

Exhibit No. 108

Staff – Exhibit 108
Testimony of Jared Giacone
Direct
File No. ER-2024-0261

Exhibit No.:

Issue(s): PISA, Property tax, Riverton 12
O&M tracker, Severance,
Solar rebates, VOLL study costs,
Wind farm construction,
Wind O&M and non-FAC wind
project expense, PAYGO tracker

Witness: Jared Giacone

Sponsoring Party: MoPSC Staff

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MISSOURI PUBLIC SERVICE COMMISSION

FINANCIAL & BUSINESS ANALYSIS DIVISION

AUDITING DEPARTMENT

DIRECT TESTIMONY

OF

JARED GIACONE

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

CASE NO. ER-2024-0261

*Jefferson City, Missouri
July 2025*

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

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DIRECT TESTIMONY

OF

JARED GIACONE

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

CASE NO. ER-2024-0261

Q. Please state your name and business address.

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

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

A. I am employed by the Missouri Public Service Commission (“Commission”) as
a Lead Senior Utility Regulatory Auditor.

Q. What is your education and employment history?

A. Please refer to Schedule JG-d1, attached to this direct testimony for my
education and employment history information.

Q. Have you previously filed testimony before the Commission?

A. Yes, please refer to Schedule JG-d1, attached to this direct testimony for a list
of the major audits on which I have assisted and filed testimony.

Q. What is the purpose of your direct testimony?

A. The purpose of my direct testimony is to discuss Staff’s recommendations for:

- Non-Fuel Adjustment Clause (“FAC”) wind project expense;
- Plant In Service Accounting (“PISA”);
- Property tax;
- Riverton 12 Operations & Maintenance (“O&M”) tracker;
- Severance costs;
- Solar rebates;
- Value Of Lost Load (“VOLL”) study costs;

- Wind farm construction costs;
- Wind Operations and Maintenance (“O&M”) expense; and
- PAYGO tracker

I recommend several rate base items and several expense items to be reflected in the revenue requirement ordered in this case.

NON-FAC WIND PROJECT EXPENSE AND REVENUE

Q. What is non-fuel FAC wind project expense and revenue?

A. Non-fuel FAC wind project expenses and revenue are items that are not included in Empire’s¹ FAC calculations. The specific wind accounts to be included in the FAC were identified in the “Fourth Partial Stipulation and Agreement” in Case No. ER-2021-0312 and none of these accounts were included.

The expense account number and descriptions are:

<u>Account</u>	<u>Description</u>
548125	Exp of Generators
553300	O&M Service Fee – Vestas
553301	EMSA Service Fee
553302	OMA Service Fee
553306	AMA Service Fee
553320	Neosho Ridge Wind Outage
553999	Wind Mtce to eliminate
921999	Wind A&G to eliminate

The revenue account number and descriptions are:

<u>Account</u>	<u>Description</u>
456200	EMSA Service Revenue
456201	OMA Service Revenue
456205	AMA Service Revenue
456209	Transmission Easement Rev Wind
456271	Insurance PTC Replacement

¹ The Empire District Electric Company, d/b/a Liberty (“Liberty” or “Empire”).

1 Q. Are there other non-fuel FAC wind project expenses that Staff reviewed?

2 A. Yes. Property taxes associated with the wind farms are recorded in Account
3 408640. This account was included in Staff's review of all property taxes for Empire's
4 operations and is discussed later in this testimony.

5 Q. What does EMSA, OMA and AMA mean?

6 A. EMSA is the acronym for Energy Management Services Agreement, OMA is
7 the acronym for Operations and Maintenance Agreement and AMA is the acronym for Asset
8 Management and Administrative Services Agreement.

9 Q. Why is the EMSA, OMA and AMA service fees also listed as revenue?

10 A. Empire is the provider of the services and receives the revenues from the service
11 contracts. As outlined below, ratepayers are responsible for the wind farm operating costs
12 which include the service agreement fees. The service fee revenue offsets the service fee
13 expense. The adjustment to the expense and the revenue is based on a contractual escalator
14 which increases the revenue and expense by ** [REDACTED] ** annually.

15 Q. What is the transmission easement revenue?

16 A. The transmission easement is a contractual agreement between the wind farms
17 and Empire with a ** [REDACTED] ** annual escalator which Staff adjusted to reflect the most recent
18 known and measurable increase. The adjustment to increase transmission easement revenue
19 offsets the increase in expense account "wind mtce to eliminate".

20 Q. What is the insurance PTC replacement?

21 A. Insurance PTC replacement was related to insurance proceeds for Production
22 Tax Credits ("PTC") during the major forced outage that occurred in March of 2022. The tax
23 equity partners as described in more detail below, receive 99% of the PTC from the wind farms

1 so the jurisdictional allocation for account 456271 is set to 0% in Staff's Exhibit Modeling
2 System ("EMS") run since it is not an ongoing revenue stream and because the tax equity
3 partners received the benefit and not ratepayers.

4 Q. Please explain the background of the wind farm transaction.

5 A. The purchase of these windfarms resulted from Empire's Customer Savings Plan
6 as outlined on page 2 of their Certificate of Convenience and Necessity ("CCN") Case No.
7 EA-2019-0010. Empire used tax equity partners as part of the transaction. The name of the
8 wind farms included in the transaction were Neosho Ridge, North Fork Ridge and Kings Point.
9 The tax equity partners contributed approximately half of the value of the wind farms where
10 Empire contributed the remaining amount. Each wind farm is owned by a separate legal entity:
11 Neosho Ridge Wind, LLC; North Fork Ridge Wind, LLC; and Kings Point Wind, LLC.
12 The three wind farm legal entities are owned by Empire Wind Holdings, LLC. Empire Wind
13 Holdings, LLC is often referred to as the "holdco" or "wind holdco" for wind holding company.
14 The holdco is approximately 50% owned by the tax equity partners and 50% by Empire.

15 Q. Why are ratepayers responsible for these non-FAC wind project expenses?

16 A. Ratepayers are responsible for the non-FAC wind project expenses because as
17 part of the tax equity partner involvement, ratepayers receive the benefit of 100% of the market
18 revenues generated by the wind farms through the FAC while only paying for approximately
19 half of the total value of the wind farms in rate base.

20 Q. What do you mean by market revenues?

21 A. Market revenues are the revenues from the sale of the electricity generated by
22 the wind farms into the Regional Transmission Organization ("RTO"), specifically for these
23 locations, the Southwest Power Pool ("SPP") RTO.

1 Q. Are the tax equity partners responsible for any portion of the non-FAC wind
2 project expenses?

3 A. Yes. The non-FAC wind project expenses are paid by each wind farm out of
4 market revenues at the wind holding company. For ratemaking, the non-FAC wind project
5 expenses are included in cost of service and market revenues flow through the FAC as described
6 above. Ratemaking treatment is separate and distinct from the wind holding company financial
7 statements and transactions. Any profit left at the wind holding company after paying the non-
8 FAC wind project expenses, including costs of capital investment like turbine blade
9 replacements, out of market revenues are considered "distributable cash".

10 Q. Please explain distributable cash in more detail.

11 A. Distributable cash, or the market revenue funds left after paying expenses and
12 paying for capital improvements, flow to Empire and the tax equity partners. The arrangement
13 for the distributions of cash for years 1-5 of operation, years 2020-2025, is 100% to Empire and
14 0% to the tax equity partners. Starting in year 6, in year 2026, the distributable cash is split
15 60% to Empire and 40% to the tax equity partners. Once year 6 distributions begin, they should
16 be based on year 6 distributable funds and subsequent years thereafter. Any distributable cash
17 prior to year 6 should be swept to Empire from the wind farm holding company prior to the
18 time when tax equity partner distributions begin.

19 Q. Do ratepayers receive the benefit of the distributable cash paid to Empire?

20 A. No. Again, as part of the arrangement where ratepayers receive the benefit of
21 100% of the market revenues while paying only for approximately half of the value of the plant
22 in rate base, ratepayers do not receive the benefit of distributable cash.

1 Q. Will ratepayers be responsible for the distributable cash paid to the tax equity
2 partners once they occur, likely starting in 2026?

3 A. That is Empire's opinion based on conversations between Empire and Staff.

4 Q. Does Staff agree with Empire that tax equity partner distributions should be
5 included as an expense in the cost of service once they begin in 2026?

6 A. Not necessarily. Since there is time before tax equity distributions begin next
7 year, Staff recommends the Commission order Empire to file their request for ratemaking
8 recovery of distributable cash in this docket and their process for sweeping Empire's portion of
9 year 1-5 distributable cash from the wind holding company, for Staff and other parties to
10 consider, prior to the commencement of distribution to the tax equity partners.

11 Q. What is Staff's recommendation for non-FAC wind project expenses?

12 A. Staff recommends inclusion in base rates for non-FAC wind project expenses
13 which is the same recommendation Staff had in Case No. ER-2021-0312.

14 Staff also recommends the Commission order Empire to file in this docket their
15 proposal for any potential request for ratemaking recovery of distributable cash and their
16 process for sweeping Empire's portion of year 1-5 distributable cash from the wind farm
17 holding company prior to the commencement of distributable cash to the tax equity partners
18 that will begin in 2026.

19 **PISA**

20 Q. What is the history of PISA?

21 A. PISA legislation became effective August 28, 2018, codified in section 393.1400
22 Revised Statute of Missouri ("RSMo."), with miscellaneous provisions related to it in section
23 393.1655, RSMo. Generally, the statutes allow electric utilities to defer to a regulatory asset

1 85% of depreciation expense (return of investment) and return (return on investment) for the
2 rate base additions (except for new coal-fired generating units, new nuclear generating units,
3 new natural gas units, or other additions that increase revenues by allowing service to new
4 customer premises) prior to the rate base additions being included in utility rates. The statute
5 stated the regulatory asset was to be amortized over 20-years. The statute also outlined
6 requirements of a five-year capital investment plan that must be provided to the Commission.
7 The statute had a December 31, 2023, sunset for deferrals to the regulatory asset and
8 requirements for Commission authorization in order to continue to defer to the regulatory asset
9 from January 1, 2024, through December 31, 2028. Section 393.1655, RSMo., contained
10 provisions for holding rates constant for a certain period of time and performance penalty
11 language if rates increased at a compound annual growth rate of more than 3%.

12 Q. Has the original PISA statute language changed?

13 A. Yes. Sections 393.1400 and 393.1655, RSMo., were revised, effective
14 August 28, 2022. There was also an additional miscellaneous provision section added related
15 to PISA. That additional statute is section 393.1656, RSMo.

16 In addition to the August 28, 2022, change, Senate Bill 4, which was signed by Governor
17 Kehoe on April 9, 2025, with an effective date of August 28, 2025, further modifies sections
18 393.1400 and 393.1656, RSMo.

19 Q. What were the major changes in the revised statutes, effective August 28, 2022?

20 A. The majority of the language remained the same. However, section 393.1655,
21 RSMo. was revised to expire December 31, 2023, and, therefore, is no longer applicable.
22 In addition, the original December 31, 2023, sunset outlined in section 393.1400, RSMo.,
23 was revised to December 31, 2028, with requirements for Commission approval in order to

1 continue to defer to the regulatory asset for an additional five years beyond December 31, 2028.
2 The additional statute, section 393.1656, RSMo., outlines requirements for a revenue
3 requirement impact cap.

4 Q. What were the major changes in the revised statutes that will be effective
5 August, 28, 2025?

6 A. The modifications to section 393.1400, RSMo., allow PISA treatment for new
7 natural gas units, and also modify the statute for some other minor revisions as well. The prior
8 sunset date for deferrals to the regulatory asset was extended from December 31, 2028,
9 to December 31, 2035, with a process to request additional deferral beyond that date if such
10 application is made by December 31, 2033. Also revised is section 393.1656, RSMo.,
11 the revenue requirement impact cap formula.

12 Q. When did Empire adopt PISA?

13 A. Empire adopted PISA in 2020 and began seeking recovery of PISA deferrals in
14 Case No. ER-2021-0312.

15 Q. Does Staff have any disallowance recommendations for the PISA regulatory
16 asset?

17 A. Yes. Staff recommends removal of capitalized incentive compensation and
18 capitalized severance payments from PISA calculations. Staff addressed the capitalized
19 incentive compensation removal from PISA through the allocation process. Staff witness
20 Angela Niemeier's testimony discusses allocations. Staff worked with Empire personnel to
21 obtain a calculation of the amount of capitalized severance payments to remove from
22 PISA calculations and reflected that amount in Staff's adjustment to the PISA rate base balance
23 and related amortization expense. Staff recommends the Commission adopt Staff's adjustment

1 to remove capitalized severance payments from PISA calculations since Staff recommends
2 complete disallowance of severance payments from cost of service as discussed later in
3 this testimony.

4 Q. Aside from the disallowance recommendation, what is Staff's recommendation
5 to the Commission for PISA?

6 A. The Commission should accept Staff's rate base balances as of the
7 September 30, 2024 update period for 1) PISA vintage 1 from the ER-2021-0312 rate case and
8 2) PISA vintage 2, reduced by the capitalized severance disallowance, for the present case.

9 The Commission should also accept Staff's amortization of the rate base
10 balances over 20 years as reflected in PISA amortization expense. Vintage 1 is currently in
11 year 3 of 20 and vintage 2 will begin amortizing over 20 years with the effective date of rates
12 in the present case. The 20 year amortization is stated in statute 393.1400 subsection 2 part 3.

13 Q. Does Staff have any concerns with the capitalization to plant of Earnings Per
14 Share ("EPS") based incentive compensation and severance payments which also flow
15 through PISA?

16 A. Yes. In addition to what I've described above, please refer to the direct
17 testimony of Matthew R. Young for a discussion of Staff's concerns with the capitalization of
18 these costs.

19 **PROPERTY TAX**

20 Q. What is property tax?

21 A. Property taxes are taxes paid by Empire based on: a) property owned which is
22 locally assessed by each county; and b) taxes paid on the value of the business which is centrally
23 assessed by the state. Empire is centrally assessed only in Missouri and not in other states, but

1 is locally assessed by multiple counties in and outside of Missouri depending on where property
2 that is providing service to Missouri ratepayers is located. Payment In Lieu Of Taxes
3 (“PILOT”) is considered within the property tax category because it involves payment
4 arrangements negotiated in place of local property tax assessment. Staff’s review of property
5 taxes included the property tax for the wind farms previously discussed.

6 Q. Please describe section 393.400 RSMo.

7 A. Property tax legislation, section 393.400 RSMo became effective on August 28,
8 2022. The statute allows electrical, gas, sewer and water utilities to track property tax against
9 a base level included in the revenue requirement of the utility’s most recently completed general
10 rate proceeding and defer the difference to a regulatory asset or liability. Section 393.400
11 RSMo subsection 2 states:

12 Electrical corporations, gas corporations, sewer corporations, and water
13 corporations shall defer to a regulatory asset or liability account any
14 difference in state or local property tax expenses actually incurred, and
15 those on which the revenue requirement used to set rates in the
16 corporation’s most recently completed general rate proceeding was
17 based. The regulatory asset or liability account balances shall be
18 included in the revenue requirement used to set rates through an
19 amortization over a reasonable period of time in such corporation’s
20 subsequent general rate proceedings. The commission shall also adjust
21 the rate base used to establish the revenue requirement of such
22 corporation to reflect the unamortized regulatory asset or liability
23 account balances in such general rate proceedings. Such expenditures
24 deferred under the provisions of this section are subject to commission
25 prudence review in the next general rate proceeding after deferral.

26 Q. Is Empire proposing the property tax tracker and deferral of the difference in
27 property tax paid in the present case based on the level of property tax set in its most recently
28 completed rate proceeding?

1 A. Yes. Empire is proposing a base level of property tax from the prior
2 ER-2021-0312 rate case.

3 Q. What was the effective date of rates from docket no. ER-2021-0312?

4 A. June 1, 2022, which is before the August 28, 2022, effective date of section
5 393.400 RSMo.

6 Q. Is Empire assuming that a base level of property tax was established in the prior
7 rate case docket no. ER-2021-0312?

8 A. Yes. According to its response to Staff Data Request No. 298, which is attached
9 as schedule JG-d2, Empire states:

10 The Company's most recent rate case, Case No. ER-2021-0312, resulted
11 in an Order approving Stipulation and Agreements which did not
12 specifically state a baseline of property tax. However, within the first
13 partial stipulation the signatories agreed to a starting net operating
14 income available amount, which represented Staff's net operating
15 income reflected in their surrebuttal filing (minus any expenses and taxes
16 associated with Asbury). Therefore, to develop the Property Tax
17 Regulatory Asset balance, the Company utilized the amount that was
18 included in the Commission Staff's EMS Surrebuttal calculation for
19 Property Taxes in the amount of \$24,807,249.

20 Q. Does Staff agree that a base level of property tax was established in the prior
21 rate case docket no. ER-2021-0312?

22 A. No. The stipulation and agreements from Case No. ER-2021-0312 did not
23 identify a base amount of property tax in the settled total revenue requirement, and, further, it
24 is not reasonable for it to have even been contemplated because of the date when the statute that
25 authorized the property tax tracker went into effect.

26 Q. Does Empire have any pending property tax appeals?

27 A. Yes. According to its response to Staff data request No. 394 which is attached
28 as Schedule JG-d3, Empire states the property taxes associated with 139 parcels were paid

1 under protest and pending appeal for the 2023 and 2024 tax years. These are all located in
2 Taney County.

3 Q. Are you familiar with any other Missouri utilities that have pending property
4 tax appeals?

5 A. Yes. Spire has property tax appeals going back several years to at least 2018
6 that are still pending resolution. The stipulation and agreements from Spire's rate case dockets
7 GR-2021-0108 and GR-2022-0179 consistently provide that the results of any favorable
8 Missouri property tax appeals that are associated with property taxes paid and any future
9 successful property tax appeals should be recorded as an offset in the property tax regulatory
10 account because the property taxes associated with the pending appeals have been reflected in
11 rates paid by customers.

12 Q. What is Staff's recommendation?

13 A. Staff has two recommendations. They are:

14 1) The base level of property tax should be set in the present case and
15 should be based on Staff's adjustment to reflect the last known 2024
16 property tax amounts paid.
17

18 2) The Commission should order Empire to track the currently pending
19 property tax appeals and include any favorable appeals as an offset in the
20 property tax regulatory account so ratepayers receive the benefit since
21 ratepayers have already incurred the full cost of the property tax amounts
22 pending appeal.

23 **RIVERTON 12 O&M TRACKER**

24 Q. What is the Riverton 12 O&M tracker?

25 A. The Riverton 12 O&M tracker ("tracker") was originally established in Case
26 No. ER-2014-0351. It was continued in Case No. ER-2016-0023 and again in Case No.

1 ER-2019-0374. In Case No. ER-2021-0312 the tracker was included in a stipulation and
2 agreement approved by the Commission. The stipulation and agreement:

- 3 a) Stated the tracker would be discontinued on the June 1, 2022, effective
4 date of rates of the ER-2021-0312 rate case;
- 5 b) Identified the balance of the tracker regulatory asset as of the July 1, 2021,
6 true-up cutoff;
- 7 c) Stated that any amounts tracked between the July 1, 2021, true-up cutoff
8 of the ER-2021-0312 rate case and the effective date of rates in that case
9 would be addressed in this present proceeding since this is the first
10 general rate case proceeding following case no. ER-2021-0312.

11 Q. What is the difference between a regulatory asset and a regulatory liability?

12 A. With regard to the Riverton O&M tracker, a regulatory asset is essentially funds
13 owed to the utility by ratepayers, whereas a regulatory liability represents funds that are owed
14 by the utility to ratepayers.

15 Q. What is Staff's recommendation for the Riverton tracker?

16 A. Staff recommends that the regulatory asset balance of the tracker no longer be
17 included in rate base because in August 2025, which is prior to the operation of law date in this
18 present proceeding, the current monthly amortizations still being collected as ordered in the
19 prior rate case, ER-2021-0312, will cause the regulatory asset of the tracker to flip to a
20 regulatory liability. The reason the regulatory asset will flip to a regulatory liability is because
21 prior to the five year ordered amortization period from ER-2021-0312, the maintenance costs
22 Empire incurred for some months were below the base level for the period of July 1, 2021, and
23 the June 1, 2022, effective date of rates. The maintenance cost amounts below the base level
24 for the tracker reduced the amount of the regulatory asset, which means Empire will recover
25 the regulatory asset faster than the five-year amortization period of the balance ordered in

1 ER-2021-0312. The stub period of July 1, 2021 to June 1, 2022, was specifically addressed in
2 the stipulation and agreement to be addressed in this present case. The tracking of maintenance
3 costs against the base level ceased on June 1, 2022.

4 Staff removed the test year amounts related to the tracker and further recommends that
5 no additional amortization expense be included in this present case; and, instead, that the
6 amount of overcollection between August 2025 and the effective date of rates in this present
7 proceeding be tracked and addressed in the next general rate proceeding.

8 Q. Please describe the overcollection that should be addressed in the next general
9 rate proceeding.

10 A. Monthly amortizations as set in the ER-2021-0312 case will continue to be
11 collected by Empire until rates change with the effective date of rates in this present rate case.
12 It is known and measurable that the regulatory asset will flip to a regulatory liability in
13 August 2025, at which point Empire will collect more from customers than needed. In order
14 to set just and reasonable rates, trackers are designed for a utility to collect no more and
15 no less and for ratepayers to pay no more and no less than the amount of the expense being
16 tracked and amortized.

17 **SEVERANCE**

18 Q. What is severance?

19 A. Severance payments are made to certain employees upon termination of their
20 employment and are typically at management's discretion and are non-recurring. Severance is
21 generally used to compensate for involuntary terminations to reduce the workforce or to protect
22 the company from litigation.

23 Q. Does Empire capitalize severance payments to plant?

1 A. Yes. Empire capitalizes a portion of severance payments to plant and expenses
2 the other portion.

3 Q. What is Staff's recommendation for severance payments included in the test
4 year, 12 months ended September 30, 2023?

5 A. Staff recommends severance payments booked in the test year be removed from
6 the cost of service since severance payments are non-recurring, because no change is made to
7 the amount of payroll expense included in rates when employees are severed and because
8 severance payments are not required to provide safe and adequate utility service. By the time
9 rates go into effect Empire will have recovered the severance expense through rate allowance
10 for payroll expense on the vacant positions. In other words, Empire continued to collect the
11 salaries and benefits for the vacant positions from ratepayers but they were not expending those
12 funds collected as wages paid to the severed employees and that difference is what offsets the
13 amount of severance that was paid.

14 Q. Is it Staff's understanding that Empire agrees to the removal of severance costs
15 from the test year?

16 A. Yes. Based upon Empire's response to Staff data request Nos. 295.2 and 295.3
17 it is Staff's understanding that Empire agrees to remove severance costs that were expensed and
18 severance costs that were capitalized during the test year. Staff data request Nos. 295.2 and
19 295.3 are attached as schedule JG-d4

20 Q. Does Staff have any concerns with the capitalization of severance payments?

21 A. Yes. As discussed in the PISA section of my testimony above, Staff removed
22 capitalized severance payments from the PISA regulatory asset. In addition, please refer to the

testimony of Matthew R. Young for a discussion of Staff's concerns with Empire's capitalization of severance payments.

SOLAR REBATES

Q. What are solar rebates?

A. Solar rebates are funds paid to ratepayers to offset the cost of installing solar at their home or business.

Q. What is the history of Empire's solar rebates?

A. On May 5, 2015, Empire issued tariffs to establish solar rebate payment procedures, and to revise its net metering tariffs to accommodate the payment of solar rebates. The tariffs were approved in the Order Approving Expedited Tariff, MoPSC Case No. ET-2015-0285, with an effective date of May 16, 2015.

In Case No. ER-2016-0023, which was the first general rate case since the original solar rebate tariff was approved, solar rebate costs were agreed through a Stipulation and Agreement to be deferred into a regulatory asset and amortized over ten years.

In Case No. ER-2019-0374, solar rebate costs were included in the authorized revenue requirement to again amortize deferred solar rebate costs over ten years.

In Case No. ER-2021-0312, solar rebate costs were again included in the authorized revenue requirement to amortize deferred solar rebate costs over ten years.

In December 2022, Empire filed an application with the Commission to discontinue solar rebates in Case No. ET-2023-0197. The Commission order in that case, effective May 20, 2023, states, "The application is granted. Liberty shall file compliance tariffs to implement the discontinuation of solar rebates." The Commission Order also states, "The Commission makes no finding that would preclude the Commission from considering the ratemaking treatment to

1 be afforded any matters pertaining to granting this application.” The tariff filed in response to
2 the Commission Order was approved by the Commission on August 1, 2023, with the tariff to
3 become effective August 6, 2023. That Solar Rebate Rider tariff is still effective.

4 Q. What was outlined in the Solar Rebate Rider tariff that became effective
5 August 6, 2023?

6 A. The complete tariff is attached as Schedule JG-d5. Numbered paragraph 10 of
7 the tariff states, “The Solar Rebate application must be received and completed prior to
8 August 6, 2023, and the system must become operational on or before December 31, 2023.”
9 The tariff contains further language that states, “Solar rebate funds cannot be guaranteed for
10 their System. The Company will use the following notice in this event: Empire cannot
11 guarantee solar rebate funds for your System. Empire has filed its sixty-day notice of reaching
12 its annual retail rate impact limit pursuant to Section 393.1030, RSMo. You may still receive
13 a solar rebate if, a) the Public Service Commission determines that Empire has not yet met its
14 annual retail rate impact limit; b) additional rebates become available due to other qualified
15 solar systems dropping out of the reservation queue; or c) additional rebates become available
16 at the start of the next calendar year.”

17 Q. Was there an addition to the RSMo related to solar rebates?

18 A. Yes. Section 393.1670 RSMo became effective August 28, 2018. The statute
19 created limitations for Empire to not be obligated to pay solar rebates in any calendar year from
20 2019 through 2023 in an amount exceeding one million four hundred thousand dollars or in an
21 aggregate amount during those calendar years exceeding seven million dollars. Section
22 393.1670 states:

23 393.1670. Solar rebates, amount — limitations — recovery of costs
24 — rulemaking authority - definitions - expiration date. - 1. Notwithstanding

the provisions of subdivision (1) of subsection 2 of section 393.1030 and section 393.1045 to the contrary, and subject to the limitations provided for in this section, an electrical corporation shall, commencing* January 1, 2019, make solar rebates available in the amounts specified in this section. For systems becoming operational between January 1, 2019, and June 30, 2019, the solar rebate shall be fifty cents per watt, and for systems that become operational after June 30, 2019, through December 31, 2023, the solar rebate shall be twenty-five cents per watt. The rebates provided for by this section shall apply to new or expanded solar electric systems up to a maximum of twenty-five kilowatts per system for residential customers and up to one hundred fifty kilowatts per system for nonresidential customers. Customers shall be eligible for rebates on new or expanded systems for the increment of new or extended capacity and not for capacity on which rebates offered under any other provision of law have previously been paid, up to the system kilowatt limits set forth in this section. **However, an electrical corporation's obligation to make solar rebate payments under this section shall not exceed the following limitations:**

...

(3) Electrical corporations with two hundred thousand or less Missouri retail customers as of August 28, 2018, shall not be obligated to pay solar rebates in any calendar year from 2019 through 2023 in an amount exceeding one million four hundred thousand dollars or in an aggregate amount during those calendar years exceeding seven million dollars.

...

7. This section shall expire on December 31, 2023; provided however, that after such expiration, the electrical corporation shall be entitled to recover any remaining regulatory asset balance as provided in subsection 2 of this section. [Emphasis added.]

Q. How much did Empire pay in solar rebates each calendar year from 2019-2023?

A. Based on Empire's response to Staff's data request No. 423 using solar rebate

"date paid", Empire paid the following:

Calendar Year	Solar Rebates Paid
2019	\$1,263,400
2020	\$1,135,442
2021	\$1,112,174
2022	\$1,965,415
2023	\$2,847,334
TOTAL	\$8,323,765

1 Q. What is the solar initiative that Empire refers to in their adjustment for
2 solar rebates?

3 A. The solar initiative is the tracker for solar rebates paid but not yet included in a
4 regulatory asset. Staff reviewed the solar initiative tracker for rebates paid from the June 30,
5 2021, cutoff date from Case No. ER-2021-0312 through the September 30, 2024 update period
6 in the present case and included the September 30, 2024 balance in a regulatory asset and
7 amortized the asset over 5 years. Since this is a rate base item, Staff will include the balance at
8 the March 31, 2025, true-up cutoff date during the true-up phase of the case and amortize the
9 asset over five-years.

10 Q. Are there multiple regulatory assets for solar rebates paid from prior cases?

11 A. Yes. There is a regulatory asset for solar rebates from Case Nos. ER-2016-0023,
12 ER-2019-0374 and ER-2021-0312. Staff reviewed the amortizations for these regulatory assets
13 and will reflect the balance of each regulatory asset combined in one total in rate base as of the
14 September 30, 2024, update period. Staff also includes the amortization expense related to this
15 regulatory asset in the cost of service using a five-year amortization period. Staff will update
16 the combined regulatory asset balance during the true-up phase of the case.

17 Q. What is Staff's recommendation to the Commission?

18 A. Staff has 2 recommendations:

19 1) The Commission should allow recovery of solar rebates paid for
20 systems that became operational prior to December 31, 2023, as outlined
21 in the approved Solar Rebate Rider tariff to be included in the solar
22 initiative tracker and amortized over five-years. Solar rebates paid by
23 Empire for systems that became operational after December 31, 2023,
24 should not be included in the solar initiative asset because Empire violated
25 the tariff and as such those costs should not be recovered from ratepayers.
26

27 2) The Commission should adopt Staff's recommendation to combine
28 the solar rebate regulatory assets from Case Nos. ER-2016-0023,
29 ER-2019-0374 and ER-2021-0312 and amortize the balance over
30 five-years.

VALUE OF LOST LOAD (“VOLL”) STUDY

Q. What is the VOLL study?

A. The VOLL study involves a third-party company performing analysis of whether customers are supplied the appropriate amount of voltage needed and is a study that could yield results and recommendations for potential areas for investment in grid modernization. Contemplation of this study was sought by the Office of the Public Counsel (“OPC”) in the “Fourth Partial Stipulation and Agreement” in Case No. ER-2021-0312. The OPC also sought for this study to examine all regulated electric utilities operating in Missouri, including Ameren Missouri and Evergy. As details and cost estimates for the study were being determined, Empire discovered that the study would be cost prohibitive if conducted independently. Empire worked with the OPC and expressed their concern with the cost of the study. It was ultimately agreed to by Empire, Ameren Missouri, Evergy and the OPC that Ameren Missouri would perform the study on their distribution system, share the results with Empire and Evergy and share the study’s cost equally among the three utilities to maximize economies of scale due to the cost.²

Q. What is Staff’s recommendation for the costs of the VOLL study?

A. Based on a meeting with Empire representatives, it is Staff’s understanding that the full amount of the ** [REDACTED] ** payment to Ameren Missouri for the VOLL study was capitalized to plant through transmission and distribution construction projects. Staff is generally concerned with the criteria Empire used to justify capitalization of the payment given the relatively low dollar amount and circumstances surrounding the study such as study completion date, which is estimated to be December 2025, and how the study is tied to

² Direct testimony of Empire witness Dmitry Balashov page 10.

1 actual construction projects. The “Fourth Partial Stipulation and Agreement” in Case No.
2 ER-2021-0312 stated Empire will receive recovery of the study costs but did not identify
3 specific ratemaking treatment. For example, recovery could be through capitalizing the study
4 costs to related construction projects, expensing it or amortizing it either with or without rate
5 base treatment. Empire chose to capitalize the study costs in July 2023 prior to study
6 completion so Empire will recover its share of the study through the ongoing depreciation of
7 transmission and distribution plant. Paying for and capitalizing Empire’s share of the study
8 cost prior to having the study results proves the study is not yet used and useful.

9 Q. Should Empire recover the amount it contributed to the total study’s cost?

10 A. Yes. Recovery of the cost was addressed in the ER-2021-0312 stipulation and
11 supports the recovery of the cost from ratepayers. Staff’s concern is related to Empire’s decision
12 to socialize the study’s costs as an overhead charged to construction work in progress. However,
13 since the revenue requirement difference between cost recovery methods is not material, Staff
14 will accept Empire’s treatment and has no recommendation to the contrary for the Commission.

15 **WIND FARMS CONSTRUCTION**

16 Q. Has Empire constructed any new wind farms since its last general rate case?

17 A. No. There have not been any new wind farms since the three wind farms that
18 went into service and included in rates in the prior general rate Case No. ER-2021-0312.

19 Q. Did Staff notice any concerns with how the wind farms were recorded in
20 Empire’s books and records?

21 A. Yes. There were reclassification entries to an intangible asset that stood out to
22 Staff and were investigated.

23 Q. What did Staff find out about the intangible reclassification entries?

1 A. The reclassification entries related to the wind farms result from the construction
2 of the physical generator interconnection plant. Staff submitted data requests and met with
3 Empire representatives to fully understand why the generator interconnect was reclassified to
4 intangible plant. Essentially, the transmission owner builds the physical generator
5 interconnection asset at the point of interconnection and is paid for by the user, which in this
6 case are the wind farms. The transmission owner would record the physical plant assets as
7 contributed plant since they received funds from the user for the construction of the assets.
8 At two of the wind farms the transmission owner is Empire and at the third wind farm the
9 transmission owner is Evergy Inc. The generator interconnect is recorded as an intangible since
10 Empire does not own the physical interconnection assets, but paid for them as the user. Empire
11 amortized the intangible asset over the initial estimated life of the wind farms and Staff agrees.
12 Staff witness Matthew R. Young sponsored the intangible amortization adjustment.

13 **WIND PROJECTS O&M**

14 Q. What is wind project O&M?

15 A. Wind project O&M is what Empire considers "Department 115" costs.
16 Department 115 costs are expenses to support non-labor shared services for many of their
17 generating facilities, including wind. The adjustments to general ledger accounts for these
18 items are separate and distinct from the general ledger accounts adjusted by Staff witness
19 Christopher Boronda for the O&M normalization adjustment. Department 115 costs were
20 excluded from Empire's EXP ADJ 3 normalization adjustment.

21 Q. What data did you analyze for wind project O&M Department 115 costs?

1 A. I reviewed Empire's "EXP ADJ 25 – Department 115 O&M Normalization"
2 workpaper. Empire's workpaper had a concise general ledger data pull of the historical account
3 balances, specific to Department 115 excluding payroll, vacation and benefit charges.

4 Q. Did Empire make an adjustment to the test year for the wind project O&M
5 Department 115 costs?

6 A. Yes. Empire made an adjustment to the test year based on 2024 budget data.

7 Q. Does Staff agree that budgeted costs are known and measurable?

8 A. No. Whereas forecasting for budgeting purposes might consider historical
9 known and measurable data, the results of the accuracy of a budget forecast are not known and
10 not measurable until actual costs are experienced.

11 Q. What is Staff's recommendation?

12 A. Staff recommends a two-year average of wind project O&M Department 115
13 costs using calendar year 2022 and 2023 actual data which results in a net increase to the test
14 year balances for these costs to a normalized level.

15 Q. Why did Staff not use 2024 actual data at least through the September 30 ,2024
16 update period?

17 A. There are 26 different accounts that are included in the wind project O&M, non-
18 labor analysis. Empire used 2024 projected data in their adjustment. The difference between
19 Staff's adjustment using actual known and measurable data from 2022 and 2023 and Empire's
20 adjustment using projections is approximately \$160,000 which is not material. In addition,
21 Empire had a general ledger conversion in April 2024 that radically changed account and
22 department code information from what was used in the prior system to what is being used in

1 the new system which challenged Staff's ability to independently pull the information from the
2 general ledger for calendar year 2024.

3 For these reasons, Staff relied on the two calendar year average from 2022 and 2023.
4 Staff has requested a general ledger query for calendar year 2024 from Empire for the
5 26 accounts and will analyze calendar year 2024 costs during the true-up phase of the case to
6 determine if any modification is needed to Staff's adjustment at direct which is based on
7 calendar year 2022 and 2023 information.

8 **PAYGO TRACKER**

9 Q. What is the PAYGO tracker?

10 A. PAYGO represents "pay as you go" payments and are deferred equity
11 contributions from the tax equity partners to Empire in the total plant investment in wind
12 generation. Said another way, the tax equity partners would have contributed more capital
13 upfront when the wind farm transaction took place but as part of the arrangement it was
14 negotiated to hold a portion of the capital back as deferred equity contributions. The PAYGO
15 deferred equity contribution amounts are based on actual production calculated annually over
16 the approximate 10-year term of the tax equity arrangement.

17 Q. Has a normalized level of PAYGO contribution amounts been established?

18 A. Yes. Although the wind farms were included in rate base in Case No.
19 ER-2021-0312, there was a significant outage for most of 2022 which disrupted production
20 and therefore PAYGO payments. In 2023 there continued to be carryover disruptions from the
21 2022 outage which again disrupted production and PAYGO payments. In 2024 PAYGO
22 payments did reflect what Staff would consider to be normal and that normalcy has continued
23 into the start of 2025. PAYGO payments in 2024 from the tax equity partners were

1 ** [REDACTED] ** total company value and are projected to be approximately ** [REDACTED] **
2 dollars total company value for 2025.

3 Q. What do you mean “total company value”?

4 A. The PAYGO revenues are allocated based on the Missouri Energy Ratio
5 (“MER”) which varies by monthly calculation period. In general, the MER is typically around
6 88%. That means that the total company amount is reduced to a Missouri jurisdictional value
7 based on the MER.

8 Q. What is the Missouri jurisdictional amount of 2024 PAYGO revenues after the
9 MER is applied to the total company value?

10 A. Assuming an approximate 88% MER, the Missouri jurisdictional PAYGO
11 revenue for 2024 would be approximately ** [REDACTED] **.

12 Q. What was the dollar amount of PAYGO included in the base case model when
13 the wind farm transaction with the tax equity partners was initially considered?

14 A. ** [REDACTED] ** total company value over the projected 10-year life of the
15 tax equity partner arrangement, or roughly ** [REDACTED] ** total company value per year,
16 assuming an equivalent level of production occurred each year.

17 Q. Assuming equivalent level of production each year does the amount on a per
18 year basis for PAYGO payments in the base case model confirm Staff’s opinion that a
19 normalized amount of PAYGO occurred in 2024?

20 A. Yes.

21 Q. Was the amount of PAYGO included in the base model guaranteed?

22 A. No. It is based on production which varies. Actual PAYGO payments could
23 end up higher or lower than what was modeled depending on actual production.

1 Q. Please explain the PAYGO tracker.

2 A. The PAYGO tracker is much more complex than a typical tracker since it is
3 based on production calculated quarterly using each quarter's actual production and an
4 estimated amount of "base case" production for the remaining quarters of the year and true-
5 up annually for actual production for the year. The annual true-up complicates the mechanics
6 of a typical tracker.

7 Q. What is Staff's recommendation for the PAYGO tracker?

8 A. Staff has two recommendations.

9 1. Since it is known and measurable as of Staff's direct filing that the
10 tracker will flip from an approximately \$1 million regulatory asset at the
11 September 30, 2024, update period to approximately a \$1 million
12 regulatory liability at the March 31, 2025, true-up date, Staff
13 recommends that no regulatory asset or regulatory liability amount or
14 related amortization be included for the update period. Instead, Staff will
15 consider including the regulatory liability balance and related
16 amortization in the true-up phase of the case.

17
18 2. Staff recommends discontinuation of the PAYGO tracker and instead
19 recommends that 95% of the amount of PAYGO revenues from 2024
20 after a MER allocator of 88% is applied be included in cost of service as
21 a normal amount of revenues but not tracked.

22 Q. Please provide additional explanation of Staff's second recommendation.

23 A. It is vitally important to understand how PAYGO amounts are calculated. There
24 is risk to ratepayers for tracking PAYGO revenues to a base level. There is also risk to Empire
25 for not tracking PAYGO revenues to a base level.

26 Since PAYGO payments from the tax equity partners are based on production then
27 tracking the amount of PAYGO revenues included in a rate case exposes ratepayers where
28 Empire has little incentive for the wind farms to actual produce. What the existing tracker
29 revealed is that because of the forced outage that limited production for several years, the

1 tracker is actually a regulatory asset at the September 30, 2024, update period and will flip to a
2 regulatory liability as of the March 31, 2025, true-up date. That means PAYGO revenues
3 through September 30, 2024 did not meet the \$4 million annual base amount of revenues
4 included in Case No. ER-2021-0312 and ratepayers would have owed the shortfall to Empire.
5 No party to Case No. ER-2021-0312, where the PAYGO tracker was stipulated to, could have
6 anticipated an immediate forced outage. The regulatory asset as of the update period proves
7 that guaranteeing revenues was extremely risky for ratepayers and exemplifies the need to
8 consider an alternative.

9 If PAYGO revenues are included in the cost of service but not tracked then Empire risks
10 the potential for another forced outage where production drops which forces PAYGO
11 contributions to drop below the amount included in rates but not being tracked.

12 Q. Is there a way to find a balance between the risk to ratepayers and the risk
13 to Empire?

14 A. Yes. First of all, Empire's risk for concern of another forced outage impacting
15 revenues that are not being tracked is mitigated by the fact that they have the option to file for
16 a rate case. Second, if another major outage or material change occurs then Empire has the
17 option to file for an Accounting Authority Order ("AAO") to raise awareness with Staff and the
18 OPC and request tracking of the impact of decreased PAYGO payments on their revenues to
19 be considered in a future rate case. For those reasons I feel the risk of discontinuing the PAYGO
20 tracker would have a limited impact on Empire. In addition, by not tracking revenues it could
21 actually provide an incentive to Empire to keep the wind farms in production and maximize
22 unit in-service time which in turn would increase PAYGO contributions and market revenue.
23 Empire would be incentivized by the upside potential of additional PAYGO revenues over what

Direct Testimony of
Jared Giacone

1 is included in cost of service but not being tracked. Maximized production would increase
2 market revenue which flows to the FAC and benefits ratepayers.

3 For all of these reasons I recommend that 95% of the amount of actual Missouri
4 allocated PAYGO payments from 2024 be included in cost of service but not tracked.

5 Q. Does this conclude your direct testimony?

6 A. Yes it does.

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Request of The Empire)
District Electric Company d/b/a Liberty for) Case No. ER-2024-0261
Authority to File Tariffs Increasing Rates)
for Electric Service Provided to Customers)
in Its Missouri Service Area)

AFFIDAVIT OF JARED GIACONE

STATE OF MISSOURI)
)
COUNTY OF Jackson) ss.

COMES NOW JARED GIACONE and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing *Direct Testimony of Jared Giacone*; and that the same is true and correct according to his best knowledge and belief.

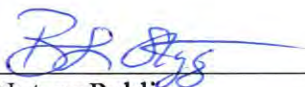
Further the Affiant sayeth not.



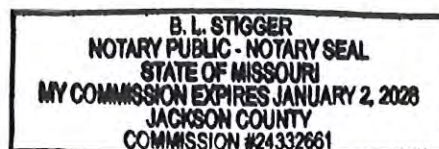
JARED GIACONE

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Jackson, State of Missouri, at my office in Kansas City, on this 26th day of June 2025.



Notary Public



Jared Giacone

Present Position:

I am a Lead Senior Utility Regulatory Auditor with the Missouri Public Service Commission. I have been employed by the Missouri Public Service Commission Since April 2019.

Educational Background and Work Experience:

I earned a Bachelor of Science degree in Business Administration with an emphasis in Accounting in 2007 from DeVry University in Kansas City, MO. I was previously employed in sales and finance operations for semi-truck dealerships. Prior to that, I was a Compliance Auditor with the Missouri Gaming Commission for 6 years.

Case Participation:

<u>Company Name</u>	<u>Case Number</u>	<u>Case Type</u>	<u>Utility Type</u>
Empire	ER-2024-0261	Rate Case	Electric
Ameren	GR-2024-0369	Rate Case	Gas
MRG Utilities, LLC	WA-2025-0090 SA-2025-0091	Certificate of Convenience and Necessity (“CCN”)	Water—New Utility Sewer—New Utility
Confluence Rivers Utility Operating Company, Inc.	SM-2025-0080 <i>*Withdrawn by Company*</i>	Certificate of Convenience and Necessity (“CCN”)	Sewer—Merger
Evergy Missouri West	ER-2024-0189	Rate case	Electric
Confluence Rivers Utility Operating Company, Inc.	SM-2024-0130	Acquisition of a regulated utility and transfer of Certificate of Convenience and Necessity (“CCN”)	Sewer—Merger
Confluence Rivers Utility Operating Company, Inc.	WA-2023-0450 SA-2023-0451	Certificate of Convenience and Necessity (“CCN”)	Water—Acquisition Sewer—Acquisition
Evergy Missouri Metro	EO-2023-0423	Other-Construction Audit	Electric
Evergy Missouri West	EO-2023-0424	Other-Construction Audit	Electric
Spire	GA-2023-0374	Certificate of Convenience and Necessity (“CCN”)	Gas—Expansion
Liberty Utilities (Midstates Natural Gas)	GT-2023-0229	Infrastructure System Replacement Surcharge (“ISRS”)	Gas
Ameren	ER-2022-0337	Rate case	Electric
Ameren	EC-2023-0037	Complaint	Electric
Evergy Missouri Metro	ER-2022-0129	Rate case	Electric
Evergy Missouri West	ER-2022-0130	Rate case	Electric

<u>Company Name</u>	<u>Case Number</u>	<u>Case Type</u>	<u>Utility Type</u>
Evergy Missouri Metro Evergy Missouri West	EA-2022-0043	Certificate of Convenience and Necessity ("CCN")	Electric—New Solar
Spire	GR-2021-0108	Rate case	Gas
Missouri-American Water Company	SA-2021-0074	Certificate of Convenience and Necessity ("CCN")	Sewer— Acquisition
Spire	GO-2021-0030	Infrastructure System Replacement Surcharge ("ISRS")	Gas
Raytown Water Company	WR-2020-0264	Rate case	Water
Spire	GO-2020-0230	Infrastructure System Replacement Surcharge ("ISRS")	Gas
Spire	GO-2020-0229	Infrastructure System Replacement Surcharge ("ISRS")	Gas
Empire	ER-2019-0374	Rate case	Electric
Spire	GO-2019-0357	Infrastructure System Replacement Surcharge ("ISRS")	Gas
Spire	GO-2019-0356	Infrastructure System Replacement Surcharge ("ISRS")	Gas

Data Response Display - ER-2024-0261 - 0298.0

Request Summary ▼

Submission No.

ER-2024-0261

Request No.

0298.0

Requested Date

2/4/2025

Due Date

2/24/2025

Issue

Expense

Property Taxes

Requested From

Liberty (Empire) (Electric) (Investor)
Regulatory Information (regulatory.information@libertyutilities.com)

Requested By

MO PSC Staff (Other)
Eric Vandergriff (eric.vandergriff@psc.mo.gov)
Jared Giacone (jared.giacone@psc.mo.gov)

Brief Description

Property tax base level proposed

Description

Please explain and provide justification for proposing to use a base level of property tax as of June 30, 2021, which is prior to the August 28, 2022, effective date of the law that authorized property tax to be tracked. Please include, but do not limit the response to how the proposed base level of property tax was either a) specifically agreed to through settlement by the parties to the ER-2021-0312 case or b) ordered by the Commission. In addition, please identify where the Commission order or settlement document specifically stated that a singular expense amount was ordered or agreed to by all parties for property tax and if so, whether each expense item (e.g., payroll, insurance) follows the same logic and reasons why. Requested by Jared Giacone (jared.giacone@psc.mo.gov)

Request Security

Public (DR)

Response Date

2/27/2025

Response

Provided by Michael McCuen - See Attached

Objections

Response Security

Public (DR)

Rationale

Attachments ▼

Name	Size	Security
Missouri ER-2024-0261 Missouri Public Service Commission 0298.pdf	146.71 KB	Public (DR)

Case No. ER-2024-0261, Schedule JG-d2, Page 1 of 4

Total: 1 file(s), 146.71 KB



The Empire District Electric Company d/b/a Liberty

Case No. ER-2024-0261

Missouri Public Service Commission Data Request - 0298

Data Request Received: 2025-02-04

Response Date: 2025-02-27

Request No. 0298

Witness/Respondent: Michael McCuen

Submitted by: Jared Giacone, Jared.Giacone@psc.mo.gov

REQUEST:

Please explain and provide justification for proposing to use a base level of property tax as of June 30, 2021, which is prior to the August 28, 2022, effective date of the law that authorized property tax to be tracked. Please include, but do not limit the response to how the proposed base level of property tax was either

- a) specifically agreed to through settlement by the parties to the ER-2021-0312 case or
- b) ordered by the Commission. In addition, please identify where the Commission order or settlement document specifically stated that a singular expense amount was ordered or agreed to by all parties for property tax and if so, whether each expense item (e.g., payroll, insurance) follows the same logic and reasons why.

RESPONSE:

Per Section 393.400(2), RSMo.: "Electrical corporations, gas corporations, sewer corporations, and water corporations shall defer to a regulatory asset or liability account any difference in state or local property tax expenses actually incurred, and those on which the revenue requirement used to set rates in the corporation's most recently completed general rate proceeding was based...."

The Company's most recent rate case, Case No. ER-2021-0312, resulted in an Order approving Stipulation and Agreements which did not specifically state a baseline of property tax. However, within the first partial stipulation the signatories agreed to a starting net operating income available amount, which represented Staff's net operating income reflected in their surrebuttal filing (minus any expenses and taxes associated with Asbury). Therefore, to develop the Property Tax Regulatory Asset balance, the Company utilized the amount that was included in the Commission Staff's EMS Surrebuttal calculation for Property Taxes in the amount of \$24,807,249. 

172		TOTAL AMORTIZATION EXPENSE	\$0.112,711	\$0	\$0.112,711			\$0.297,139	\$0.297,139			\$0.043,128	\$0.043,128	\$0	\$0.297,139
173		OTHER OPERATING EXPENSES													
173	408.141	Payroll Tax- FICA	\$2,179,498	\$0	\$2,179,498	E-173	\$1,570,563	\$3,750,061	88.6490%	\$0	\$3,324,391	\$1,392,288	\$1,932,103		
174	408.144	Payroll Tax- Salar	\$189,125	\$0	\$189,125	E-174	\$0	\$189,125	88.6490%	\$0	\$167,857	\$0	\$167,857		
175	408.511	Payroll Tax- Fed Unemployment	\$13,993	\$0	\$13,993	E-175	\$171,653	\$185,648	88.6490%	\$0	\$164,574	\$152,169	\$12,405		
176	408.512	Payroll Tax- State Unemployment	\$69,147	\$0	\$69,147	E-176	\$20,841	\$89,988	88.6490%	\$0	\$79,773	\$18,475	\$61,298		
177	408.610	Property Tax	\$27,305,826	\$0	\$27,305,826	E-177	\$0	\$27,305,826	88.7011%	\$586,681	\$24,807,249	\$0	\$24,807,249		
178	408.910	Other Taxes- Escorp Franchise Tax	\$26,358	\$0	\$26,358	E-178	\$0	\$26,358	0.0000%	\$0	\$0	\$0	\$0		
179	408.930	Other Taxes- City Tax or Fee	\$10,000,074	\$0	\$10,000,074	E-179	\$0	\$10,000,074	0.0000%	\$0	\$0	\$0	\$0		
180		TOTAL OTHER OPERATING EXPENSES	\$39,784,021	\$0	\$39,784,021		\$1,763,057	\$41,547,878		\$586,681	\$28,543,644	\$1,562,932	\$26,980,712		

Data Response Display - ER-2024-0261 - 0394.0

Request Summary ▼

Submission No.

ER-2024-0261

Request No.

0394.0

Requested Date

4/16/2025

Due Date

5/6/2025

Issue

Expense

Taxes

Property Taxes

Requested From

Liberty (Empire) (Electric) (Investor)

Regulatory Information (regulatory.information@libertyutilities.com)

Requested By

MO PSC Staff (Other)

Eric Vandergriff (eric.vandergriff@psc.mo.gov)

Jared Giacone (jared.giacone@psc.mo.gov)

Brief Description

Property tax appeals

Description

1) For January 1, 2021, through March 31, 2025, please identify in a list and describe all property tax appeals and property tax payments made under protest. 2) Please provide copies of all property tax appeals in item 1) and documentation of all supporting documentation for property tax payments made under protest. 3) For each appeal or payment under protest in item 1) please provide the final outcome or if not resolved, the current status and most recent update for each. 4) For each appeal or payment under protest in item 1) that has been resolved please explain whether additional tax was due or whether a refund of tax paid was received or awarded and how much the amount was per appeal or protest. 5) If no property tax appeals or property tax payments under protest were made for the period of January 1, 2021, through March 31, 2025, please explain a) why and b) the most recent approximate date when any property tax appeals or property tax payments were made under protest. Requested by Jared Giacone (jared.giacone@psc.mo.gov)

Request Security

Public (DR)

Response Date

5/6/2025

Response

Response provided by Charlotte Emery - see attached

Objections

Response Security

Public (DR)

Rationale

Attachments ▼

Name	Size	Security
Missouri ER-2024-0261 Missouri Public Service Commission 0394.pdf	113.42 KB	Public (DR)
Total: 1 file(s), 113.42 KB		



The Empire District Electric Company d/b/a Liberty

Case No. ER-2024-0261

Missouri Public Service Commission Data Request - 0394

Data Request Received: 2025-04-16

Response Date: 2025-05-06

Request No. 0394

Witness/Respondent: Charlotte Emery

Submitted by: Jared Giacone, Jared.Giacone@psc.mo.gov

REQUEST:

- 1) For January 1, 2021, through March 31, 2025, please identify in a list and describe all property tax appeals and property tax payments made under protest.
- 2) Please provide copies of all property tax appeals in item 1) and documentation of all supporting documentation for property tax payments made under protest.
- 3) For each appeal or payment under protest in item 1) please provide the final outcome or if not resolved, the current status and most recent update for each.
- 4) For each appeal or payment under protest in item 1) that has been resolved please explain whether additional tax was due or whether a refund of tax paid was received or awarded and how much the amount was per appeal or protest.
- 5) If no property tax appeals or property tax payments under protest were made for the period of January 1, 2021, through March 31, 2025, please explain a) why and b) the most recent approximate date when any property tax appeals or property tax payments were made under protest.

RESPONSE: Response is voluminous and will be provided via the Company's designated ShareFile site.

- 1) Please see the attached file "The Empire District Elec. Co. V. Taney County Assessor IMPORT.xlsx" as it lists the 139 parcels that have under appeal in Taney County, Missouri. 2023 and 2024 property taxes in Taney County, Missouri are under appeal, and we are waiting for a decision from the Missouri State Senior Officer for a decision. If we do not have a decision by the middle of May 2025, we will appeal 2025 as well. The property tax payments for 2023 and 2024 were both made under

protest awaiting the decision from our appeal. In 2023, there was a significant increase in the valuation of our property in Taney County of close to 600%.

- 2) Please see the attached appeals files:

[2023 Appeals 1-24.zip](#)

[2023 Appeals 25-48.zip](#)

[2023 Appeals 49-72.zip](#)

[2023 Appeals 73-96.zip](#)

[2023 Appeals 97-120.zip](#)

[2023 Appeals 121-139.zip](#)

[2024 Appeals 1-24.zip](#)

[2024 Appeals 25-48.zip](#)

[2024 Appeals 49-72.zip](#)

[2024 Appeals 73-96.zip](#)

[2024 Appeals 97-120.zip](#)

[2024 Appeals 121-139.zip](#)

[2023 Taney County Tax Statements – EDE \(Parcels Under Appeal\).pdf](#)

[Taney County Appeal – Letter & Copy of Check \(12-21-23\).pdf](#)

[2024 Taney County Tax Statement \(under appeal\).pdf](#) (The check was hand delivered to the County Clerk)

- 3) There hasn't been a decision made for 2023 and 2024 property tax appeals in Taney County, Missouri. We had a hearing in January 2025, and we are waiting for the decision from the Senior Hearing Officer.
- 4) This is not applicable at this time.
- 5) For clarification, Liberty prepares and negotiates our centrally assessed renditions with each of the four states. Therefore, each year is already negotiated and agreed to so there is no need for further appeals.

However, for local assessments Liberty does not have the same opportunity contemporaneous with our annual filings. Therefore, we evaluate any possible appeals.

For the period January 1, 2021, through December 31, 2022, no appeals were filed. This was the result of reviewing the assessments for reasonableness considering our property additions and inflation.

In 2023, we did appeal the locally assessed Taney County taxes. No decision has been reached, and we continue to appeal each year until a decision is final. All payments made after the appeal and before a final judgement are made under protest.

Data Response Display - ER-2024-0261 - 0295.2

Request Summary ▼

Submission No.

ER-2024-0261

Request No.

0295.2

Requested Date

4/21/2025

Due Date

5/11/2025

Issue

General Information & Miscellaneous

Other General Info & Misc.

Requested From

Liberty (Empire) (Electric) (Investor)
Regulatory Information (regulatory.information@libertyutilities.com)

Requested By

MO PSC Staff (Other)
Eric Vandergriff (eric.vandergriff@psc.mo.gov)
Jared Giacone (jared.giacone@psc.mo.gov)

Brief Description

Explanation of test year severance costs and further explanation of response

Description

Please refer to the Company’s March 10, 2025, and April 2, 2025, supplemental response to data request no. 295 and provide an explanation for the following: a) How the statement, “The Company is not seeking recovery of any severance payments in the test year operating expenses in this rate case” is consistent with “the Company’s direct case did not include any adjustments to remove severance payments” and “The Company’s test year did contain severance payments.” b) Whether the Company can identify if severance costs were booked to above-the-line regulatory ratemaking accounts for the 12 month period ending September 30, 2023 and if so, how, to which specific accounts and for what amounts. c) Whether the Company can identify whether any severance costs were booked to below-the-line non-ratemaking accounts for the 12 month period ending September 30, 2023 and if so, how, to which specific accounts and for what amounts. d) Whether the Company agrees that any severance cost expenses included in the test year 12 months ending September 30, 2023, would be included and contribute to an increase in their calculated revenue deficiency if not otherwise removed through adjustment or booked to below-the-line accounts. e) Whether the Company knows if any severance costs were capitalized to plant (Construction Work In Progress “CWIP”) and if so, 1) how; 2) the allocation percent of capitalization; and 3) the dollar amount of severance capitalized for the 12 month period ending September 30, 2023. Requested by Jared Giacone (jared.giacone@psc.mo.gov)

Request Security

Public (DR)

Response Date

5/9/2025

Response

Provided by Charlotte Emery - See Attached

Objections

Response Security

Public (DR)

Rationale

Attachments ▼

Name	Size	Security
Missouri ER-2024-0261 Missouri Public Service Commission 0295.2.pdf	110.37 KB	Public (DR)
Total: 1 file(s), 110.37 KB		



The Empire District Electric Company d/b/a Liberty

Case No. ER-2024-0261

Missouri Public Service Commission Data Request - 0295.2

Data Request Received: 2025-04-21

Response Date: 2025-05-09

Request No. 0295.2

Witness/Respondent: Charlotte Emery

Submitted by: Jared Giaccone, Jared.Giaccone@psc.mo.gov

REQUEST:

Please refer to the Company's March 10, 2025, and April 2, 2025, supplemental response to data request no. 295 and provide an explanation for the following:

- a) How the statement, "The Company is not seeking recovery of any severance payments in the test year operating expenses in this rate case" is consistent with "the Company's direct case did not include any adjustments to remove severance payments" and "The Company's test year did contain severance payments."
- b) Whether the Company can identify if severance costs were booked to above-the-line regulatory ratemaking accounts for the 12 month period ending September 30, 2023 and if so, how, to which specific accounts and for what amounts.
- c) Whether the Company can identify whether any severance costs were booked to below-the-line non-ratemaking accounts for the 12 month period ending September 30, 2023 and if so, how, to which specific accounts and for what amounts.
- d) Whether the Company agrees that any severance cost expenses included in the test year 12 months ending September 30, 2023, would be included and contribute to an increase in their calculated revenue deficiency if not otherwise removed through adjustment or booked to below-the-line accounts.
- e) Whether the Company knows if any severance costs were capitalized to plant (Construction Work In Progress "CWIP") and if so, 1) how; 2) the allocation percent of capitalization; and 3) the dollar amount of severance capitalized for the 12 month period ending September 30, 2023.

RESPONSE:

- a) In an effort to reduce potential issues in this rate case the Company will not seek recovery of any type of severance payments. This will occur either in the Company's True-up revenue requirement calculation (via the payroll adjustment) or via rebuttal testimony.

- b) Please refer to the excel spreadsheet provided in the Company's response to MPSC DR 0295.1.
- c) These costs did not flow through the intercompany billings (because these GL's are not supposed to be allocated out through intercompany billing) and therefore, no portion of these were booked to Empire Electric.
- d) Yes, the Company agrees that if severance costs are included in the test year balances of above-the-line accounts then not removing the severance-related costs via an adjustment to the respective balances, would result in a higher calculated revenue deficiency.
- e) Please refer to the excel spreadsheet provided in the Company's response to MPSC DR 0295.1.

Data Response Display - ER-2024-0261 - 0295.3

Request Summary ▼

Submission No.

ER-2024-0261

Request No.

0295.3

Requested Date

4/21/2025

Due Date

5/11/2025

Issue

General Information & Miscellaneous

Other General Info & Misc.

Requested From

Liberty (Empire) (Electric) (Investor)
Regulatory Information (regulatory.information@libertyutilities.com)

Requested By

MO PSC Staff (Other)
Eric Vandergriff (eric.vandergriff@psc.mo.gov)
Jared Giacone (jared.giacone@psc.mo.gov)

Brief Description

Test year severance costs revenue requirement impact

Description

1) Please explain if all severance costs were expensed during the 12 month period ending September 30, 2023, and if not, what dollar amount was expensed and what dollar amount was capitalized. 2) Please explain if the Company agrees that their calculated revenue deficiency would be less, meaning a smaller revenue increase would be needed than initially applied for, if they remove severance costs during rebuttal as stated in the supplemental response to data request no. 295. If yes, please quantify and provide the calculations for the dollar amount of revenue requirement impact that removing severance costs from their revenue increase application would have. If no, please explain why and include supporting detail. Requested by Jared Giacone (jared.giacone@psc.mo.gov)

Request Security

Public (DR)

Response Date

5/9/2025

Response

Provided by Charlotte Emery - See Attached

Objections

Response Security

Public (DR)

Rationale

Attachments ▼

Name	Size	Security
Missouri ER-2024-0261 Missouri Public Service Commission 0295.3.pdf	105.89 KB	Public (DR)

Name	Size	Security
Severance Costs - Revenue Requirement Impact.xlsx	19.17 KB	Public (DR)
Total: 2 file(s), 125.06 KB		



The Empire District Electric Company d/b/a Liberty

Case No. ER-2024-0261

Missouri Public Service Commission Data Request - 0295.3

Data Request Received: 2025-04-21

Response Date: 2025-05-09

Request No. 0295.3

Witness/Respondent: Charlotte Emery

Submitted by: Jared Giacone, Jared.Giacone@psc.mo.gov

REQUEST:

- 1) Please explain if all severance costs were expensed during the 12 month period ending September 30, 2023, and if not, what dollar amount was expensed and what dollar amount was capitalized.
- 2) Please explain if the Company agrees that their calculated revenue deficiency would be less, meaning a smaller revenue increase would be needed than initially applied for, if they remove severance costs during rebuttal as stated in the supplemental response to data request no. 295. If yes, please quantify and provide the calculations for the dollar amount of revenue requirement impact that removing severance costs from their revenue increase application would have. If no, please explain why and include supporting detail.

RESPONSE:

- 1) Not all severance costs were expensed during the test year. Please see excel spreadsheet provided in Company's response to DR 295.1 for a breakout of capital versus expense.
- 2) Yes, the Company agrees that the revenue deficiency would be lower as a result of removing out any severance costs. Please see attached "Severance Costs – Revenue Requirement Impact.xlsx".

For ALL TERRITORY

SOLAR REBATE RIDER RIDER SR
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PURPOSE:

The purpose of this Rider SR is to implement the solar rebate established through §393.1030 RSMo. and §393.1670 RSMo and to establish the terms, conditions and procedures, consistent with applicable law and MoPSC orders and rules, which the Company will rely on in accepting rebate applications, authorizing rebate payments to eligible participants for a qualifying solar electric system ("System"), and the handling of solar renewable energy credits ("SRECs") associated with the new or expanded System.

AVAILABILITY:

Subject to the Retail Rate Impact limitations set forth in 4 CSR 240-20.100(5), §393.1030 RSMo and §393.1670 RSMo, Missouri retail electric customers of the Company who install, own, operate and maintain a solar electric generation system in parallel with the Company's service in accordance with the following limitations and conditions are eligible for the solar rebate:

1. The customer must have a completed and approved Net Metering Application and Agreement on file with the Company in accordance with the Company's Net Metering Rider, Rider NM.
2. The customer must be an active account on the Company's system and in good payment standing.
3. The System must be permanently installed on the customer's premise.
4. The customer must declare the installed System will remain in place on the account holder's premise for the duration of its useful life which shall be deemed to be a minimum of ten (10) years.
5. The solar modules and inverters shall be new equipment and include a manufacturer's warranty of ten (10) years.
6. No residential retail electric account will be eligible for a solar rebate for more than twenty-five kilowatts (25 kW) of new or expanded new capacity irrespective of the number of meters/service points associated with the account holder. No non-residential retail electric account will be eligible for a solar rebate for more than one hundred fifty kilowatts (150 kW) of new or expanded new capacity irrespective of the number of meters/service points associated with the account holder.
7. The System shall meet all requirements of 4 CSR 240-20.065 and the Company's Net Metering Rider, Rider NM.
8. The System must be situated in a location where a minimum of eighty-five percent (85%) of the solar resource is available to the System.
9. The customer must execute an affidavit for Company's use in complying with §393.1030 RSMo and §393.1670 RSMo. The affidavit can be obtained from Company's website www.empiredistrict.com.
10. The Solar Rebate application must be received and completed prior to August 6, 2023, and the system must become operational on or before December 31, 2023.

THE EMPIRE DISTRICT ELECTRIC COMPANY d.b.a. LIBERTY

P.S.C. Mo. No. 6 Sec. 4 1st Revised Sheet No. 23b

Canceling P.S.C. Mo. No. 6 Sec. 4 Original Sheet No. 23b

For ALL TERRITORY

SOLAR REBATE RIDER RIDER SR
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SOLAR REBATE APPLICATION:

For the customer's convenience, the Solar Rebate Application is located in two (2) places: Section H. and Section I. of an "INTERCONNECTION APPLICATION/AGREEMENT FOR NET METERING SYSTEMS WITH CAPACITY OF ONE HUNDRED KILOWATTS (100 kW) OR LESS", an integral part of the Company's Net Metering Rider, Rider NM; and Section A. and Section B. of the "MISSOURI SOLAR ELECTRIC REBATE APPLICATION", an integral part of the Company's Solar Rebate Rider, Rider SR – both of which can be obtained from the Company's website www.empiredistrict.com.

SYSTEM:

Qualifying solar electric system.

REBATE RATE SCHEDULE:

Subject to the Availability provisions of this Rider SR, complete and accurate Solar Rebate Applications received by the Company for Systems on or before August 6, 2023 will be eligible for a solar rebate in the amount of \$0.25 per watt, provided they become operational prior to December 31, 2023.

RESERVATION QUEUE:

The Company will establish a Reservation Queue for solar rebate payments based on the System Qualification Dates. A customer, and their developer (if applicable), whose Net Metering Application and Solar Rebate Application are conditionally approved pending field commissioning safety test will be notified in writing, by letter or email, that either:

DATE OF ISSUE July 7, 2023 DATE EFFECTIVE August 6, 2023

ISSUED BY Charlotte Emery, Sr Director Rates and Regulatory Affairs, Joplin, MO

Case No. ER-2024-0261
Schedule JG-d5, Page 2 of 4

For ALL TERRITORY

SOLAR REBATE RIDER RIDER SR

1. Solar rebate funds have been committed for their System, subject to the Qualification Date not changing and the commitment not expiring; or
2. Solar rebate funds cannot be guaranteed for their System. The Company will use the following notice in this event:

"Empire cannot guarantee solar rebate funds for your System. Empire has filed its sixty-day notice of reaching its annual retail rate impact limit pursuant to Section 393.1030, RSMo. You may still receive a solar rebate if: a) the Public Service Commission determines that Empire has not yet met its annual retail rate impact limit; b) additional rebates become available due to other qualified solar systems dropping out of the reservation queue; or c) additional rebates become available at the start of the next calendar year."

At least monthly, the Company will notify in writing, by letter or email, those customers and their developers that did not receive a Rebate Commitment but for which a Rebate Commitment is now being made as a result of other Systems that have dropped out of the Reservation Queue. Details concerning the Reservation Queue are posted on the Company website www.empiredistrict.com. Applications will be processed within the time frames set forth by applicable law and MoPSC orders and rules.

QUALIFICATION DATE AND REBATE COMMITMENT:

The Qualification Date will be the postmarked date of the Net Metering Application and/or the Solar Rebate Application received by the Company that satisfy the Application Requirements and are subsequently approved by the Company.

The Company will only make a Rebate Commitment to a customer that has a Qualification Date and the customer, and their developer, will be notified in writing, by letter or email, of any deficiencies in the Application Requirements that will prevent a Rebate Commitment by the Company.

The Company's Rebate Commitment to a customer will expire if:

1. The System has not attained an Operational Date by December 31, 2023.
2. The System is not constructed in accordance with the design submitted by the customer and approved by the Company, thereby causing the Net Metering Application to become invalid.

THE EMPIRE DISTRICT ELECTRIC COMPANY d.b.a. LIBERTY

P.S.C. Mo. No. 6 Sec. 4 1st Revised Sheet No. 23d

Canceling P.S.C. Mo. No. 6 Sec. 4 Original Sheet No. 23d

For ALL TERRITORY

SOLAR REBATE RIDER
RIDER SR

REBATE PAYMENT:

The amount of the rebate will be the combined direct current (DC) rating of the solar module(s) in watts as indicated by the applicant by clearly identifying the specific model number on the manufacturer's specification sheet(s) for the new System or the current expansion of an existing System multiplied by the rebate rate as determined by the Rebate Rate Schedule Provisions of this Rider SR.

A rebate payment will not be issued until:

1. A complete and accurate Net Metering Application has been executed by the customer and the Company, and
2. A complete and accurate Solar Rebate Application has been accepted by the Company and a Rebate Commitment made by the Company, and
3. Customer has satisfied all Completion Requirements, and
4. The System is operational.

A current Empire Net Metering customer does not need to complete a new Net Metering Application in order to take advantage of this Rider SR.

Rebate payments will be made within the time frames set forth by applicable law and MoPSC orders and rules.

NOTE: Confirmation by the Company that the System was installed and operational does not constitute any warranty or guaranty of fitness for a particular use. The Company expressly disclaims all warranties and conditions of merchantability and fitness for a particular purpose in connection with the customer's solar electric system. The customer is solely responsible for determining the appropriateness of using a qualifying solar electric system, including but not limited to the risk of system operational errors, damage to or loss of property, and unavailability or interruption of System operations. The Company will not be liable for any direct damages or for any special, incidental, or indirect damages or for any economic consequential damages. The Company will not be liable for any damages claimed based on a third party claim.

DATE OF ISSUE July 7, 2023 DATE EFFECTIVE August 6, 2023
ISSUED BY Charlotte Emery, Sr Director Rates and Regulatory Affairs, Joplin, MO

Case No. ER-2024-0261
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