

Exhibit No. 164

Staff – Exhibit 164
Testimony of Melanie Marek
Surrebuttal/True-Up Direct
File No. ER-2024-0261

Exhibit No.:

*Issue(s): Incentive Compensation,
Bad Debt*

Witness: Melanie Marek

Sponsoring Party: MoPSC Staff

*Type of Exhibit: Surrebuttal / True-Up Direct
Testimony*

Case No.: ER-2024-0261

Date Testimony Prepared: September 17, 2025

MISSOURI PUBLIC SERVICE COMMISSION

FINANCIAL AND BUSINESS ANALYSIS DIVISION

AUDITING DEPARTMENT

SURREBUTTAL / TRUE-UP DIRECT TESTIMONY

OF

MELANIE MAREK

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

CASE NO. ER-2024-0261

*Jefferson City, Missouri
September 2025*

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

2 **OF**

3 **MELANIE MAREK**

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

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

7 Q. Please state your name and business address.

8 A. My name is Melanie Marek, and my business address is 200 Madison Street,
9 P.O. Box 360, Jefferson City, Missouri 65102.

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

11 A. I am employed by the Missouri Public Service Commission (“Commission”) as
12 a Lead Senior Utility Regulatory Auditor in the Auditing Department, Financial and Business
13 Analysis Division, a member of Commission Staff (“Staff”).

14 Q. Are you the same Melanie Marek who filed direct testimony on July 2, 2025,
15 in this case?

16 A. Yes, I am.

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

18 A. The purpose of my testimony is to respond to statements made by Empire’s
19 witness, Charlotte T. Emery in regards to Staff’s incentive compensation adjustment. I will also,
20 address concerns from the Office of the Public Counsel (“OPC”)’s witness, Angela Schaben,
21 regarding Staff’s bad debt expense adjustment calculation.

INCENTIVE COMPENSATION

Q. What is Staff's position for incentive compensation expense?

A. As I explained on page 8 of my direct testimony, Staff recommends excluding from rates the portions of Empire's Short Term Incentive Plan ("STIP") and the Shared Bonus Pool ("SBP") that are tied to financial metrics and the implementation of Customer First. Staff also recommends excluding the entire Long Term Incentive Plan ("LTIP") that are stock awards. Staff finds that these costs are incurred without evident ratepayer benefit.

Q. What is Empire's response to Staff's adjustments?

A. On pages 34 through 37 of her rebuttal testimony, Empire's witness Ms. Emery explains that incentive compensation is a core component of Liberty's total compensation philosophy and serve to enhance efficiency and service outcomes to the benefit of customers. Without incentive compensation, Liberty would be unable to hire and retain talent so it is necessary for full inclusion in the cost of service.

Q. What does Empire request for incentive compensation expense?

A. Empire's cost of service model leaves the test year incentive compensation unadjusted. Empire is effectively requesting full recovery of its incentive compensation programs, including financial metrics and stock awards under the LTIP.

Q. Is Staff's position on the removal of financial metrics for incentive compensation consistent with prior rate case treatment?

A. Yes. Empire is an experienced utility in Missouri and has been through numerous rate cases with the Commission, not just for electricity. It is common practice for the

1 Commission to assign the costs of financial metrics¹ within incentive compensation to the
2 beneficiaries of those metrics; the shareholders. In this case, Empire requested recovery of these
3 financial metrics after being disallowed in a recent Empire rate case, which is contradictory
4 with the Commission's consistent guidance. In Empire's Case No. ER-2019-0374,
5 the Commission's decision explained:

6 The Commission has traditionally not allowed earnings based
7 compensation to be recovered in rates because those incentives
8 predominantly benefit shareholders and not ratepayers. Incentivizing
9 employees to improve Empire's bottom line aligns the employee
10 interests with the shareholders and not ratepayers. Staff appropriately
11 disallowed the short-term incentive plans because of its earning per share
12 target, the Long Term Incentive Plan because it is a stock compensation
13 plan, and the Stock Option expenses.

14 Q. Why is it appropriate to exclude incentive compensation costs tied to the
15 implementation of Customer First?

16 A. As Staff and OPC have explained in other testimonies provided in this docket,
17 the implementation of Customer First was not successful for Empire and a substantial number
18 of ratepayers are receiving a sub-standard quality of service so ratepayers should not be
19 burdened with the costs. Empire's awards tied to Customer First are based on a subjective
20 measurement of a "successful" attempt to implement the new programs manually adjusted to
21 reach the threshold that triggered a payout.

22 Q. What if any data request ("DR") responses made by Empire assisted with
23 Staff's recommendation?

¹ ER-2019-0374 Amended Report and Order, beginning page 160 item 28; ER-2006-0315 Report and Order, beginning page 46 item 8. See also: GR-2017-0216, Report and Order (issued February 21, 2018) pages 116-127, GR-2004-0209, Report and Order (issued September 21, 2004), p. 43 and ER-2007-0291, Report and Order (issued December 6, 2007), p. 49.

1 A. In response to Staff DR 0241.3, attached as Schedule
2 MM-s1-CONFIDENTIAL, Empire provided statements that are important to Staff's
3 disallowance. First, employees were unable to meet the goals regarding the Customer First
4 implementation, especially in Empire's area, but a threshold payout was awarded anyway.
5 If a plan pays regardless of performance then an employee's incentive portion of their overall
6 compensation package is not really at risk, and employees don't feel the incentive to succeed
7 since a payout is guaranteed. Second, the DR response acknowledges that the final results were
8 moved to trigger a payout, which is an entirely subjective decision by management. If goals are
9 not able to be objectively measured then the employees are at the mercy of management to
10 decide their success. A well-structured plan removes ambiguity from the expectations and
11 should not be a guaranteed payout.

12 **BAD DEBT EXPENSE**

13 Q. In her rebuttal testimony, OPC witness Angela Schaben states Staff's
14 recommendation for bad debt expense is inconsistent with the previous rate case, and should
15 include only Missouri costs. Does Staff agree?

16 A. Yes. There appears to be some confusion with the mechanics of Staff's
17 adjustment but Staff agrees that ratepayers should only pay for Missouri's portion of the
18 expense. Staff's direct revenue requirement model has an 89.1453% jurisdictional allocator
19 applied to the uncollectible account 904 and my adjustment for bad debt expense is subject to
20 the same allocator. As such, Staff's revenue requirement correctly reflects the Missouri portion
21 of ongoing bad debt expense.

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

23 A. Yes, it does.

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

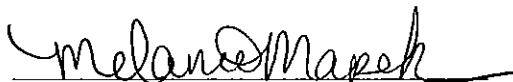
In the Matter of the Request of The Empire)
District Electric Company d/b/a Liberty for)
Authority to File Tariffs Increasing Rates)
for Electric Service Provided to Customers)
in Its Missouri Service Area)
Case No. ER-2024-0261

AFFIDAVIT OF MELANIE MAREK

STATE OF MISSOURI)
)
COUNTY OF COLE) ss.

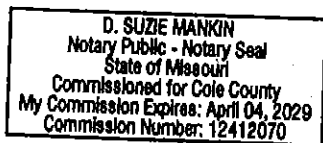
COMES NOW MELANIE MAREK and on her oath declares that she is of sound mind and lawful age; that she contributed to the foregoing *Surrebuttal / True-Up Direct Testimony of Melanie Marek*; and that the same is true and correct according to her best knowledge and belief.

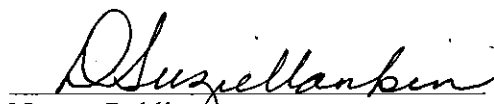
Further the Affiant sayeth not.


MELANIE MAREK

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 10th day of September 2025.




Notary Public

CASE NO. ER-2024-0261

SCHEDULE MM-s1

HAS BEEN

DEEMED CONFIDENTIAL

IN ITS ENTIRETY