for the solar initiative and solar rebate regulatory assets?

Staff Position:

a. Solar rebate rate base: $10,076,039 and solar initiative rate base: $6,109,619;[29]
b. Amortized over 5 years: Solar rebate expense $2,015,208 and solar initiative expense: $1,221,924.[30]

19. What is the appropriate rate base and amortization expense for the Riverton 12 tracker?

Staff Position: $0 for rate base and $0 for amortization expense. The regulatory asset flipped to a regulatory liability in August of 2025 before the effective date of rates in this case. See #20.

20. Should the Riverton 12 O&M amortizations continue to be tracked through the effective date of rates in this case?

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[25] Direct Testimony of Sydney Ferguson, page 5, lines 13-20. (Note: There was no methodology change from direct to true up so no testimony was made, direct mentions September 30, 2024. Matthew Young's true up direct will mention true up adjustments)

[26] Direct Testimony of Sydney Ferguson, page 5, lines 13-20. (Note: There was no methodology change from direct to true up so no testimony was made, direct mentions September 30, 2024. Matthew Young's true up direct will mention true up adjustments).

[27] Staff accounting schedules, schedules 2 and 9.

[28] (Giacone direct page 16-19, tariff attached as schedule JG-d5, Giacone surrebuttal/true-up direct page 11 lines 19-22 and page 12 lines 1-26)(Emery rebuttal page 8-9)(Emery true-up rebuttal, pages 2-3 and 9-10)

[29] (Giacone direct page 19) (Giacone surrebuttal/true-up direct page 11 lines 20-22 and page 12 lines 1-26)(Giacone true-up rebuttal page 2 lines 11-19) (Emery direct page 18-19, 40-41,)(Emery rebuttal page 27) (Emery true-up rebuttal, pages 2-3 and 9-10)

[30] (Giacone direct page 19) (Giacone surrebuttal/true-up direct page 11 lines 20-22 and page 12 lines 1-26)(Giacone true-up rebuttal page 2 lines 11-19) (Emery direct page 18-19, 40-41,)(Emery rebuttal page 27) (Emery true-up rebuttal, pages 2-3 and 9-10)

Staff Position: Yes.[31]

21. What balance for the PISA regulatory assets and associated amortization expense should be included in the revenue requirement?

Staff Position: $209,928,201 as of the March 31, 2025, true-up date, subject to issue #22 and #89b.[32]

22. Should Empire's PISA assets be reduced for deferred costs related to Riverton 10 repairs?

Staff Position: Staff takes no position at this time but reserves the right to do so based upon the evidence presented at hearing.

23. Should the Riverton Environmental Costs be reflected in rate base and amortization expense?

Staff Position: No. Riverton Environmental Costs should not be reflected in rates.[33]

24. In consideration of all relevant factors, what is the appropriate rate base and amortization expense balance for the tornado AAO?

Staff Position: Staff recommends a rate base of $0 and a normalized expense of negative $(2,466) to reduce over collection as the balance will be negative before new rates become effective.[34]

25. What is the appropriate balance of the PAYGO tracker regulatory asset?

Staff Position: $496,812.[35]

26. How long should the PAYGO tracker regulatory asset be amortized?

Staff Position: Over 3 years.[36]

27. Should the Company be allowed a return on the PAYGO tracker regulatory asset balance?

Staff Position: No.[37]

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[31] (Giacone direct page 12 lines 24-26, page 13 and page14 lines 1-16, Giacone surrebuttal/true-up direct page 13 lines 1-12)(Emery direct page 18, 39-40, Emery rebuttal page 21, 49-50, 52)(Emery true-up rebuttal, pages 2-3 and 9-10)

[32] (Giacone surrebuttal/true-up direct page 8 lines 1-17, page 9-10 and page 11 lines 1-18)(Emery direct page 19-20 and 31, 38, 42, Emery rebuttal page 20-21, 49) (Emery true-up rebuttal, pages 2-3 and 9-10)

[33] Staff accounting schedules, schedules 2 and 9.

[34] Nathan Bailey, CPA Staff true-up cost of service report.

[35] (Giacone surrebuttal/true-up direct page 7, lines 20-21)(Emery true-up rebuttal pages 2-3, page 7 lines 7-18 and pages 9-10)

[36] (Giacone surrebuttal/true-up direct page 7 lines 20-21) (Emery direct page 42, Emery rebuttal page 9-10) (Emery true-up rebuttal page 7, lines 7-18 and pages 9-10)

[37] (Giacone surrebuttal/true-up direct page 7, lines 20-21) (Emery true-up rebuttal page 7, lines 7-18)

28. Should the Company be allowed to recover property tax expense that was tracked since the effective date of the applicable statute? If so, what should be the approved rate base and amortization period?

> **Staff Position:** No. The base level of property tax should be set based on the level of property tax included in this case. There is not an existing property tax tracker that exists until the effective date of rates in this case.[38]

29. Should the Company be allowed to include the deferred long-term maintenance prepayment costs in rate base? If so, what is the appropriate deferred long-term maintenance prepayment balances as it pertains to Riverton, StateLine, and the Wind SWMA?

> **Staff Position:** Staff has determined that the appropriate accounting method for long term maintenance contract costs, consistent with the USOA, is to treat all long-term maintenance costs as maintenance expenses. Staff recommends the Commission include a two-year average of long term maintenance contract costs in Empire's cost of service.[39]

30. Is there a lawful SB-EDR regulatory asset? Should rates reflect the SB-EDR regulatory asset and respective amortization, including recovery of all SB-EDR discounts incurred since the Company's last rate case?

> **Staff Position:** No. Staff calculated the EDR discounts consistent with Section 393.1640[40] This Section provides specific language on how to treat EDR discounts. The statute does not state or imply that a regulatory asset should be established or a return on rate base with an annual amortization of these discounts should be recovered from customers.[41] Staff recommends the Commission deny Empire's proposed rate base treatment and corresponding annual amortization for EDR discounts

31. Should the over-amortization of Empire's unprotected Excess Accumulated Deferred Income Taxes (EADIT) be reflected in rate base and amortization expense?

> **Staff Position:** Yes. The balance of unamortized unprotected EADIT was a rate base item in Empire's prior cases. Unprotected EADIT was also authorized to be tracked in Empire's prior cases. The over-amortization balance of Empire's EADIT tracker as of the March 31, 2025, true-up date should be recognized in rate base, as well as a corresponding amortization expense in the income statement, for consistency.[42]

32. What is the appropriate balance for the rate base recognition and amortization expense of the unprotected EADIT tracker?

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[38] (Giacone direct page 9-12, Giacone surrebuttal/true-up direct page 2 lines 1-28 and page 3 lines 1-28)(Emery direct page 5 and 21-22, 32, 36, 42, Emery rebuttal page 15-18) (Emery true-up rebuttal page 8, lines 13-20)
[39] Surrebuttal True-up Testimony of Christopher L. Boronda pages 1, line 22 – page 7, line 12
[40] Sarah L.K. Lange, Class Cost of Service direct testimony. Ms. Lange also addresses EDR discounts in her rebuttal testimony beginning on page 2
[41] Karen Lyons Rebuttal Testimony, page 9, lines 21-23.
[42] Staff accounting schedules, schedules 2 and 9.

Staff Position: The March 31, 2025, Missouri jurisdictional unprotected EADIT tracker balance is an $11,407,810 asset and the corresponding five-year amortization expense is $2,281,562.[43]

33. What is the appropriate rate base and amortization expense balance for protected EADIT?

Staff Position: The March 31, 2025, Missouri jurisdictional protected EADIT tracker balance is an $81,610,215 liability and the corresponding average rate assumption method amortization expense is ($1,773,691).[44]

34. How should the deferred Asbury AAO costs be returned to customers?

Staff Position: The difference between the Asbury retirement costs incurred and the retirement costs securitized as of September 30, 2024, should be included as a three-year amortization that reduces Empire's ongoing cost of service.[45]

35. What is the appropriate rate base and amortization expense balance for the Asbury AAO liability?

Staff Position: The September 30, 2024, balance of the Asbury AAO liability is $3,250,131. The corresponding amortization expense is ($1,083,377).[46]

ADIT

36. What is the appropriate ADIT balance to be included in rate base?

Staff Position: The March 31, 2025, Missouri Jurisdictional ADIT liability is $371,403,424.[47]

37. Should a net operating loss (NOL), deferred tax asset balance be included in rate base?

Staff Position: Staff's standard approach is to include a utility's book ADIT balance in the ratemaking accounting schedules. As such, Staff's recommended ADIT balance includes Empire's NOL deferred tax asset.[48]

Income Statement Issues

38. What is the appropriate balance of retail revenues?

Staff Position: Staff takes no position at this time but reserves the right to do so based upon the evidence presented at hearing.

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[43] Staff accounting schedules, schedules 2 and 9.
[44] Staff accounting schedules, schedules 2 and 11.
[45] Young direct, pages 10 – 13.
[46] Staff accounting schedules, schedules 2 and 9.
[47] Staff accounting schedules, schedule 2.
[48] Staff accounting schedules, schedule 2.

39. What level of PAYGO revenue should be included in the revenue requirement?

Staff Position: $7,705,078 which is based on 2024 actual wind production. Actual 2024 wind production was normal and reasonable, and it reflects the amount of wind production that would be expected going forward.[49]

40. What is the appropriate level of miscellaneous revenues to be included in Empire's revenue requirement?

a) What is the appropriate balance of forfeited discount revenues?
b) What is the appropriate balance of reconnect/misc revenues?
c) What is the appropriate balance of rent revenues?
d) What is the appropriate balance of other electric revenues?
e) What is the appropriate balance of Plum Point Transmission revenues?

Staff Position: The appropriate level of miscellaneous revenues to be included in Empire's revenue requirement vary based on the revenue. There are different calculations for the different types of revenues based on historic numbers and some updated through the update period to reflect an average year of miscellaneous revenues. The miscellaneous revenues appropriate to be included in Empire's revenue requirement as calculated by Staff include:

Franchise Fee Revenues (offset by Franchise Tax Expense): $0
Unbilled Revenues: $0
FAC Revenues: $0
MEEIA Revenues: $0
Rent Revenues: $1,083,948
Forfeited Discounts: $1,499,441
Reconnect Charges: $82,910
Returned Check Charges/Other Electric Revenue-MO: $356,241
Plum Point Transmission Credit Revenue: $38,356[50]

41. Renewable Energy Credits ("RECs")

a. What amount of revenues from the sale of RECs should be included in Empire's revenue requirement?

Staff Position: The appropriate REC revenues to be included in Empire's revenue requirement is $7,557,793. This adjusts the test year amount to the update period amount.[51]

b. What amount of revenues from the sale of RECs should be included in Empire's FAC base factor?

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[49] (Giacone direct page 24-25, Giacone surrebuttal/true-up direct page 7, lines 18-19)(Emery direct page 23, Emery rebuttal page 24-26)
[50] Melanie Marek Direct Testimony, page 8, line 19 through page 9, line 17.
[51] Melanie Marek Direct Testimony, page 9, lines 9-10.

Staff Position: As demonstrated in Staff witness Mrs. Mastrogiannis' True-Up Direct Testimony workpaper, the amount of revenues from the sale of RECs that should be included in Empire's FAC is $7,557,793.

42. What level of TCR/ARR revenues should be included in Empire's revenue requirement and for calculating Empire's FAC base factor?

Staff Position: As demonstrated in Staff witness Mrs. Mastrogiannis' True-Up Direct Testimony workpaper, the amount of TCR/ARR revenues that should be included in Empire's FAC is $40,317,269. This same amount is also included in Staff's revenue requirement.

As demonstrated in Staff witness Nieto's ER-2024-0261 Ancillary & Misc. expense True-Up Testimony workpaper, the amount of TCR/ARR revenues to be included in Empire's revenue requirement and for calculating Empire's FAC base factor is $40,317,269.

43. What is the appropriate balance of net fuel and purchased power costs?

a. Should the Commission set rates based on natural gas fuel costs based on natural gas fuel prices (actual and/or projected) for periods beyond the March 31, 2025 true-up cut-off date?

Staff Position: No. The Commission should set rates based on natural fuel costs based on natural gas fuel prices as a twelve-month weighted average of hedged and non-hedged components as of March 31, 2025, true-up cut off date in this case.

b. Should the Commission set rates based on energy market costs based on energy market prices (actual and/or projected) for periods beyond the March 31, 2025 true-up cut-off date?

Staff Position:

44. What is the appropriate amount of long-term maintenance costs to include in Empire's cost of service?

Staff Position: Staff has determined the appropriate amount of long-term maintenance costs to include in Empire's cost of service is a two-year average ending September 30, 2024.[52]

45. What is the appropriate amount of non-wind generation operation and maintenance to include in Empire's cost of service?

Staff Position: Staff has determined the appropriate amount of operation and maintenance ("O&M") costs to include in Empire's cost of service is an average, based on plant overhaul cycle, ending September 30, 2024.[53]

46. Excluding Riverton 10 and 11, what is the appropriate level of depreciation and amortization expense of plant to include in the cost of service?

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[52] Surrebuttal True-up Testimony of Christopher L. Boronda pages 6, line 15 – page 7, line 12.
[53] Direct Testimony of Christopher L. Boronda pages 5, line 8 – page 7, line 11.

Staff Position: The appropriate amount of depreciation and amortization expense are represented in Staff's accounting schedules. $129,063,619 of depreciation expense is calculated on schedule 5 and $608,998 of amortization of intangible assets is included in schedule 9.[54]

47. What is the appropriate level of depreciation and amortization expense of plant to include in the cost of service for Riverton 10 and 11?

Staff Position: The appropriate amount of depreciation and amortization of Riverton 10 and 11 is $1,700,997. This amount excludes the cost of repairs to Riverton 10.[55]

48. If Empire is not allowed to earn a return on retired non-AMI meters that created a negative reserve balance, how should the negative reserve balance be treated?

Staff Position:

49. What is the appropriate amount to include for vegetation management expense?

Staff Position: The appropriate amount of vegetation management expense to include in rates is the test year cost.[56]

50. What is the appropriate level of bad debt expense to be included in Empire's revenue requirement?

Staff Position: The appropriate level of bad debt expense to be included in the revenue requirement is based on a five-year average ending March 31, 2025.[57]

51. What is the appropriate rate case expense for this case?

a. Should the Commission disallow the rate case expense associated with Empire witness John J. Reed?

Staff Position:

b. What amortization period should be used for the depreciation study and line loss study?

Staff Position:

b.1. Staff recommends that the depreciation study be depreciated over a 5-year period consistent with Commission Rule 20 CSR 4240-3.160(1) which requires that a depreciation study be conducted as follows:

> "(1) In addition to the requirements of 4 CSR 240-3.030, any electric utility which submits a general rate increase request shall submit the following:

[54] Staff accounting schedules, schedules 5 and 9.
[55] Staff accounting schedules, schedule 5.
[56] Young surrebuttal / true-up direct, pages 18 – 19.
[57] Melanie Marek Direct Testimony, page 1, line 21 through page 2, line 16, and Surrebuttal Testimony page 4, lines 12-21.

(A) Its depreciation study, database and property unit catalog. However, an electric utility need not submit a depreciation study, database or property unit catalog to the extent that the commission's staff received these items from the utility during the three (3) years prior to the utility filing for a general rate increase or before five (5) years have elapsed since the last time the commission's staff received a depreciation study, database and property unit catalog from the utility."

b.2. Staff recommends that the line loss study be amortized over 4 years consistent with the frequency required of electric utilities under Commission Rule 20 CSR 4240-20.090 (13)(B) which states:

> "When the electric utility seeks to continue or modify its RAM, the end of the twelve- (12-) month period of actual data collected that is used in its Missouri jurisdictional system loss study must be no earlier than four (4) years before the date the utility files the general rate proceeding seeking to continue or modify its RAM."

52. What is the appropriate level of insurance expense to be included in Empire's revenue requirement?

Staff Position: The appropriate level of insurance expense to be included in the revenue requirement is based on the actual amount of insurance premiums for the current year; in lieu of normalizing to reflect a full year of insurance expense at the most current rates because insurance rates changed during the test year.[58]

53. What is the appropriate level of injuries and damages & worker's compensation expense to be included in Empire's revenue requirement?

Staff Position: The appropriate level of injuries and damages & worker's compensation expense to be included in the revenue requirement is based on the actual amount of cash payments made through the update period and capitalized at 50%.[59]

54. What is the appropriate level of payroll expense and payroll taxes to be included in Empire's revenue requirement?

Staff Position: The appropriate level of payroll expenses to be included in the revenue requirement is based off of actual employee and wage data as of March 31, 2025, excluding open positions.[60]

The appropriate level of payroll taxes to be included in the revenue requirement are based on the March 31, 2025, employee data, excluding open positions.[61]

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[58] Melanie Marek Direct Testimony, page 4, line 7 through page 5, line 2.
[59] Melanie Marek Direct Testimony, page 3, line 13 though page 4, line 6.
[60] See Lindsey Smith Surrebuttal Testimony, page 13, line 1 to page 15, line 7.
[61] See Lindsey Smith True Up Direct Testimony, page 13, line 1 to page 15, line 7.

55. What is the appropriate level of payroll related benefits to be included in Empire's revenue requirement?

> **Staff Position:** The appropriate level of payroll related benefits to be included in the revenue requirement is based off of actual employee data as of March 31, 2025, excluding open positions.[62]

56. What is the appropriate level of incentive compensation expense to be included in Empire's revenue requirement?

> **Staff Position:** The appropriate amount of STIP and SBP is the amount which disallows incentive compensation based on financial metrics that do not benefit the ratepayers and the Customer First program that is not fully used and useful.[63]'
>
> The appropriate amount of LTIP is zero as it is an equity-based incentive for shareholders and not a benefit to ratepayers.[64]

57. Should severance be included in the revenue requirement? If not, what is the appropriate rate base and expense reduction for severance costs?

> **Staff Position:** No. Staff recommends removing $349,177 from rate base and $870,219 from expense.[65]

58. What is the appropriate level of PSC assessment expense to be included in Empire's revenue requirement?

> **Staff Position:** The appropriate level of PSC assessment expense to be included in the revenue requirement is based on the actual amount of the 2025 PSC assessment.[66]

59. What is the appropriate level of Department 115 wind O&M expense to include in the revenue requirement?

> **Staff Position:** $530,899, which reflects a 3-year average amount of expense from 2022-2024 for multiple accounts.[67]

60. What is the appropriate level of non-FAC wind revenue and expense to include in the revenue requirement?

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[62] See Lindsey Smith Surrebuttal Testimony, page 15, line 9 to page 16, line 2.

[63] Melanie Marek Direct Testimony, page 6, line 1 through page 8, line 18, and the Surrebuttal Testimony of Melanie Marek, page 2, line 1 through page 4, line 11.

[64] Melanie Marek Direct Testimony, pages 6-8, and Surrebuttal Testimony of Melanie Marek, pages 2-4.

[65] (Giacone direct page 8 lines 17-23, page 9 lines 1-3 and 14 lines 18-23, page 15 lines 1-22, page 16 lines 1-2) (Giacone surrebuttal/true-up direct page 4, lines 1-12) (Giacone true-up rebuttal page 1 lines 22-24 and page 2 lines 1-10)(Emery rebuttal page 8, page 41-42, 44, 52)(Emery surrebuttal/true-up direct page 24, lines 17-21 and page 35, lines 8-18)(Emery true-up rebuttal page 17, lines 14-23)

[66] Melanie Marek Direct Testimony, page 5, lines 3-14.

[67] (Giacone surrebuttal/true-up direct page 13 lines 14-17) (Emery direct page 33, 51-52, Emery rebuttal page 42-43)(Emery true-up rebuttal page 4-14)

Staff Position: There are multiple accounts. Staff reflected the last known and measurable amount for some accounts and for other accounts Staff normalized or annualized the amounts based on the most recent known and measurable data.[68]

61. What is the appropriate level of rating agency fees to be included in Empire's revenue requirement?

Staff Position: The appropriate level of rating agency fees to be included in the revenue requirement is based on a three-year average ending September 2023.[69]

62. What expense amount should be included in the revenue requirement for FAS 87 costs?

Staff Position: FAS 87 cost (pension) should be set equal to the actuarial expense calculated for the 2024 plan year.[70]

63. What expense amount should be included in the revenue requirement for FAS 88 costs?

Staff Position: FAS 88 cost (pension) should be set equal to $0. FAS 88 costs are erratic and non-recurring. In the event Empire does incur a FAS 88 cost subsequent to this case, it will be included in the pension tracker supported by Staff and Empire.[71]

64. What expense amount should be included in the revenue requirement for FAS 106 costs?

Staff Position: FAS 106 (OPEB) should be set equal to the actuarial expense calculated for the 2024 plan year.[72]

65. What expense amount should be reflected in the revenue requirement for SERP?

Staff Position: SERP expense should reflect the most recent recurring cash payments as of September 30, 2024.[73]

66. What level of dues and donations expense should the Commission recognize in Empire's revenue requirement?

Staff Position: The Commission should not recognize any dues and donations that provide no benefit or increased service quality to the ratepayer. Staff excluded dues and donations that do not have any direct benefit to ratepayers and that were not proven by

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[68] (Giacone direct page 2 lines 6-13, page 3-5 and page 6 lines 1-13, Giacone surrebuttal/true-up direct page 13 lines 18-22 and page 14 lines 1-6)(Emery direct page 31-32 and 35, 50, Emery rebuttal page 28, 49)
[69] Melanie Marek Direct Testimony, page 5, lines 15-22.
[70] Young true-up rebuttal, pages 1 – 2.
[71] Young rebuttal, pages 14 – 15.
[72] Young true-up rebuttal, pages 1 – 2.
[73] Young direct, pages 23 – 24.

Empire in a quantifiable way to be necessary for the provision of safe and adequate service.[74]

The Commission should not recognize any of the EEI dues in the ordered revenue requirement. The Commission has consistently held from the Commission Order in Case No. ER-82-66 that "…until the Company can better quantify the benefit and activities that were the causal factor of the benefit, the Commission must disallow EEI dues and expenses." In this case the Company did not provide any quantification or analysis to comply with that Commission order. Therefore, none of the EEI expenses should be included in the ordered revenue requirement.[75]

67. What is the appropriate amount of Advertising Expense to include in Empire's revenue requirement?

Staff Position: Staff recommends removing any expense that meets the Commission criteria to be removed. On this removed amount, Staff recommends using allocations corresponding with the accounts that the amounts are to be removed from.[76]

68. What is the appropriate amount of customer payment fees to include in Empire's revenue requirement?

Staff Position: Staff recommends adjusting the amount in the revenue requirement to the update period of the case.[77]

69. What is the appropriate amount of lease expense to include in Empire's revenue requirement?

Staff Position: Staff recommends no adjustments to lease expense as all lease expenses are under plant and reserve.[78]

70. What is the appropriate amount of expense to be included in cost of service associated with water used at State Line facility?

Staff Position: The appropriate level of expense to include in cost of service associated with water used at State Line facility is a two-year average of historical water usage ending March 31, 2025, the true-up period in this case.

71. Should new MAWC water rates that took effect on May 28, 2025 be included in the calculation of expense associated with water usage at State Line?

Staff Position: No. The true-up filing in this rate proceeding has a Commission ordered true-up date of March 31, 2025. The new water rates took effect after the cut-off period

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[74] See Lindsey Smith Direct Testimony, page 7, line 12 to page 8, line 20 and Lindsey Smith Surrebuttal Testimony, page 4, line 1 to page 6, line 22.
[75] See Lindsey Smith Direct Testimony, page 8, line 21 to page 11, line 10 and Lindsey Smith Surrebuttal Testimony, page 7, line 1 to page 10, line 18.
[76] Direct Testimony of Sydney Ferguson, page 2, line 8 to page 4, line 6.
[77] Direct Testimony of Sydney Ferguson, page 4, lines 8-10.
[78] Direct Testimony of Sydney Ferguson, page 4, lines 12-23.

and including those rates would be considered an out-of-period adjustment, which is generally not permitted under Missouri regulatory policy. For more detailed discussion on out-of-period adjustments, their use and limitations, please refer to Rebuttal testimony of Staff witness Young in this proceeding.[79]

72. What level of cyber-security expense should the Commission recognize in Empire's revenue requirement?

Staff Position: The appropriate level of cyber security expense included in Empire's cost of service is based on Empire's historical non-labor cyber security expense as of the test year 12 months ending September 30, 2023. To the extent Empire incurred capital and labor cyber security costs through the true up period, March 31, 2025. In addition, Staff included capital labor costs through the true up period, March 31, 2025. Cyber security costs are normal recurring operating expense incurred by Empire that be reasonably calculated using historical data and regulatory principles such as annualizations. Forecasted costs, as proposed by Empire, are not known and measurable and disrupt the matching relationship among investment, revenue, and expense. Therefore, Staff does not support Empire's recommendation to use a forecasted level of cyber security costs. See Karen Lyons Surrebuttal Testimony.[80]

73. Should the January 2025 CAM allocators be used for this case?

Staff Position: No. Empire's January 2025 change to its allocations, and subsequent revisions to its Cost Allocation Manual ("CAM"), after it completed the sale of their non-renewable energy business were not provided to Staff. At this time, Staff cannot determine what impact these changes will have on Empire's revenue requirement and has not reviewed the revised CAM. For these reasons, Staff supports the 2024 allocations factors.[81]

74. What is the appropriate level of A&G expense?

Staff Position: Staff takes no position at this time but reserves the right to do so based upon the evidence presented at hearing.

75. What is the appropriate interest rate to calculate interest expense on customer deposits to include in Empire's rate base?

Staff Position: The appropriate interest rate to calculate interest expense on customer deposits to include in the revenue requirement is, consistent with Empire's tariff, the prime interest rate published in the Wall Street Journal as being in effect on the last business day of December of the prior year (7.50% at December 31, 2024) plus 1%, for a total of 8.50%.[82]

76. What is the proposed amortization expense balance of Ice Storm costs?

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[79] Antonija Nieto Surrebuttal / True-Up Direct Testimony, Page 2

[80] Karen Lyons Surrebuttal, Pages 1-4
[81] *See* Angela Niemeier Rebuttal Testimony, page 1-3.
[82] *See* Lindsey Smith Direct Testimony, pages 6-7, and Lindsey Smith Surrebuttal Testimony, page 10, line 19 to page 11, line 9.

Staff Witness: In the previous case, ER-2021-0132, Empire booked ice storm amortizations from Kansas in account 593599 that are not allowed for recovery in Missouri. Staff determined during its review of Empire's cost of service that these costs were not allocated to Missouri in the present case; therefore, there is no adjustment recommended by Staff at this time.[83]

77. What is the appropriate amortization expense balance for the stub period EADIT?

Staff Position: The appropriate amortization expense for the stub period EADIT is $0 due to the full amortization prior to the effective date of rates. Staff recommends that the over or under amortized balance of this asset be addressed in Empire's next rate case.[84]

78. What amount of intangible plant amortization expense should be included in the revenue requirement?

Staff Position: Intangible plant amortization expense should reflect the ongoing amortization of assets that are not fully amortized as of March 31, 2025.[85]

79. What is the appropriate level of depreciation clearing expense to be included in Empire's revenue requirement?

Staff Position: The appropriate level of depreciation clearing expense to be included in the revenue requirement is based on the actual amounts of depreciation clearings in the test year.[86]

80. What are the appropriate depreciation rates to be ordered by the Commission?

Staff Position: Staff recommends the Commission order the use of the depreciation rates prepared by Staff attached to Staff Witness Bowman's Surrebuttal Testimony as Schedule MB-s1.

81. What level of property tax should be included in the revenue requirement calculation for non-wind property and wind property?

Staff Position: Staff recommends a level of $30,112,271 be included in the revenue requirement calculation: Staff non-wind: $25,850,330 ; Staff wind: $4,261,941 which is based on the most recent known and actual 2024 property tax amounts paid.[87]

82. Should federal income tax credits be recognized in the revenue requirement, and if so, what is the appropriate balance to be included in the revenue requirement?

Staff Position: Yes, federal income tax credits should be recognized in the revenue requirement as a reduction to ratemaking income tax expense. Staff recommends

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[83] Nathan Bailey, CPA direct testimony page 6.
[84] Young direct, pages 16 – 18.
[85] Young direct, page 10.
[86] Melanie Marek Direct Testimony, page 3, lines 1-12.
[87] (Giacone direct page 12, line 14)(Emery direct page 49, Emery rebuttal page 27)(Emery surrebuttal/true-up direct page 33, lines 1-11)

including $544,326 for the Missouri jurisdictional amount of Alternative Fuel Credits and $611,567 for the Missouri jurisdictional amount of General Business Credits.[88]

83. Should disposition losses offset current income tax expense?

Staff Position: No. The tax benefit of disposition losses should be reflected in the rate base reduction for accumulated deferred income taxes.[89]

84. What is the appropriate jurisdictional allocations to use for this case?

Staff Position: Staff calculated jurisdictional allocations based on documents provided by Empire. Staff applied those allocations to calculate the revenue requirement. While Empire states they have account specific allocations, Empire did not offer support for those. Staff cannot support allocations based on material it has not been able to review. Staff Witness Angela Niemierer.

85. What is the value of the variable fuel and purchase power expense?

Staff Position: Staff calculates the variable fuel and purchased power expense for Empire District Electric Company for known and measurable changes through the true-up cut-off date of March 31, 2025, to be $86,728,553.[90]

86. Should Liberty be authorized to utilize the Reverse South Georgia Method to return protected excess ADIT to customers? If so, what is the appropriate annual amortization and weighted average remaining plant life to use?

Staff Position: No. Liberty should use the Average Rate Assumption Method in accordance with IRS guidance.[91]

87. Should the Commission set rates based on amortization of unprotected Excess Accumulated Deferred Income Taxes ("EADIT") beyond the true-up cut-off date of March 31, 2025?

Staff Position: No. The Commission should not include a discrete adjustment to measure the balance of unprotected EADIT beyond the March 31, 2025, true-up date.[92]

88. Riverton 10 Repairs

a. Were the Riverton 10 repair costs prudently incurred?

Staff Position: No. Empire's failure to comply with SPP's Generating Facility Replacement Request requirement forced it to undertake an unnecessary repair Riverton 10. Had Empire complied, the** [redacted] ** repair on a unit it was actively seeking to replace would not have been required.[93] Empire avoided repairing Riverton 10 even after FERC denied a waiver and a borescope inspection of Riverton 11 revealed major

[88] Young rebuttal, page 6.
[89] Young rebuttal, page 6 – 8.
[90] Shawn E. Lange's surrebuttal / true-up direct testimony Pg. 2 Line 15- Pg. 3 Line 9.
[91] Young surrebuttal / true-up, page 5.
[92] Young rebuttal, pages 3 – 7.
[93] Page 7, Lines 1-13 of Brodrick Niemeier's Surrebuttal Testimony.

reliability concerns. This delay in completing the now required Riverton 10 repair left Empire without either Riverton 10 or Riverton 11 from August 2023 to January 2024.[94]

b. What amount of the Riverton 10 repairs capital cost should be included in rate base?

Staff Position: Staff recommends a disallowance of the entire cost to repair Riverton 10, which is ** [redacted], ** as this cost would not have been required if Empire had acted prudently in filing a request to replace Riverton 10.[95]

For the reasons provided by Staff witness Brodrick Niemeier, $0 should be included in rate base for Riverton 10 repairs.[96] Staff Witness Matthew Young

c. Has Empire violated the Commission-ordered Stipulation and Agreement Paragraph 4(j) in Case No. EA-2023-0131?[97]

Staff Position: Yes. Empire did violate this Commission order. The order required "testimony." Empire included Riverton 10 repair costs in direct testimony without mentioning Riverton 10 repairs, then again failed to state in rebuttal testimony that they included the repair costs. Instead, Empire witness Brian Berkstresser quoted Empire's Response to OPC's Ratemaking Suggestion in EA-2023-0131. This document was filed before the Stipulation and Agreement that ordered Empire to provide a discussion on Riverton 10 repairs. Staff does not view this procedure as complying with the Commission order because it did not allow for meaningful, coherent rebuttal and cross rebuttal.[98]

89. Ozark Beach Crane Extension

a. Were the costs of the crane extension project at Ozark Beach prudently incurred?

Staff Position: Yes. The project was reasonable as Empire provided reasonable safety concerns as justification for the project.[99]

b. Does the crane extension project at Ozark Beach qualify for PISA?

Staff Position: Yes. Under Section 393.1400.2, the Ozark Beach project does qualify for PISA.[100]

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[94] Page 5, Line 13-Page 6, Line 7 of Brodrick Niemeier's Surrebuttal Testimony
[95] Page 5, Line 8 and 9 of Brodrick Niemeier's Surrebuttal Testimony.
[96] Young surrebuttal / true-up, page 8.
[97] Paragraph 4(j) of the Stipulation and Agreement in EA-2023-0131 states, among other things: "Liberty shall provide testimony on the decision process followed during the repair/replacement of Riverton Units 10 and 11 as well as any changes in policy resulting from that process."
[98] Page 3, Lines 3-10 of Brodrick Niemeier's Surrebuttal Testimony.
[99] Page 9, lines 14-16 of Brodrick Niemeier's Surrebuttal Testimony.
[100] Page 9, Lines 7-9 of Brodrick Niemeier's Surrebuttal Testimony.

FAC

90. Which FERC subaccounts should be included in Empire's FAC tariff sheets?

Staff Position: Staff recommends that Empire continue to include information provided in Schedule BM-d2,[101] attached to the direct testimony of Brooke Mastrogiannis, either within the tariff or as an attachment to the tariff or any agreed upon document resolving this case, to clarify the list of sub-accounts included and excluded within the FAC.[102]

91. What should be the FAC base factor for this case?

Staff Position: Staff calculated the true-up direct base factor rate in this case based upon the following information: (1) net base energy costs (fuel and purchased power costs less off-system sales ("OSS") revenue) including Staff's accounting adjustments to the true-up period; and (2) normalized net system inputs:

Base Energy Costs	$57,500,149
Net System Inputs	5,174,826,620
Base Factor	$0.01111 per kWh[103]

92. What are the appropriate FAC Voltage Adjustment Factors for Empire?

Staff Position: Staff recommends the following FAC Voltage Adjustment Factors:

Staff recommends the following VAFs, at the corresponding voltage levels, as determined from an analysis of Empire's latest System Energy Loss Study. This Loss Study was provided to Staff in January 2025 and is based upon data collected on Empire's system during calendar year 2023. Submission of this Loss Study is required by 20 CSR 4240-20.090(13) in conjunction with Empire's request to continue a Rate Adjustment Mechanism such as their FAC tariff. Staff Witness Alan Bax.

VAF Transmission	1.0376
VAF Primary	1.0534
VAF Secondary	1.0748[104]

93. What is the percentage of SPP and MISO transmission expense that should be recovered through the FAC?

Staff Position: Staff's calculated pass-through percentage of SPP transmission costs in the FAC is 21.33%[105] and the percentage for MISO transmission expense should remain 50%. The SPP transmission expense is further discussed in Staff witness Brooke Mastrogiannis' rebuttal testimony pages 2 through 6. In short, Staff's position is to continue including in the FAC only transmission costs that the Commission approved in

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[101] Staff created Schedule BM-d2 from Empire witness Leigha Palumbo's Schedule LP-7, with modifications.

[102] Staff witness Brooke Mastrogiannis direct testimony, filed July 2, 2025, page 2 lines 3 through 6.

[103] Staff witness Brooke Mastrogiannis Surrebuttal/True-Up Testimony, filed September 17, 2025, page 5 lines 3 through 9.

[104] Staff witness Alan J. Bax direct testimony, filed July 2, 2025, page 11, lines 1 through 2.

[105] Staff witness Brooke Mastrogiannis Surrebuttal/True-Up Testimony, filed September 17, 2025, page 5 line 15.

ER-2014-0370, ER-2014-0351, and ER-2019-0374. Otherwise, it would be inconsistent with prior Commission rulings, which has stated Empire's transmission costs to be included in the FAC are:

1) Costs to transmit electric power it did not generate to its own load (true purchased power); and
2) Costs to transmit excess electric power it is selling to third parties to locations outside of SPP (off-system sales).

94. Should SPP Schedules 1A and 12 for administrative costs be included in the FAC?

Staff Position: Staff's position is that the costs in SPP Schedule 1A-1, 1A-2, 1A-3 and 1A-4 (tariff Administration Service) and SPP Schedule 12 (FERC Assessment) are not fluctuating fuel and purchased power costs, but instead are administrative costs, and should not flow through the FAC. This is consistent with the Commission's treatment of SPP Schedule 1A and Schedule 12 costs in recent past Empire[106] rate cases, as well as in the Evergy Missouri West[107] and Evergy Missouri Metro[108] cases.[109]

95. What percentage of the SPP transmission revenues should be included in the FAC and its base factor calculation?

Staff Position: None. This was explained in Staff witness Brooke Mastrogiannis' rebuttal testimony on page 6.

96. What additional FAC reporting requirements, if any, should the Commission require of Empire?

Staff Position: The additional FAC reporting requirements are outlined within Brooke Mastrogiannis' direct testimony, pages 2 and 3.

a. Should Empire's FAC reporting include providing its FAC reports to Public Counsel?

Staff Position: Although Staff has no testimony on this, Staff does not oppose Empire's FAC reporting being provided to Public Counsel.

97. How should the FAC tariff sheets be revised?

Staff Position: As explained in FAC questions 93, 94, and 95 above, the SPP transmission expense should be 21.33% and MISO transmission expense should remain at 50%, there should be no costs associated with SPP Schedules 1A and Schedule 12, and there should be no transmission revenues. Therefore, the Empire proposed edits to the FAC tariff sheets should not be approved, and the only language that would change is the SPP transmission costs would be 21.33% instead of 19.39%.

Additionally, to avoid Empire from over-recovering, and so other retail customers do not pay portions of the increased FAC cost components, there needs to be language in the

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106 Case No's ER-2019-0374 and ER-2021-0312.
107 Case No's ER-2022-0130 and ER-2024-0189.
108 Case No. ER-2022-0129.
109 Staff witness Brooke Mastrogiannis Rebuttal Testimony, filed August 18, 2025, page 7 lines 1 through 6.

FAC tariff sheet that the costs incurred to each large load customer should be excluded from the FAC.[110] See question 99 below.

98. What ratio of the difference between Empire's actual and base net fuel costs should the Commission order be shared between Empire and its customers as an incentive mechanism in Empire's FAC, should the Commission authorize continuation of an FAC for Empire?

Staff Position: Staff's position is to continue to recommend the current sharing incentive mechanism of 95%/5%. Commission Rule 20 4240-20.090(14)(B) states: "Any incentive mechanism of performance-based program shall be structured to align the interest of the electric utility's customers and shareholders." Staff is opposed to the 100%/0% proposed by Empire, because it would not align the interest of the customers at all. Additionally, Empire would have little or no risk at all to make any conscious decisions about any of the costs or revenues that are included for recovery in the FAC, because 100% would be passed through regardless of if Empire made good or bad decisions. Keeping 95%/5% sharing ratio in place forces Empire to be more cognizant of their decisions and have more skin in the game.[111]

Staff does not support OPC's position to terminate Empire's FAC, or at a minimum, change it to 50%/50% sharing. As stated in Brooke Mastrogiannis' direct testimony,[112] Empire's total energy costs ("TEC") show that Empire's TEC's have continued to be large and volatile. While Empire has the ability to control some FAC costs, there are certain levels of costs that become prohibitively more costly to hedge or control.[113]

However, since Empire has chosen to re-evaluate the sharing mechanism to 100%/0%, Staff believes now could be the time for the Commission to re-evaluate and consider other options.[114] Staff is comfortable in maintaining the traditional 95%/5% split sharing mechanism. However, because of the most recent winter storms, and the potential load growth from data centers in the near future, Staff would like to see the electric utilities to be more proactive in trying to limit fuel costs that can be passed along to consumers. Therefore, if the Commission is interested in looking at ways to prompt Empire to take a more proactive approach in controlling its fuel costs, Staff would recommend the Commission consider a 90%/10% sharing mechanism.[115] In addition, there are other states that have 90%/10% or something similar, those are: Colorado, Montana, and Oregon.[116]

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[110] Staff witness Brooke Mastrogiannis Surrebuttal/True-Up Testimony, filed September 17, 2025, page 4 lines 15 through 18.

[111] Staff witness Brooke Mastrogiannis Rebuttal Testimony, filed August 18, 2025, page 8 line 4 through page 9, line 2.

[112] Direct Testimony of Brooke Mastrogiannis, page 6, lines 20 through 22, filed on July 2, 2025.

[113] Staff witness Brooke Mastrogiannis Rebuttal Testimony, filed August 18, 2025, page 9 lines 8 through 12.

[114] Staff witness Brooke Mastrogiannis Rebuttal Testimony, filed August 18, 2025, page 10 lines 11 through 13.

[115] Staff witness Brooke Mastrogiannis Rebuttal Testimony, filed August 18, 2025, page 11 lines 3 through 9.

[116] Staff witness Brooke Mastrogiannis Rebuttal Testimony, filed August 18, 2025, page 12 lines 15 through 17.

This issue was further discussed in Staff witness Brooke Mastrogiannis' rebuttal testimony, pages 8 through 14.

99. Should Empire's FAC tariff sheets be revised in this docket to address the fuel and purchased power impacts of large load customers with 25 MW or more of demand?

Staff Position: Yes. As large load customers are added, the average actual FAC costs will increase above the FAC base cost set in Empire's most recent general rate case. This will cause Empire's other retail customers to pay a portion of the costs Empire incurs to serve these large load customers. Therefore, to avoid Empire from over-recovering, and so other retail customers do not pay portions of the increased FAC cost components, there needs to be language in the FAC tariff sheet that these costs incurred to each large load customer should be excluded from the FAC.[117]

Billing Determinants and Rate Design

100. What level of billing units and normalized revenues should be used in calculating rates?

Staff Position: Staff recommends normalized sales to establish the billing units used to set rates are as follows:
Cox, True-up Direct
Gonzales, True-up Direct
Poudel, True-up Direct
Jennings, Direct

Rate Class	Total MO Normalized Revenue
Residential	$248,269,689
General	$61,258,653
Large General	$113,567,401
Small Primary	$10,455,301
LP (Marina)	$66,324,072
Lighting (MS)	$14,790
Lighting (LS)	$124,241
Lighting (PL)	$4,129,302
Lighting (SPL)	$2,269,445
Transmission	$4,674,852
Total	$511,087,746

a. What update period adjustment should be used in calculating normalized billing units, revenues, and rates?

[117] Staff witness Brooke Mastrogiannis Surrebuttal / True-Up Direct Testimony, filed September 17, 2025, page 4 lines 12 through 18.

Staff Position: Staff's update period adjustment that is the difference between the actual test year revenues and the actual update period revenues.

Staff recommends that the Commission rely upon the level of Transmission Service class revenues Staff has provided for incorporation into Staff's revenue requirement and rate design.[118] Staff analyzed the data provided including calculating the appropriate adjustment comparing the test year to the update period.[119]

b. What adjustment to December 19, 2024, data and manual adjustments should be used in calculating normalized billing units, revenues, and rates?

Staff Position: Staff's December 19, 2024, data and manual adjustments that includes the adjustments provided by Empire in Staff Data Request ("DR") 109,[120] items included in the joint proposed procedural schedule filed on December 13, 2024,[121] and the corrected format of the December 19, 2024, data.[122]

c. What rate switcher and Large Power customer annualization adjustment should be used in calculating normalized billing units, revenues, and rates?

Staff Position: Staff's rate switcher adjustment that includes two Large Power Service ("LPS") customers that switched to Large General Service ("LGS") and one LPS customer that switched to General Service ("GS").[123]

d. What weather normalization and 365 days adjustment should be applied when determining normalized billing units, revenues, and rates?

Staff Position: Staff recommends using Staff's corrected weather normalization and 365 days adjustment. Staff's analysis indicated that the LGS and SP customer classes should be analyzed separately. While the differences between Staff's and Liberty's weather normalization and 365 days adjustment is small, Staff's corrected weather normalization and 365 days adjustment is also consistent with the other billing determinant and revenue adjustments that Staff recommends in this case.

e. What block weather normalization adjustment should be used in calculating normalized billing units, revenues, and rates?

Staff Position: Staff recommends using Staff's block weather normalization adjustment. While Staff did not raise issue with Liberty's method in this case, Staff's method is consistent with the other billing determinant and revenue adjustments that Staff recommends in this case.

f. What Missouri Energy Efficiency Investment Act ("MEEIA") adjustment should be used in calculating normalized billing units, revenues, and rates?

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[118] Page 9, Lines 3-5, Randall Jennings direct testimony.
[119] Page 8, Lines 5-7, Randall Jennings direct testimony.
[120] Cox direct testimony, page 6, lines 12-15 and pages 7-8.
[121] Cox direct testimony, page 9.
[122] Cox direct testimony, page 10 and Gonzales direct testimony, page 3.
[123] Cox direct testimony, page 14, lines 8-12 and Gonzales direct testimony, page 5, lines 3-9.

Staff Position: Staff recommends using Staff's true-up direct energy efficiency adjustment to represent the effect of the energy efficiency adjustment on Empire's revenue. Staff performed an energy efficiency adjustment per rate code for both residential and non-residential rate classes.[124] Staff performed adjustment analyses for the Small General Service ("SGS"), Large General Service ("LGS"), SPS Small Primary Service ("SPS"), and Large Power Service ("LPS") classes at the rate code level. Staff recommends the true-up energy efficiency adjustment of 14,281,328 kWh for the true-up period ending March 31, 2025.[125]

g. What growth adjustment should be used in calculating normalized billing units, revenues, and rates?

Staff Position: Staff recommends using Staff's true-up direct growth adjustment. Staff recommends February 2025 customer counts be applied to Staff's normalized billing determinants for the 12 months ended September 30, 2024, for the Residential ("RES"), General Service ("GS"), Large General Service ("LGS"), and the Small Primary Service ("SPS") customer classes. Staff's growth adjustment was developed by the monthly average usage per customer for each rate schedule.[126]

h. What community solar facility and grid charge adjustment should be used in calculating normalized billing units, revenues, and rates?

Staff Position: Staff's adjusted solar facility charge and electric grid charge that reflects the program as fully subscribed should be used.[127]

i. What non-Missouri Kilowatt hour ("kWh") adjustment be used in calculating normalized billing units?

Staff Position: Staff's adjusted classes' usage for non-Missouri customers for weather and growth should be used.[128]

j. What Energy Efficiency Cost Recovery ("EECR") adjustment should be used in calculating normalized billing units, revenues, and rates?

Staff Position: Staff's recommends removing the revenue that was collected during the update period as Empire has proposed to rebase the EECR to zero.[129]

101. What is the appropriate interclass allocation of revenue responsibility for setting rates in this case?

Staff Position: Staff recommends a two-step process.

[124] Poudel surrebuttal/true-up direct, page 2, lines 6 and 7.
[125] Poudel surrebuttal/true-up direct, page 2, lines 12 and 13.
[126] Cox rebuttal/true-up direct, page 2, lines 1-7.
[127] Cox direct, page 17, lines 2-15.
[128] Cox direct, page 17, lines 16-20 and page 18, lines 1-12.
[129] Cox direct, page 18, lines 14-18.

First, Staff recommends that the authorized cost of service, including the Customer First disallowances recommended by Staff Witnesses Matthew R. Young and Melanie Marek, but not including the disallowance recommended in James Busch's COS Direct Testimony, be allocated to the classes as an equal percentage adjustment to current class retail rate revenue.

Then, the Customer First disallowance recommended in James Busch's COS Direct Testimony should be applied entirely to the residential class. In the event that the disallowance exceeds the increase applicable to the Residential class, Residential rates should be held constant, with the remaining disallowance being applied against the increase applicable to the General Service class.[130]

If those recommendations are not ordered, Staff recommends that the Customer First disallowance be used to offset the otherwise applicable increase to residential customers. The average increase to the rates to be set in this case is 23.78%. Staff's CCOS results indicate that Lighting customers receive that system average increase, that Residential and Transmission customers receive an above average increase, and that General Service ("GS"), Large General Service ("LGS"), Small Primary Service ("SPS"), and Large Power Service ("LPS") customers receive a below-average increase. [131]

102. Which party's Class Cost of Service Study should be used in this case?

Staff Position: Staff's position is that this issues and sub issues do not require Commission resolution in this case. CCOS study results should not be the only factor in applying a rate increase to a utility's charges for service.[132] Staff's recommendation that given the circumstances surrounding this case and the roll out of Empire's "Customer First" billing system and software, that any increase be allocated to the classes on an equal percentage basis prior to consideration of his recommended Customer First disallowance, and that the Customer First disallowance then be applied entirely to the residential class.can be taken by the Commission regardless of any class cost of service study results presented in this case. [133]

Policy considerations, such as rate continuity, rate stability, revenue stability, minimization of rate shock to any one-customer class, and meeting of incremental costs, are also relevant factors in revenue responsibility allocation, rate structure, and rate design. The precision of a CCOS study is also a factor, in addition to the limitation that a CCOS study filed in direct testimony will reflect the direct case of a given party and will not reflect a Commission-ordered cost of service, revenue quantification, or billing determinants. The availability of data is also a significant limitation to the precision and reliability of a CCOS study, such as Staff has noted on the limitation of distribution data availability resulting in overallocation of cost of service to the residential, general service, and lighting classes, and the underallocation of cost of service to the small primary and large power classes. [134]

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[130] Rate Design Direct Testimony of James Busch, page 3.
[131] Rate Design Direct Testimony of Sarah Lange, page 4, pages 71-74.
[132] Rate Design Direct Testimony of Sarah Lange, page 71.
[133] Rate Design Direct Testimony of Sarah Lange, pages 71-72.
[134] Rate Design Direct Testimony of Sarah Lange, page 71.

Based on limitations in Empire's data, no CCOS study fully recognizes the demand carrying capability of the customer-allocated distribution components, nor the customer-specific infrastructure required by customers served at voltages above secondary, nor refine allocations of distribution costs and components to the extent necessary to review the reasonableness of intraclass revenue responsibility as reflected in rate design. Due to concerns with the reliability of hourly data, the production allocation of all filed CCOS studies is also of concern.[135]

In no event should the CCOS study results of Empire or based on the Empire study be relied upon, because (1) the Empire study inappropriately failed to recognize approximately $69.4 million related to windfarm generation that was recorded outside of the production accounts for its CCOS study,[136] (2) the Empire study failed to recognize the operating characteristics of generation plant which should guide how that plant is treated in a CCOS study and significantly underallocated revenue responsibility to classes such as Transmission Service, LGS, SPS, and LPS, [137] (3) several of the distribution classifications used by Empire are not consistent with the NARUC manual in that they fail to recognize the demand-carrying capabilities of selected minimum assets, and that they failed to appropriately recognize customer-specific infrastructure,[138] and (4) Empire's distribution classification is unreasonable in that Empire chose to classify Empire's embedded cost of distribution assets made over a century as though those assets were installed in the current year. Doing so artificially inflates the allocation to classes with many customers – such as residential.[139]

a. How should production costs be allocated within the Class Cost of Service study in this case?

Staff Position: All production cost of service and revenues, including the $69.4 million recorded outside of the production accounts, should be allocated in a manner that fairly aligns cost causation with revenue responsibility. [140] Renewable generation is over 11% of Empire's Cost of Service, 15% of Empire's gross plant, and 20% of Empire's ratebase. [141] Because the Empire and derivative MECG and CCM studies rely on allocating the cost of renewable generation differently than allocating the revenues from generation, the study results are not reasonable for Commission reliance. [142] Also, it is not reasonable under the circumstances of this case to allocate the cost of a wind farm on a demand basis as was done in the Empire and derivative studies. For Empire, peak loads driving capacity investments do not currently coincide with times of peak wind output.[143]

b. How should distribution costs be allocated within the Class Cost of Service study in this case?

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[135] Rate Design Direct Testimony of Sarah Lange, page 58.
[136] Surrebuttal Testimony of Sarah Lange, pages 3-4; Rebuttal Testimony of Sarah Lange, pages 7-9, 18-19.
[137] Rebuttal Testimony of Sarah Lange, pages 7-9, 13-18.
[138] Rebuttal Testimony of Sarah Lange, pages 7-9, 19-21.
[139] Surrebuttal Testimony of Sarah Lange, pages 9-10.
[140] Surrebuttal Testimony of Sarah Lange, pages 3-4; Rebuttal Testimony of Sarah Lange, pages 7-9, 18-19; Rebuttal Testimony of Sarah Lange, pages7-9, 13-18.
[141] Rebuttal Testimony of Sarah Lange, page 13.
[142] Rebuttal Testimony of Sarah Lange, pages 13-18.
[143] Rebuttal Testimony of Sarah Lange, page 18.

Staff Position: Distribution assets should be classified for allocation using the actual asset cost, without application of indexing adjustments as was done by Empire and used in the derivative MECG study.[144] It not reasonable to classify for allocation on the basis of customer-count excessive general plant, as was done by Empire, which results in the allocation of about $250 of general plant to each customer, and the overall allocation of approximately 86% of general plant to the residential customers on the basis of customer count.[145] In general, Staff's distribution classifications and allocations better align with the 1996 NARUC manual than those of Empire (adopted by MECG) or CCM.[146]

103. What is the appropriate design of residential rates in this case?

Staff Position: Staff recommends that, if its revenue requirement allocation method and recommended revenue requirement are ordered in this case, the residential customer charge remain the same.

However, if the Commission increases residential rates in this case by an amount greater than that recommended by Staff, Staff recommends that the residential customer charge be increased by the same percentage as other residential rate elements; not because it is cost justified (it is not), but because that will mitigate customer impacts so that all residential customers experience about the same increase as a percentage. If the customer charge is not increased in a case with a very substantial rate increase, then the customers who experience the largest bill increase in dollars will also experience the largest bill increase as a percentage.[147]

104. What are appropriate designs of non-residential rates in this case?

Staff Position: Staff takes no position at this time but reserves the right to do so based upon the evidence presented at hearing.

105. What actions should the Commission order in this case with regard to creation of a Coincident Peak Demand Charge for non-residential customers and other Rate Modernization?

Staff Position: Staff takes no position at this time but reserves the right to do so based upon the evidence presented at hearing.

106. What actions should the Commission order in this case with regard to the Residential Smart Charger Pilot program?

Staff Position: Staff takes no position at this time but reserves the right to do so based upon the evidence presented at hearing.

[144] Rebuttal Testimony of Sarah Lange, pages 19-20.
[145] Rebuttal Testimony of Sarah Lange, pages 20-21.
[146] Rate Design Direct Testimony of Sarah Lange, pages 61-68, Rebuttal testimony of Sarah Lange, pages 19-21.
[147] Surrebuttal Testimony of Sarah Lange, page 7.

107. What Economic Development Rider ("EDR") revenue adjustment should be used in calculating normalized revenues and rates?

Staff Position: Staff's calculated EDR revenue adjustment should be used. Staff's calculated EDR discount is $1,767,579[148] for the update period.

108. What amount of Excess Facilities Charge ("XC") revenues should be included in the revenue requirement and rate design?

Staff Position: Staff recommends that the Commission rely upon the level of XC revenues Staff has provided for incorporation into Staff's revenue requirement and rate design.[149] Staff analyzed the data provided including calculating the appropriate adjustment comparing the test year to the update period.[150]

109. Should the Transmission Service ("TS") Interruptible Credit be increased?

Staff Position: Staff recommends that the TS Interruptible Credit should not be increased, and that it should remain at its current amount of $48.12 per KW-year or $4.01 per KW-month, and that the Commission reject Ms. Maini's proposal.[151]

110. Should the Commission order Empire to provide each rate code customer charge count at the fraction level for each month of the test year, update period, and through true-up (if applicable) in the next general rate increase?

Staff Position: Yes. By utilizing the customer charge counts at the fraction level in the next general rate case, the revenues will be based on actual billing.[152]

Various Tariff Issues

111. Should the compliance tariffs issued in this case remove Rider SR?

Staff Position: The compliance tariffs resulting from this case should remove Rider SR, P.S.C. Mo. No. 6, Sec. 4, Original Sheet 23 to 23h.

112. Should there be any changes to TEPP?

Staff Position: An additional Mid-term Check-In at the halfway point should be scheduled for the TEPP program to go over updated program results and reassess the program.

113. Should the Miscellaneous Tariff Issues, identified by Staff as being titled or filed incorrectly, be changed as recommended by Staff?

Staff Position: Yes. Staff recommends that changes and edits identified by Staff witness Jennings be implemented as laid out in testimony. Staff's testimony lists items in previous

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[148] Justin Tevie Direct Testimony, Page 3,line 2
[149] Page 12, Lines 13-14, Randall Jennings direct testimony.
[150] Page 10, Lines 6-18, Randall Jennings direct testimony.
[151] Page 7, Lines 1-6, Randall Jennings rebuttal testimony.
[152] Cox, Surrebuttal/True-up Direct, page 3, lines 7-14.

tariff filings that were either omitted or implemented pursuant to a previous stipulation and agreement (ER-2021-0312) and should have had its terminology changed.

Green Button Connect

114. Should the Commission order Empire to implement Green Button Connect My Data ("GBC") in this rate case?

Staff Position: No. Because of the ongoing and pervasive billing issues Empire is experiencing as part of its Customer First CIS rollout, Staff does not think Empire has the capacity to implement GBC for the foreseeable future. It would be unwise for Empire to implement GBC until the Customer First issues are fully resolved.[153]

a. In the event that the Commission orders Empire to implement GBC in this rate case, should the Commission order the tariff proposed by Renew Missouri related to GBC?

Staff Position: No. Renew Missouri's proposed tariff is premature, even if the Commission orders Empire to adopt GBC in this case. Additionally, Renew Missouri's tariff language could both tie the hands of Empire in the event a bad actor infiltrates their systems through the GBC interface, as well as put the Commission in regulating the activities of third-parties outside its jurisdiction.[154]

b. In the event that the Commission orders Empire to implement GBC in this rate case, should the Commission adopt Renew Missouri's revenue requirement recommendation?

Staff Position: No. The revenue requirement proposed by Renew Missouri is based on flawed estimates rather than known and measurable changes to actual expenses and should not be ordered.[155]

c. In the event that the Commission orders Empire to implement GBC in this rate case, should $100,000 be included in Empire's ordered revenue requirement to study its participation in a regional data hub?

Staff Position: No. Mr. Murray provides no justification for how he arrived at $100,000 for this study.[156]

Customer Programs

115. Should the Low Income Pilot Program (LIPP) continue? If so, what, if any modifications made and what funding level should be ordered?

[153] Rebuttal Testimony of Matthew W. Lucas. Pg. 1-6.
[154] Rebuttal Testimony of Matthew W. Lucas. Pg. 6-7.
[155] Rebuttal Testimony of Matthew W. Lucas. Pg 7-9.
[156] Rebuttal Testimony of Matthew W. Lucas. Pg. 9.

Staff Position: Yes. However, Staff recommends the LIPP be modified to include the following:

- a budget of $1,000,000;
- any unspent funds would remain in the LIPP and rollover to the following year;
- eligibility at 60% Area Median Income;
- a tiered credit to customers based on income as verified by the CAA, including:
    - o a $50 bill credit to customers between 41 and 60 percent of Area Median Income;
    - o a $75 bill credit to customers with an income less or equal to 40 percent of Area Median Income; and
- customers are not required to be on Empire's Budget Billing Plan

A. Should the LIPP be replaced, or modified, as proposed by Liberty witness Mr. Hackney or OPC witness Dr. Marke in their respective direct testimonies?

Staff Position: No. However, Staff is including certain aspects of both Dr. Marke's and Mr. Hackney's recommendations in its recommended modifications to the LIPP. Staff does not support replacing the LIPP with the Fresh Start Plan, but recommends the LIPP be modified to include the following:

- a budget of $1,000,000;
- any unspent funds would remain in the LIPP and rollover to the following year;
- eligibility at 60% Area Median Income;
- a tiered credit to customers based on income as verified by the CAA, including:
    - o a $50 bill credit to customers between 41 and 60 percent of Area Median Income;
    - o a $75 bill credit to customers with an income less or equal to 40 percent of Area Median Income; and
- customers are not required to be on Empire's Budget Billing Plan

B. Should the customer charge be waived for income-eligible residential customers as proposed by OPC witness Dr. Marke?

Staff Position: No, Staff prefers to keep the LIPP as a discount to a customer's total bill, rather than a change to the customer charge for eligible customers. While Staff acknowledges changes in Missouri due to the passage of SB4, this case is not appropriate to make those changes. Staff believes it more appropriate to address SB4 and its potential impact on low-income policy as a collaborative effort between stakeholders outside of a general rate case. There is no timeline specifically set out in SB4 for the Commission to approve a special alternative residential customer rate or bill discount, and therefore should be carefully thought out as policy as-a-whole as opposed to piecemealing policy for each utility in its current, or next, respective general rate case.[157]

116. Should the Low Income Weatherization Assistance Program ("LIWAP") be continued? If so, what, if any, modification should be made and what funding level should be ordered?

Staff Position: Staff takes no position at this time but reserves the right to do so based upon the evidence presented at hearing.

117. Should the Company resume administrative control of the LIWAP?

[157] Amy L. Eichholz rebuttal testimony, pg. 4.

Staff Position: Staff takes no position at this time but reserves the right to do so based upon the evidence presented at hearing.

118. Should the customer charge be waived for income-eligible residential customers as proposed by OPC witness Dr. Marke?

Staff Position: No. Staff recommends the LIPP program continue with the modifications recommended by Staff.

119. Should the Critical Medical Needs program continue? If so, should any modifications be made and what funding level should be ordered?

Staff Position: Staff recommends adjusting the test year amount to include the allowed amount to be collected from ratepayers.[158]

120. Should the Commission order the structure and meeting requirements for the Low Income Programs Collaborative, as recommended by CCM witness Jim Thomas?

Staff Position: Staff takes no position at this time but reserves the right to do so based upon the evidence presented at hearing.

121. Should the Company adopt low income marketing strategies as recommended by CCM witness Jim Thomas?

Staff Position: Staff takes no position at this time but reserves the right to do so based upon the evidence presented at hearing.

122. Should the Company adopt the best practices for identifying the needs of high energy burden and low-income communities, targeting resources to those communities, and setting customer targets for achievement, as recommended by CCM witness Jim Thomas?

Staff Position: Staff takes no position at this time but reserves the right to do so based upon the evidence presented at hearing.

Miscellaneous Issues

123. Should the Commission take any action in this case related to Empire's 2024 infrastructure inspections?

Staff Position: No. Staff may make additional recommendations in Case No. OO-2025-0233.[159]

124. Should Empire direct its internal audit department to examine its capitalization practices and ethical controls?

Staff Position: Yes.[160]

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[158] Direct Testimony of Sydney Ferguson, page 6, lines 9-13.
[159] Rebuttal testimony of Claire Eubanks, page 13, lines 11-12.
[160] Young direct, pages 24 – 31.

125. Has Liberty fulfilled its requirements pertaining to the cost/benefit anslysis of PISA projects greater than $1 million?

Staff Position: As agreed to by the stipulation and agreement in ER-2021-0312, Empire is developing a cost-benefit analysis framework for planned capital investments of $1 million and above. Empire outlined its framework in its 2025 PISA Report, Exhibit 4 (EO-2019-0046) and in the Direct Testimony of Dmitry Balashov filed in this case. It is Staff's understanding that Empire is rolling out the new framework for 2025 capital investments of $1 million and above.[161]

The statutory requirement for a cost benefit analysis of projects estimated to cost over $20 million came from Senate Bill 745, effective August 28, 2022. Staff's expectation was that Empire, to comply with the statute, would provide its cost-benefit analysis annually for projects over $20 million and where construction commences after January 1.[162] The first report that required an analysis was the 2023 PISA report filed February 28, 2023.[163]

According to Empire's 2023 and 2024 PISA filings, four projects potentially meet the threshold: a new substation build in Arkansas,[164] Customer First,[165] Riverton 10/11 replacement,[166] and the Rebuild of Substation #292.[167] Empire did not provide a cost benefit analysis of the new Arkansas substation or Customer First. Empire represented the new Arkansas substation is mostly designated to Arkansas.[168] Staff notes that it is unclear whether a cost benefit analysis is required for Customer First as it is not a construction project. For the Riverton 10/11 replacement project, Empire cites to its IRP which is concerning for Staff. However, the Commission granted Empire a CCN for the Riverton 10/11 replacement project in EA-2023-0131 and it is not included in this case.[169] Empire included a benefit/cost ratio for the Rebuild of Substation #292.[170,171]

126. Is the use of the Value of Lost Load study results as an input to the emergency conservation plan tariff appropriate? What is the appropriate methodology for developing electricity market prices?

Staff Position: Staff takes no position at this time but reserves the right to do so based upon the evidence presented at hearing.

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[161] Direct testimony of Claire Eubanks, page 7, lines 1-6.
[162] 393.1400.4 states in part: "For each project in the specific capital investment plan on which construction commences on or after January first of the year in which the plan is submitted, and where the cost of the project is estimated to exceed twenty million dollars,…"
[163] Surrebuttal testimony of Claire Eubanks, page 5, lines 14-18.
[164] Page 1, 2023 PISA Exhibit 3. Empire represents it anticipates most of this project will be designated to Arkansas.
[165] 393.1400.4
[166] Page 1, 2024 PISA Exhibit 3. Empire notes the expected completion date for Riverton 10/11 is in June 2026.
[167] Page 1, 2024 PISA Exhibit 3. Empire notes the expected completion date for Sub #292 is April 2026.
[168] Page 1, 2023 PISA Exhibit 3.
[169] Empire included Riverton 10 repairs in this case. The replacement of Riverton 10/11 as approved in EA-2023-0131 is not yet complete. See also Staff witness Brodrick Niemeier's testimony.
[170] 2025 PISA Report, Exhibit 4, page 16-17.
[171] Surrebuttal testimony of Claire Eubanks, page 6, lines 1-10.

127. Should Empire be ordered to refile its emergency conservation tariff within 90 days following the conclusion of its Value of Lost Load Study?

Staff Position: Staff takes does not take a position on this issue at this time but reserves. Staff reserve the right to do so based upon address any issue at the evidence presented at hearing.

128. What is the appropriate valuation of the Purchase Power Agreement ("PPA") replacement value as it pertains to the Market Price Protection Mechanism ("MPPM")?

a. When does the value associated with replacing the existing wind PPAs during the period of the guarantee become nonzero?

Staff Position: Staff recommends the Commission should sustain its previous order affirming the calculation method, the standing definition of the PPA replacement value, and the PPA replacement value as 0 for each year since the start of the MPPM until the expiration of either the Elk River PPA contract or the Meridian Way PPA contract, whichever comes first. Staff Witness Marina Gonzales.

i. If not zero, how should the nonzero PPA replacement value be calculated?

b. Does the Annual Wind Value include TCR/ARR revenues?

c. Does the Annual Wind Value include insurance proceeds?

d. What is the Wind Revenue Requirement for the MPPM?

Staff Position: Staff does not take a position on issue(s) 128a.i, b., c., or d., at this time but reserves the right to do so based upon address any issue at the evidence presented at hearing.

129. Should Empire's EADIT tracker continue?

Staff Position: No. Empire's EADIT tracker should be discontinued on the effective date of rates in this case.[172]

130. Should Empire continue its pension and OPEB tracker?

Staff Position: Yes. Staff recommends the continuation of Empire's historical trackers and agreements.[173]

131. Upon receipt of GRIP awards, how should Empire account for the proceeds?

Staff Position: Upon receipt of GRIP awards, the cost of the asset should be reduced by the amount of the award and reflect the capital as an offset to the deferred PISA asset.[174]

132. What system energy loss factor should be ordered in this case?

Staff Position: Staff recommends a system energy loss factor of 0.0676 of Net System Input as calculated utilizing data experienced during the test year period and reflected in

[172] Young direct, pages 17 – 18.
[173] Young direct, page 21.
[174] Young direct, page 19 – 20.

the Direct Testimony of Staff witness Alan J. Bax.

133. What jurisdictional allocation factors for demand and energy should the Commission order in this case?

A. Demand Allocation Factors

Staff Position: Staff recommends the following Jurisdictional Demand Allocation Factors calculated using data collected during the test year and reflected in the Direct Testimony of Alan J. Bax

Allocator			**Jurisdiction**								
			Missouri		Kansas		Oklahoma		Arkansas		FERC
Retail			0.8843		0.0436		0.0379		0.0322		
Wholesale											0.0020

B. Energy Allocation Factors

Staff Position: Staff recommends the following Jurisdictional Energy Allocation Factors calculated using data collected during the test year and reflected in the Direct Testimony of Alan J. Bax

However, Empire provided a list of jurisdictional allocations, but offered no supporting calculations to show how they were derived. Staff cannot support allocations based on material it has not been able to review and recommends the allocations based on Staff's methodology.[175]

134. What is the appropriate way of determining gas transportation costs?

Staff Position: The appropriate way to determine gas transportation costs to be included in cost of service is by annualizing the natural gas transportation expense based on Empire's current contractual obligations with Southern Star Central Gas Pipeline and a new base contract for the sale and purchase of natural gas established under the North American Energy Standards Board with Concord Energy LLC entered into on March 2, 2022. Staff Witness Antonija Nieto.

135. Should annual gas transportation costs be calculated using the new rates established by the contract that took effect in June 2025?

[175] See Angela Niemeier Surrebuttal / True-Up Direct Testimony p. 3-4.

Staff Position: No. The true-up filing in this rate proceeding has a true-up date of March 31, 2025. The new natural gas transportation contract took effect in June 2025, after the true-up period. Including those rates would be considered an out-of-period adjustment, which is generally not permitted under Missouri regulatory policy.[176]

136. Should the PAYGO tracker be continued after the effective date of rates in this case?

Staff Position: No. The PAYGO tracker should be discontinued.[177]

137. Should the existing PAYGO tracker continue through the effective date of rates in this case?

Staff Position: Yes. The PAYGO tracker is currently in rates and cannot not stop until the effective date of rates in this case. The actual PAYGO amount for 2025 should be tracked against the $4 million base amount of the tracker for 2025 and the difference should be addressed in Empire's next rate case.[178]

138. In consideration of all relevant factors, should Staff's proposed ongoing Amortization Tracker be adopted?

Staff Position: Staff is recommending an ongoing amortization tracker to assist in maintaining dollar for dollar recovery of identified assets and liabilities that hold one-time costs approved for amortization in a rate case. This is substantially the same as that done for tracking mechanisms established for Ameren Missouri, Evergy Metro, Evergy West, and Missouri American Water.[179]

139. Should Empire retain the authority to continue to defer the retirement cost of Asbury?

Staff Position: No. The Commission should terminate Empire's authority to defer retirement costs as of the effective date of rates.[180]

140. Did Empire provide the generating unit heat rate efficiency testing procedures and results as required by 20 CSR 4240-20.090(2)(A)15?

a. If not, when should it provide these procedures and results?

Staff Position: Staff takes no position at this time but reserves the right to do so based upon the evidence presented at hearing.

141. What is the base level of property tax to be established for the property tax tracker?

Staff Position: $30,112,271: Staff non-wind: $25,850,330 ; Staff wind: $4,261,941[181]

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[176] Antonija Nieto Surrebuttal / True-Up Direct Testimony, Page 4

[177] (Giacone direct page 26-28, Giacone surrebuttal/true-up direct page 7, line 17)Emery rebuttal page 24-26)

[178] (Giacone surrebuttal/true-up direct page 7, lines 22-26)(Giacone true-up rebuttal page 2 lines 20-22 and page 3 lines 1-14)

[179] Nathan Bailey, CPA surrebuttal / true-up direct testimony page 8.

[180] Young direct, pages 10 – 13.

[181] (Giacone direct page 12, line 14)(Emery direct page 49, Emery rebuttal page 27)(Emery surrebuttal/true-up direct page 33, lines 1-11)

Customer Experience

142. How should the Company's investment in Customer First be treated for ratemaking purposes in this case?

A. What is the appropriate amount of Customer First Operations and Maintenance (O&M) expense to include in rates?

Staff Position: The appropriate amount of Customer First O&M is the actual cost incurred during the 12-month period ending March 31, 2025, reduced by an amount commiserate with Staff's recommended Customer First rate base disallowance.[182]

A.i. How should the true-up cut-off date of March 31, 2025 impact the Commission's determination of Customer First Operations & Maintenance ("O&M") costs for ratemaking purposes?

Staff Position: The Commission should not adopt a discrete adjustment to set rates based on projected costs in future years.[183]

B. Should the Commission reduce the Company's revenue requirement based on Empire's service related to its investment in Customer First?

Staff Position: Yes. The implementation of Customer First, specifically the SAP Customer Information System, has compromised Empire's ability to provide reliable service to its customers for over a year. It was a significant mismatch with Empire's existing processes, and Empire has failed to make the adaptations that would bring the system fully to used and useful status. The principle of just and reasonable rates does not support full cost recovery for a system that has been and still is unreliable, not fully useful, and has negatively impacted other aspects of the cost of service calculation.[184]

Furthermore, Empire may be estimating a much larger portion of interval data without logging the information as an exception or marking the bills as estimated. Staff is concerned that Empire's reported level of bill estimation may be much lower than what is actually occurring. Furthermore, Empire may be violating the requirement in its currently effective tariff regarding notice of estimation.[185] Empire's currently effective estimated reading procedure provides no reference to missing interval data or time periods related to time-based rates. To the extent that Empire is providing bills that are based upon estimated usage, Empire should be complying with the currently effective tariff provisions. Staff recommends a revenue imputation equal to $1,998,148.[186] Staff Witness Tyrone Thomason

The implementation of Customer First, specifically the SAP Customer Information System, has compromised Empire's ability to provide reliable service to its customers for over a year. It was a significant mismatch with Empire's existing processes, and Empire has failed to make the adaptations that would bring the system fully to used and useful status.

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[182] Young direct, page 19 and surrebuttal / true-up direct, page 13.
[183] Young rebuttal, pages 3 – 7.
[184] Charles Tyrone Thomason's direct testimony, page 71, line 14 to page 72, line 7.
[185] Luebbert Surrebuttal page 8.
[186] Luebbert Surrebuttal page 7.

The principle of just and reasonable rates does not support full cost recovery for a system that has been and still is unreliable, not fully useful, and has negatively impacted other aspects of the cost of service calculation.[187] Cited in this case.[188] Staff Witness James Busch.

C. If the Company's revenue requirement is reduced by the Customer First investment, should it be authorized to establish a regulatory asset to record monthly its earning when respective metrics have been met as proposed by Company witnesses Reed and Walt?

Staff Position: No.[189] Staff Witness Matthew Young.

i. What are the billing and customer service metrics to be used to determine if the Company records a monthly entry in its regulatory asset as it relates to earnings for the Customer First investment?

Staff Position: Staff's position is that any such metrics would need to aid the Commission in ascertaining Empire's progress toward resolving its Customer First issues and bringing SAP to fully used and useful status. This would mean ascertaining that SAP enables Empire to reliably bill all of its customers accurately, timely, and in full compliance with Commission rules and its tariff.[190] The metrics proposed in Empire's rebuttal testimony are not sufficient for that task.[191]

D. Should the Commission make a further disallowance of revenue requirement based on Empire's provision of inadequate service due to its investment in Customer First?

Staff Position: Yes. The Commission should reduce revenue requirement by an amount equivalent to a 100 basis point reduction in return on equity as described in the Direct Testimony of James A. Busch.[192] Staff has determined that the Commission should authorize a lower revenue requirement based on a 100 basis point reduction in ROE than what would normally be authorized. This should be significant enough to the motivate Liberty to fix the issue immediately and should also be seen as a signal to customers that the Commission understands the anger, confusion, and harm that they have experienced [193]

143. Should the Commission order the incorporation of The Empire District Electric Company into the monthly Customer First meetings currently occurring between Staff and Liberty Water as ordered in the Order Approving Stipulation and Agreement in Case No. WR-2024-0104?

Staff Position: Yes. Due to the ongoing Customer First related billing and customer service issues, Staff's position is that Empire District Electric Company should be included in these meetings going forward.[194]

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[187] Charles Tyrone Thomason's direct testimony, page 71, line 14 to page 72, line 7.
[188] Charles Tyrone Thomason's rebuttal testimony, page 39, line 15 through page 42, line 15.
[189] Young surrebuttal / true-up direct, pages 12 – 13.
[190] Charles Tyrone Thomason's surrebuttal testimony, page 19, lines 18-23.
[191] Charles Tyrone Thomason's surrebuttal testimony, page 16, lines 3-7.
[192] James A. Busch direct testimony, page 2, lines 3 -5.
[193] James A. Busch direct testimony, page 8, lines 1 – 7.
[194] Charles Tyrone Thomason's direct testimony, page 72, lines 9-13.

A. Should these meetings be further modified?

Staff Position: Yes. Staff's recommendation is that these meetings should be extended indefinitely until both parties file notice with the Commission indicating agreement that the meetings are no longer necessary.[195]

144. Should the Commission order Empire's tariff to be revised to reflect SAP's new calculation method for budget billing?

Staff Position: Yes. Staff's position is that the new budget billing calculation used by SAP is in violation of Empire's current tariff, and that the tariff needs to be revised to reflect the new calculation method.[196]

145. Have bills been issued outside of the 26-35 day billing period required by Commission rule? Should the Commission order Empire to take specific action to comply with Commission rules?

Staff Position: Yes. Empire has been issuing a substantial number of bills outside of a 26-35 day normal usage period since April 2024, in violation of Commission Rule 20 CSR 4240-13.015(1)(C)- Definitions and its tariff, and has not provided an adequate explanation as to why. Staff's position is that Empire needs to take action to determine why this is occurring and prevent it going forward.[197]

146. Should the Commission order Empire to align its estimation calculation with its tariff description?

Staff Position: Yes. Staff's position is that Empire's current calculation process for estimated bills, including but not limited to the potential use of estimated readings from the previous month, is not reflected in its tariff. Empire should either revise its calculation to reflect the tariff, or revise the tariff to reflect the new calculation.[198] Further, Staff recommends that the Commission order Empire to:

1. Justify its practice of applying a threshold for delineating estimated bills and file a tariff case with the Commission.
2. Include a marker on bills that include estimations across billing time period thresholds and file a report with the Commission and Staff on the level of revenue that gets estimated.
3. Provide the requested data included in data requests attached as Confidential Schedule JL-s2 of J Luebbert's Surrebuttal testimony to inform the Commission's decision on the outcome of this case.[199]

147. Should the Commission order Empire to work to reduce the number of estimated bills and rebills to pre-Customer First transition levels with a timeframe of completion 60 days after new rates take effect in this case?

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[195] Charles Tyrone Thomason's surrebuttal testimony, page 18, lines 14-20.
[196] Charles Tyrone Thomason's direct testimony, page 35, lines 18-19.
[197] Charles Tyrone Thomason's direct testimony, page 41, lines 2-3.
[198] Charles Tyrone Thomason's direct testimony, page 51, lines 18-23.
[199] Luebbert Surrebuttal page 10.

Staff Position: Yes. The number of estimated bills and rebills have increased significantly since the implementation of Customer First. Staff's position is that both estimated bills and rebills undermine customer confidence in the accuracy of their bills, and should not be a feature of the new billing system.[200]

148. Should the Commission order Empire to permanently cease estimating on-peak and off-peak interval reads for TOU billing purposes in favor of using actual reads when available?

Staff Position: Yes. Staff's position is that Empire's current practice of estimating missing on-and off-peak interval reads for billing purposes is in violation of Commission rule 20 CSR 4240-13.020-Billing and Payment Standards and its tariff. Staff's position is that any process for estimating interval reads for TOU rates must be Commission approved in order to be valid.[201] Staff recommends that the Commission order Empire to:

1. Request approval of estimation processes with appropriate justification and require formalization of those processes in the Empire tariff.
2. Modify its system to recover actual usage data from missing intervals that span across time-of-use periods for all rate codes that utilize a time-based pricing structure.[202]

149. Should the Commission order Empire to review its processes for the storage, retrieval, and presentation of customer account information to ensure Customer Service Representatives are automatically presented with past, present and scheduled account activity and information relayed to customers in prior communications, in order to provide Customer Service Representatives with such account activity or communications? This would include the incorporation of service tickets into customer account notes.

Staff Position: Yes. Staff's position is that Empire Customer Service representatives who answer calls do not currently have the holistic view of customer accounts necessary to efficiently answer inquiries. This is detrimental to effective and efficient customer service.[203]

A. If so ordered, should Empire be required to inform Staff of its plan to comply with the order within 60 days of the effective dates of rates, and file notice in this docket upon successful implementation?

Staff Position: Yes.

150. Should the Commission order Empire to develop consistent messaging for Customer Service Representatives to convey to customers experiencing common billing issues, and to train Customer Service Representatives to use that messaging and document all information relayed to customers in customer account notes?

Staff Position: Yes. Staff's review of customer account notes, along with customer feedback, has found consistency issues with the information Empire's Customer Service

[200] Charles Tyrone Thomason's direct testimony, page 54, lines 2-4.
[201] Charles Tyrone Thomason's direct testimony, page 61, lines 11-13 and page 63, lines 1-4.
[202] Luebbert Surrebuttal page 10.
[203] Charles Tyrone Thomason's rebuttal testimony, page 24, line 14 through page 25, line 2.

Representatives have conveyed to customers. Staff's position is that consistent messaging is an important part of providing equal levels of customer service across Customer Service Representatives. This can be facilitated by the proper documentation of information that was conveyed in account notes.[204]

A. If so ordered, should Empire be required to provide Staff with training materials and scripts used to comply with this order within 60 days of the effective date of rates in this case, along with any updates for a period of one year after the effective date of rates?

Staff Position: Yes.

151. Should the Commission order Empire to put in place a process to ascertain that Customer Service Representatives are advising customers of their right to file an informal complaint as prescribed by Commission Rule 20 CSR 4240-13.045(9)?

Staff Position: Yes. Staff has concerns that Customer Service Representatives are not informing customers of their right to contact the Commission.[205]

A. If so ordered, should Empire be required to inform Staff of its plan to comply with the order within 60 days of the effective dates of rates, and file notice in this docket upon successful implementation?

Staff Position: Yes.

152. Should the Commission order Empire to put a process in place to ensure that each CSR is trained to note account activities comprehensively, including the development of a quality assurance process to verify that CSRs are adhering to account notation guidelines?

Staff Position: Yes. Despite the guidelines in place, it appears the existence and level of detail recorded in the account notes is subject to the discretion of the Customer Service Representative who handles the call. Staff believes this uneven approach to account notes is not conducive to effective customer service.[206]

A. If so ordered, should Empire be required to inform Staff of its plan to comply with the order within 60 days of the effective dates of rates, and file notice in this docket upon successful implementation?

Staff Position: Yes.

153. Should the Commission order Empire to establish a process for customer callbacks that effectively records the need for a callback, tracks the status of that callback, and verifies the execution of the callback within a reasonable period of time following the request?

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[204] Charles Tyrone Thomason's rebuttal testimony, page 25, lines 3-8.
[205] Charles Tyrone Thomason's rebuttal testimony, page 25, lines 11-15.
[206] Charles Tyrone Thomason's rebuttal testimony, page 25, lines 16-19.

Staff Position: Yes. Empire does not track callback execution rates. Based on customer feedback, Staff believes that there are opportunities for improvement in ensuring customers receive callbacks as promised.[207]

A. If so ordered, should Empire be required to inform Staff of its plan to comply with the order within 60 days of the effective dates of rates, and file notice in this docket upon successful implementation?

Staff Position: Yes.

154. Should the Commission order Empire to provide an additional phone call notification for Autopay customers who have their accounts locked because of delayed billing notifying them of the situation and the need to speak with Empire's call center to remove the lock?

Staff Position: Yes. Staff's position is that customers most likely to be affected by this policy are also least likely to review mailed communication informing them of the situation. This issue could be mitigated by an additional phone call notification.[208]

155. Should the Commission order Empire to investigate customer claims that My Account is not accurately displaying balances owed? Should Empire be required to report the results of its investigation to Staff, along with next steps as necessary?

Staff Position: Yes. Staff has received and reviewed customer feedback indicating that customers are seeing unexplained differences between what is displayed on My Account and customer's bills.[209]

156. Should the Commission order Empire to make the tariff revisions detailed in pages 40-41 of Charles Tyrone Thomason's Rebuttal Testimony in this case?

Staff Position: Yes. Staff proposes that certain deviations from the language of 20 CSR 4240-13 found in Empire's tariff be corrected in this case.[210]

157. Should the Commission suspend imposition and collection of customer late payment fees until after Empire demonstrates that its customer usage collection and billing systems are working correctly?

Staff Position: Staff takes no position at this time but reserves the right to do so based upon the evidence presented at hearing.

158. Should the Commission order Empire to notify customers that it will not be disconnecting customers for nonpayment until after the Company can demonstrate that its customer usage collection and billing systems are working correctly?

[207] Charles Tyrone Thomason's rebuttal testimony, page 15, lines 16-22.
[208] Charles Tyrone Thomason's rebuttal testimony, page 34, lines 6-14.
[209] Charles Tyrone Thomason's rebuttal testimony, page 36, lines 22-30.
[210] Charles Tyrone Thomason's rebuttal testimony, page 39, line 15 through page 42, line 15.

Staff Position: Staff has not taken a position on this issue, but Staff has noted that erroneous disconnection notices and inconsistent messaging regarding the disconnection moratorium have been contributors to general customer anxiety.

159. Should Empire be required to file an affordability plan with the Commission that provides a clear roadmap with deliverable actions with the expressed goal of lowering rates to be aligned with other electric utilities in Missouri? If yes, what parameters should be ordered?

Staff Position: Staff takes no position at this time but reserves the right to do so based upon the evidence presented at hearing.

160. Should Empire's ROE be reduced 25 basis points for poor customer service reflected by its bottom 5% position across U.S. utilities per J.D. Power?

Staff Position: Staff takes no position at this time but reserves the right to do so based upon the evidence presented at hearing.

161. Should the Commission exclude from Empire's revenue requirement all of Empire's costs for contractual call center representatives Empire utilized due to issues with Empire's implementation of Customer First, including the costs of its ContactPoint360 ("CP360") contract?

Staff Position: Since these costs were incurred subsequent to the test year and Staff does not support an adjustment to the cost of service to include these costs, Staff did not include CP360, or any like costs, in its revenue requirement.[211] Staff Witness Matthew Young.

Staff has not taken a position on this issue. Staff found that Empire's use of CP360 had a negative impact on some aspects of customer service, specifically relating to customer inquiries and service orders. However, Staff also acknowledges that the customer service impacts of the high call volume that manifested post-Customer First implementation were likely mitigated by the use of CP360 to assist with taking calls.[212] Staff Witness Tyrone Thomason.

162. Should the Commission exclude from Empire's revenue requirement all of of Empire's excessive postage and billing costs related to its continued roll-out of Customer First?

Staff Position: No. Cost increases of this nature are not reflected in Staff's revenue requirement.[213]

163. Should the Commission leave Empire's current rates in place until the Company can demonstrate that it is timely and accurately billing its customers for service?

Staff Position: Staff takes no position at this time but reserves the right to do so based upon the evidence presented at hearing.

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[211] Young rebuttal, pages 8 – 9.
[212] Charles Tyrone Thomason's rebuttal testimony, page 6, lines 14-20.
[213] Young rebuttal, pages 8 – 9.

164. Should the Commission order Empire to change the name of its billing platform?

Staff Position: Staff takes no position at this time but reserves the right to do so based upon the evidence presented at hearing.

165. Should the Commission order Empire to utilize an agreed-to, independent 3rd party auditor of its Customer First program and practices? If yes, what parameters should be followed?

Staff Position: Staff takes no position at this time but reserves the right to do so based upon the evidence presented at hearing.

Pension Plan Issues

166. Should Empire, or any of its parents, consider a pension risk transfer scheme as it pertains to the Liberty Utilities defined benefit pension plan?

Staff Position: No. Empire should not participate in pension risk transfer activities without the Commission's approval.[214]

167. Should Empire continue to be bound by its prior agreements established in Case Nos. EM-2016-0213 21 and ER-2021-0312 to continue to fund its pension plan and to not consider a pension risk transfer arrangement?

Staff Position: Yes.[215]

Cash Distributions

168. Should the Commission order Empire to file in this docket their proposal for any potential request for ratemaking recovery of distributable cash including their process for sweeping Empire's portion of year 1-5 distributable cash from the wind farm holding company prior to the commencement of distributable cash to the tax equity partners that will begin in 2026?

Staff Position: Yes.[216]

Additional Issues

169. Should Empire's tariffs be modified to allow a self-read option for customers who opt out of AMI meters as a result of this case?

Staff Position: Staff position is that Empire should offer self-read option provided certain conditions are included. Staff recommend that any allowance for self-read should include a provision for the utility of returning to monthly reads, with applicable charges, if a customer fails to provide accurate and timely self-reads in.[217]

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[214] Young rebuttal, pages 2 – 3.
[215] Young rebuttal, pages 2 – 3.
[216] (Giacone direct page 5, lines 14-18)
[217] Direct testimony of Coty King, page 4, lines 22-25.

170. What, if any, changes should be made to Empire's Emergency Energy Conservation Plan tariff as a result of this case?

Staff Position: Staff support the changes in the Emergency Energy Conservation Plan except for removing the content related to essential services/critical loads. Staff recommend Empire's proposed Emergency Energy Conservation Plan tariff, P.S.C. Mo. No. 6, Sec. 5, 1st No. 22, modified to include the following language:[218]

> If interruption of circuits that do not serve critical loads is insufficient to address the emergency, the Company will first interrupt circuits that are not critical for the operation of the system or that do not serve critical loads. Critical loads include but are not limited to: (1) Certain ambulatory health care, hospital services, (2) Defense communication network centers; (3) Civil defense facilities; (4) Prisons; (5) Police, fire control, and first responder facilities that operate fulltime; (6) Potable water supply; (7) Natural gas transmission; (8) Sewage treatment; (9) Transportation hubs, such as airports and bus depots; (10) Registered heating/cooling centers.

WHEREFORE, the Staff respectfully submits its statement of positions for the Commission's knowledge and consideration.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed or hand-delivered, transmitted by facsimile or electronically mailed to all parties and/or counsel of record on this 30th day of September 2025.

/s/ Eric Vandergriff

[218] Direct testimony of Coty King, page 5, lines 16-26, and page 6, Lines 1-5