BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

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

INITIAL BRIEF OF STAFF

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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 INITIAL BRIEF

COMES NOW the Staff of the Missouri Public Service Commission ("Staff"), by and through counsel, respectfully requests that the Missouri Public Service Commission ("Commission") adopt the Non-Unanimous Global Stipulation and Agreement ("Global Agreement"), filed October 6, 2025, and for its Initial Brief state as follows:

Non-Unanimous Global Stipulation and Agreement and List of Issues

(Global Agreement)

On October 6, 2025, counsel for Staff, Midwest Energy Consumers Group ("MECG"), the International Brotherhood of Electrical Workers Local Union No. 1474 ("IBEW 1474"), Renew Missouri Advocates d/b/a Renew Missouri, and The Empire District Electric Company d/b/a Liberty ("Liberty," "Empire," or the "Company") filed a Non-Unanimous Global Stipulation and Agreement. The Global Agreement resolves most of the issues except for those regarding the Market Price Protection Mechanism ("MPPM").[1]

[1] The Commission transferred the MPPM issue to File No. EO-2026-0101. Docket Sheet - EO-2026-0101 - Item 1 - EFIS

The Office of the Public Counsel ("OPC") and later the Consumers Council of Missouri ("Consumers Council") timely filed objections to the Non-Unanimous Stipulation and Agreement.[2] Pursuant to Commission's rules, the objections allow the Commission to treat the Global Agreement and the issues it settles as the signatory parties' position, retaining authority to decide remaining issues after the hearing.

The Global Agreement, among other things, resolved the revenue requirement for Empire as it stipulates a "black-box" increase in Empire's revenue requirement of approximately $97 million. Staff supports this stipulated revenue requirement, in part, because it acknowledges Empire's prudent investments and incorporates a $(20,181,324) reduction tied to Empire's execution of its Customer First billing system. The Global Agreement's $97 million revenue requirement is significantly lower than Staff's recommended $128 million increase and Empire's requested $168 million revenue requirement.

The Global Stipulation is not unanimous. However, all parties contributed to it, and all stakeholders are represented. The Global Agreement includes multiple provisions that benefit ratepayers, such as: phased in rates over three (3) years beginning with an effective 2% increase, $8.5 million in arrearage forgiveness paid by Empire, increased funding for the Low-Income Weatherization Assistance Program ("LIWAP") and the Low-Income Pilot Program, no new rate case until 24 months after the effective date of rates in this case, and tying Empire's recovery of and return on its customer information system to measurable performance metrics. Further, the stipulated agreement maintains

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[2] The OPC filed its objection on October 8, 2025, and the Consumers Council filed its objection on October 10, 2025, adopting the OPC's position. Docket Sheet - ER-2024-0261 - Item 388 - EFIS

the 95/5 fuel adjustment clause sharing ratio, down from Empire's requested 100/0, without the need for further litigation on those issues.

The Global Agreement holds Empire accountable for improving service quality while allowing it a reasonable opportunity to earn a fair return on prudent investments based upon its future performance. The Global Agreement is the product of extensive negotiations among diverse parties, reflecting the signatories' attempt to recognize the merits of various viewpoints on the resolved issues. Staff modified its position to support the Global Agreement because it provides a just and reasonable resolution of this entire case.

Unfortunately, the non-signatory parties could not agree that Empire should receive any return on its prudent investments for the benefit of ratepayers litigated in this case, now and potentially into the future.

Staff maintains that the Commission should allow Empire a fair return on its prudent investments. The Global Agreement provides the best method to deliver that return, as it safeguards customers from poor performance with measurable costs to Empire, and provides financial security to ratepayers and to Empire's stakeholders by ensuring that any return is based on prudent and economic management.

The Office of the public Counsel and the Consumers Council of Missouri objected to the Global Stipulation primarily due to its position that Empire should receive a zero-dollar rate increase.[3] However, Empire did make prudent investments that benefit ratepayers, as reflected in the record, in Staff's testimony.

[3] See paragraph five (5) of the Office of the Public Counsel's *Objection to the Non-Unanimous Stipulation and Agreement*, filed on October 8, 2025. Docket Sheet - ER-2024-0261 - Item 381 - EFIS

Empire stated in its filing letter that, since its test period ending June 30, 2021, it had: (1) upgraded and rebuilt 23 substations; (2) reconductored 80 miles of transmission lines; (3) constructed 30 miles of new transmission lines; (4) sectionalized 7 distribution circuits; (5) reinforced or replaced 2,296 poles; and (6) added wildlife guards. No party disputes the usefulness or prudency for all of Empire's investments in this case.

As a signatory to the Global Agreement, Empire agreed to provide $8.5 million in arrearage forgiveness and to phased-in rates, with the added protection of no new rate case for 24 months after rates take effect. Further, the Office of the Public Counsel supports many initiatives included in the Global Agreement.

During the Commission's November 5, 2025 agenda discussion, the Chair, with the concurrence of the Commissioners, discussed OPC's and the Consumer Council's position that Empire's rate increase should be conditioned on noticeable improvements. After the discussion, the signatories to the Global Agreement filed a Supplemental Stipulation and Agreement ("Supplemental Agreement") on December 12, 2025 establishing specific customer service metrics.

The filed Supplemental Agreement establishes customer service metrics that Empire is required to meet for three consecutive months, starting on January 1, 2026, before the rate increases agreed to in the Global Agreement take effect.

Under the Supplemental Agreement, Empire must file monthly status reports by the 15th of each month, indicating the number of instances of noncompliance with the provisions provided below, and at least a summary explanation of the causes or reasons for those instances of noncompliance. Empire must maintain adequate documentation and cooperate with Staff's review. The required performance metrics include:

a. Eliminate initial and final estimated bills for service in compliance with Commission Rule. To the extent that the Company was unable to obtain a read for reasons beyond the control of the Company, the Company shall provide the reason that the inability was beyond the Company's control.[4]

b. For all accounts associated with a metered service, the Company shall confirm that each meter associated with that account is attached to the account in SAP for billing purposes. In conjunction, customers on rate schedules that proscribe usage-based billing shall not receive bills without usage or beginning or end meter reads.[5]

c. If a customer's initial or final bill covers a "normal" billing period (26-35 days), the Company shall not prorate the customer charge. Instead, the customer should be charged the full monthly customer charge, just like any other regular bill.[6]

d. The Company shall not issue a customer bill with fewer than 21 days between the bill rendition date and the bill due date, except where (1) tariff provisions explicitly allow a shorter interval, (2) the customer has selected a Preferred Payment Date Plan, or (3) the customer is subject to collective or joint account billing.[7]

e. The Company shall eliminate instances where bills are issued with a usage period of less than 26 or more than 35 days, with the exception of initial bills, final bills, or corrected bills. This metric will exclude only joint and collective accounts that were actively being realigned

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[4] 20 CSR 4240-13.020(2)(C)3: A utility shall not estimate a customer's initial or final bill for service, unless conditions beyond the control of the utility prevent an actual meter reading. In such cases, if and when actual meter readings become available, the utility shall adjust the initial or final bill by issuing a bill for additional charge, or refund, as appropriate.

[5] 20 CSR 4240-13.020(2): Each billing statement rendered by a utility shall be computed on the actual usage during the billing period except as follows….

20 CSR 4240-13.020(9): Every bill for residential utility service shall clearly state— (A) The beginning and ending meter readings of the billing period and the dates of these readings.

[6] Tariff violation- Customer Charge.

[7] 20 CSR 4240-13.020(7): A monthly-billed customer shall have at least twenty-one (21) days and a quarterly-billed customer shall have at least sixteen (16) days from the rendition of the bill to pay the utility charges, unless a customer has selected a preferred payment date in accordance with a utility's preferred payment date plan.

20 CSR 4240-13.015(1)(J): Delinquent date means the date stated on a bill, which shall be at least twenty-one (21) days for a monthly billed customer, and at least sixteen (16) days for a quarterly billed customer from the rendition date of the bill or the preferred payment date selected by the customer, after which the utility may assess a commission approved late payment charge in accordance with the utility's tariff on file with the commission.

during the month in question (as per the meter read alignment process detailed in Case No. EE-2026-0065).[8]

f. The Signatories acknowledge the variance granted in Case No. EE-2026-0065 concerning joint and collective account realignment. Except for those instances covered by the variance granted in Case No. EE-2026-0065, in the month of realignment, or prior to realignment, the Company shall demonstrate progress in reducing delayed billing by invoicing a bill nine or less days after the customer's cyclical bill date for no less than 99.7% of billing contracts in a given billing cycle.[9]

In conclusion, Staff's position is that the record does not support a zero-dollar increase based on allegations of unreliable customer service. Rather, the record supports the Global Agreement and Supplemental Agreement, which best address Empire's documented deficiencies tied to unreliable customer service.

Eric Vandergriff

LEGAL STANDARD

Each proceeding for fixing of rates of a public utility company must be determined upon its own facts.[10] The rate of return for a public utility is determined by a calculation that factors in: (1) the ratio of debt and equity to total capital; and (2) the cost and (3) weighted cost for each of these capital components.[11]

The Commission has authority under Chapters 386 and 393, RSMo, to regulate public utility rates and to ensure rates are just and reasonable after considering all

[8] 20 CSR 4240-13.015(1)(C): Billing period means a normal usage period of not less than twenty-six (26) nor more than thirty-five (35) days for a monthly billed customer nor more than one hundred (100) days for a quarterly billed customer, except for initial, corrected, or final bills.
[9] 20 CSR 4240-13.020(6): A utility may bill its customers on a cyclical basis if the individual customer receives each billing on or about the same day of each billing period.
[10] *State ex rel. Missouri Water Co. v. Public Service Commission*, 308 S.W.2d 704, 718 (Mo. 1957).
[11] *State ex rel. Missouri Gas Energy v. Public Service Commission*, 186 S.W.3d 376, 383 (Mo. Ct. App. 2005).

relevant factors.[12] The United States Supreme Court in the *Hope* case established that the rate making process involves a balancing of the investor and consumer interests.[13] It also established in the *Bluefield* case, that a public utility is entitled to rates that allow a return on the value of its property comparable to returns on investments of similar risks, that is sufficient to assure confidence in the utility's financial soundness and to maintain credit.[14] Missouri courts have upheld that principle in their rulings, balancing the interests of the stakeholders with the public interest.[15] The opinion of a qualified expert may amount to substantial and competent evidence for the purposes of arriving at a conclusion in a case.[16]

The parties may file a stipulation and agreement as a proposed resolution to all or part of the contested case. The Commission may resolve all or part of a contested case on the basis of a stipulation and agreement.[17] If a party chooses to object to all or part of a stipulation and agreement, the stipulation shifts procedurally from being a settlement to the signatory parties stipulated position. As a stipulated position, parties are not bound by the stipulation and may provide additional support of its stipulated position in the evidentiary hearing.[18]

Any objecting parties must identify specific provisions within the stipulation it objects to and must provide justification for each objection. Failing to satisfy the

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[12] *State ex rel. Utility Consumers Council of Missouri, Inc. v. Public Service Commission*, 585 S.W.2d 41, 49 (Mo. banc. 1979).
[13] *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591, 603 (1944).
[14] *Bluefield Waterworks & Imp. Co. v. Pub. Serv. Commission of West Virginia*, 262 U.S. 679, 43 S. Ct. 675, 67 L. Ed. 1176 (1923).
[15] *State ex rel. Union Electric Co. v. Public Service Commission*, 765 S.W.2d 618, 622 (Mo. App. W.D. 1988).
[16] *State ex rel. General Tel. Co. of Midwest v. Public Service Commission*, 537 S.W.2d 655, 663 (Mo. App. W.D. 1976).
[17] *State ex rel. Monsanto Co. v. Public Service Commission of Missouri*, 716 S.W.2d 791 (Mo. banc. 1986).
[18] 20 CSR 4240-2.115(2)(D).

regulations' objection requirement within seven (7) days in accordance with the Commission rule constitutes a waiver.[19]

Eric Vandergriff

STAFF'S PRE-STIPULATED POSITIONS

Staff adopted the Global Agreement because it represents the most just and reasonable outcome for Empire and its stakeholders. The Commission, however, has full authority to review the entire record and reach the conclusion it believes best represents just and reasonable rates.

Although Staff no longer supports its pre-stipulated positions, if the Commission does not adopt the Global Agreement, Staff submits that the next best outcome would be the adoption of Staff's original positions as presented below.

Eric Vandergriff

CAPITAL STRUCTURE / RETURN ON EQUITY / 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?

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

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

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?

[19] 20 CSR 4240-2.115(2)(B) states that the objecting party shall identify the specific provision of the stipulation and agreement that is objected to and provide a reason for each objection. Failure to file a timely objection shall constitute a full waiver of that party's right to a hearing.

Staff Position: The appropriate overall ratemaking Rate of Return ("ROR") is 7.02%[20] This is not inconsistent with the ROR of 7.01% to be used for applicable mechanisms in the Agreement.[21]

The trend for Authorized Return on Equity ("ROE")'s for utilities has declined over the last several years and has remained below 10.0% in more recent history.[22] Staff originally recommended an authorized ROE of 9.50% in a range of reasonableness of 9.00% to 10.0%.[23] This ROE is to be applied before any reductions the Commission may deem appropriate. The above recommendation is based on an analysis of the regulated utility industry's access to capital, credit rating trends, and outlooks, as well as the overall trend in the authorized ROE for utilities throughout the country.

Staff did not take issue with Empire's revised proposed capital structure, including an equity ratio of 53.0%.[24]

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%.[25]

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 favor of

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[20] Ex. 121, Direct Testimony of Christpher Walters at page 4, line 11-13.
[21] *Non-Unanimous Global Stipulation and Agreement* at page 2, paragraph 5.
[22] Ex. 121, Direct Testimony of Christpher Walters at page 3, line 14-16.
[23] Ex. 121, Direct Testimony of Christopher Walters at page 60, line 1-12.
[24] Ex. 173, Surrebuttal Testimony at page 15, lines 21–22.
[25] Ex. 178, True-up Rebuttal Testimony of Christopher Walters at page 2, line 7-8.

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.

Tracy Johnson

RATE BASE ITEMS

<u>Plant & Accumulated Depreciation</u>

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: If the Commission does not approve the Global Agreement, Staff recommends the Commission approve its annualized level of plant in service and depreciation reserve as of March 31, 2025. [26]

Plant in service represents the structure and equipment used by the utility to provide service to ratepayers, and is offset by accumulated depreciation reserve.[27] Staff reviewed plant accounts and based plant in service on actual booked amounts, with a portion of Empire's common plant removed.[28] Common plant refers to Empire plant that is partially used by Liberty's gas or water utility affiliates.[29] Staff removed this common plant using a cost allocation method to ensure Empire's electric customers "only pay for costs associated with providing electric service in Missouri."[30]

Accumulated depreciation reserve "represents the sum of all depreciation accruals, net of cost of removal and salvage, which has been recorded on plant placed

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[26] Exhibit 152, Surrebuttal / True-up Testimony of Christopher Boronda, page 7, line 20 – page 8, line 16.
[27] Exhibit 102, Direct Testimony of Christopher L. Boronda, pg. 2, lines 5-7.
[28] *Id*., lines 9-11.
[29] *Id*., Footnote 1.
[30] *Id*., lines 13-16.

into service;" this balance reflects the value of the accumulated depreciation attributed to Empire's electric plant, netted with the plant amount for determining rate base.[31]

Staff removed a portion of Empire's common plant reserve using a cost allocation method to be consistent with the portion of common plant removed, ensuring that plant included in rate base is not over depreciated due to removing allocated common plant, while not removing allocated reserve.[32]

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.

Though Empire witness Charlotte Emery stated concerns over common plant being inaccurate due to Massachusetts Rate[33] being used,[34] Staff's use of the most up-to-date Massachusetts Rate as of March 31, 2025, ensures the accuracy of its calculations.[35]

Travis Pringle

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 on this issue, but to the extent that it is addressed by the Agreement.

Travis Pringle

c. Should Empire be allowed to earn a return on retired Advanced Metering Infrastructure ("non-AMI") meters that created a negative reserve balance?

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[31] *Id.*, lines 20-21 and page 3, lines 1-2.
[32] *Id.*, page 3, lines 8-11.
[33] Massachusetts Rate or "mass rate" is a rate obtained by using the Massachusetts Formula cost allocation method, which is used to allocate common costs that apply to regulated activities of Empire, Empire Gas, and Fibercom. Exhibit 177, Direct Testimony of Angela Niemeier, pg. 7, lines 3-13.
[34] Exhibit 18, Rebuttal Testimony of Charlotte T. Emery, page 4, lines 7-12.
[35] Exhibit 152, page 8, lines 11-12.

Staff Position: Staff takes no position on this issue, but to the extent that it is addressed by the Agreement.

Travis Pringle

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

Staff Position: Staff takes no position on this issue, but to the extent that it is addressed by the Agreement.

Travis Pringle

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

Staff Position: Staff proposes that the offset to accumulated depreciation be equal to Empire's actual cost of retirement incurred through the true-up date, which is March 31, 2025. Staff shares Empire's understanding in that this treatment is in line with pages 149-150 of the *Amended Report and Order* in Commission File No. ER-2024-0374.[36]

Andrea Hansen

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

Staff Position: If the Commission does not approve the Agreement, Staff recommends the Commission not adopt any discrete adjustments in this case.[37]

A discrete adjustment is the recognition of an out-of-period event in a utility's revenue requirement.[38] Discrete adjustments are evaluated on a case-by-case basis

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[36] Commission File No. ER-2024-0261, Exhibit No. 174, Matthew Young Surrebuttal/True-Up Direct Testimony, pg. 2, lines 2-16.
[37] Exhibit 150, Rebuttal Testimony of Matthew R. Young, page 3, line 23 – page 7, line 26.
[38] *Id*., pg. 4, lines 1-2.

under the following criteria: 1) it is known and measurable, 2) promotes the proper relationship of investment, revenues, and expenses, and 3) is representative of the conditions anticipated during the time the rates will be in effect.[39]

The discrete adjustments proposed by OPC witness John A. Robinett and Empire witnesses Charlotte Emery and Colin Penny do not meet all three of the criteria listed above.[40] Specifically, none of the three proposed discrete adjustments promote the proper relationship of investment, revenues, and expenses.[41] Further, discrete adjustments are not generally considered part of the test year, update period, or true-up, and thus do not meet the requirements under what is known as the "matching principle."[42]

Travis Pringle

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

Staff Position: If the commission opts not to adopt the stipulation and agreement, Staff's position would be that the Commission should not. 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.[43]

Eric Vandergriff

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

[39] File No. ER-2019-0374, Amended Report and Order, pages 112 – 113.
[40] Exhibit 150, page 5, lines 5-9.
[41] Ibid.
[42] *Id.*, pg. 7, lines 1-4. The "matching principle" refers to the relationship between investment, revenues, and expenses.
[43] Ex. 174, Matthew Young Surrebuttal / True-Up Direct Testimony, pages 21 – 22.

Staff Position: Empire's failure to comply with Southwest Power Pool ("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. 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.[44]

> **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: Staff recommends that the Commission approve the Agreement. Alternatively, Staff recommends that the Commission not order this disallowance.[45] It appears that OPC's recommendation of a 2% disallowance stems from its belief that such disallowance is proper "based on Empire's reliability metrics, customer comments, and Empire's 'aggressive transition to renewable generation.'"[46,47] Staff does not agree with the OPC's position on this issue. While Staff noted that there were areas of transmission and distribution reliability that warrant further exploration (see recommendations below),[48] these did not rise to the level necessary to justify a 2% disallowance. Likewise,

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[44] Ex. 167, Brodrick Niemeier's Surrebuttal Testimony, Page 5, Line 13-page 6, Line 7, and page 7, lines 1 – 13.
[45] Commission File No. ER-2024-0261, Exhibit No. 156C, Claire M. Eubanks, Surrebuttal/True-Up Direct Testimony, pgs. 3-9.
[46] Commission File No. ER-2024-0261, Exhibit No. 225C, Jordan Seaver Rebuttal Testimony, pg. 16, lines 24-25.
[47] Commission File No. ER-2024-0261, Exhibit No. 156C, Claire M. Eubanks, Surrebuttal/True-Up Direct Testimony, pg. 3, lines 17-18.
[48] Commission File No. ER-2024-0261, Exhibit No. 156C, Claire M. Eubanks, Surrebuttal/True-Up Direct Testimony, pg. 4, lines 12-18.

Staff's review and evaluation of relevant customer comments and complaints did not justify such a disallowance. However, it is Staff's opinion that customer concerns and Empire's reliability metrics do suggest that it would be proper for Empire to focus its efforts "on reducing the duration of outages and improving the reliability of its worst-performing circuits."[49]

In response to the OPC's position that the 2% disallowance based on its opinion that Empire is moving "to a supermajority of renewables",[50] Staff states:

> ** [redacted] **[51]

In light of this information, it is evident that the transmission and distribution projects at issue here furthered Empire's ability to provide safe and reliable service. Thus, no disallowance on this basis is warranted.

Moreover, the OPC's argument that a 2% disallowance is necessary based upon the fact that Empire customers "have no choice in their electricity provider" is unconvincing.[52] Empire faces a number of constraints when it comes to providing service. It "is obligated to provide service to its customers while being subject to regulation by the Commission to ensure safe and reliable service at just and reasonable rates."[53] Thus, it

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[49] Commission File No. ER-2024-0261, Exhibit No. 156C, Claire M. Eubanks, Surrebuttal/True-Up Direct Testimony, pg. 6, lines 11-18, pg. 7, and pg. 8, lines 1-2.
[50] Commission File No. ER-2024-0261, Exhibit No. 225, Jordan Seaver Rebuttal Testimony, pg. 17, lines 1-5.
[51] Commission File No. ER-2024-0261, Exhibit No. 156C, Claire M. Eubanks, Surrebuttal/True-Up Direct Testimony, pg. 8, lines 8-12.
[52] Commission File No. ER-2024-0261, Exhibit No. 225 Jordan Seaver Rebuttal Testimony, pg. 16, lines 14-15.
[53] Commission File No. ER-2024-0261, Exhibit No. 156C, Claire M. Eubanks, Surrebuttal/True-Up Direct Testimony, pg. 8, lines 16-17.

is improper to allow a disallowance on the basis that Empire customers are essentially captive customers when Empire faces similar constraints in that is subject to the duty of providing safe and reliable service to those customers within its service area.

As such, Staff recommends the Commission order Empire to:

1. Conduct an internal audit of authorization procedures for capital projects; and

2. 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.[54]

Staff also recommends that Empire request the following variances:

1. 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; and

2. To allow its continued use of Institute of Electrical and Electronics Engineers ("IEEE") Standard 1366-2022, Guide for Electric Power and Distribution Reliability Indices as opposed to the standard required by Commission rules.[55,56]

Andrea Hansen

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

Staff Position: Staff takes no position on this issue, but to the extent that it is addressed by the Agreement.

Eric Vandergriff

CASH WORKING CAPITAL

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

[54] Commission File No. ER-2024-0261, Exhibit No. 156C, Claire M. Eubanks Surrebuttal/True-Up Direct Testimony, pg. 9, lines 4-7.
[55] Commission File No. ER-2024-0261, Exhibit No. 156C, Claire M. Eubanks Surrebuttal/True-Up Direct Testimony, pg. 9, lines 9-14.
[56] Please note: the Global Agreement includes all but the first of these four recommendations.

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 Case No. GR-2021-0108, page 29.[57]

Adopting a proper income tax expense lag based on the full cycle of cash availability is crucial to protect ratepayers from paying for an excessive return on operations.[58] Staff's recommended 365-day expense lag follows Commission guidance and more accurately reflects Empire's cash flow related to income tax expense.[59] In Spire Missouri's rate case, GR-2021-0108, the Commission found that, although federal and state income tax expense is included in rates, "[t]he fact that no income tax payments have been made in the test year or true-up period justifies the use of a 365-day expense lag."[60] Empire's proposed 39.38-day lag inaccurately suggests that Empire is making quarterly income tax payments. As of the update period and true-up date in this case, Empire is not in a taxable position and is not making income tax payments to taxing authorities.[61] Therefore, a 365-day lag for income taxes is appropriate.

Tracy Johnson

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.[62]

Tracy Johnson

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[57] Ex. 170, Surrebuttal Testimony of Lindsey Smith at page 2, line 2 to page 3, line 23.
[58] Ex. 170, Surrebuttal Testimony of Lindsey Smith at page 2, line 23 to page 3, line 3.
[59] *Id*.
[60] Page 29, GR-2021-0108, *Report and Order*.
[61] Ex. 170, Surrebuttal Testimony of Lindsey Smith at page 2, lines 21-22.
[62] See Lindsey Smith True Up Direct Testimony, page 16, lines 4-15. (Empire agreeing to Staff's position on prepayments.)

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.[63] Empire's proposal to include clearing accounts seeks to treat these temporary balances as a permanent part of Empire's rate base resulting in a violation of the matching principle of ratemaking and an overstatement of Empire's rate base, causing an unjust enrichment at the expense of ratepayers.[64]

Tracy Johnson

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

Staff Position: If the Commission rejects the Global Agreement, Staff's position would be that the appropriate amount of fuel inventory to include is 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.

Eric Vandergriff

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.[65]

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[63] Ex. 170, Surrebuttal Testimony of Lindsey Smith at page 11, line 10 to page 12, line 22.
[64] *Id.*
[65] See Lindsey Smith True Up Direct Testimony, page 16, lines 4-15. Empire has agreed to Staff's position on customer deposits.

Tracy Johnson

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.[66]

Tracy Johnson

REGULATORY ASSETS / LIABILITIES

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

Staff Position: Staff respectfully recommends that the Commission adopt the Agreement. But, if the Commission decides against adopting the Agreement, Staff recommends a rate base and amortization expense of $90,657 as of the March 31, 2025, true-up date and a normalized expense of $1,987 per year.[67]

Andrea Hansen

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

Staff Position: Staff recommends a rate base and amortization expense of $3,502,012 as of the March 31, 2025, true-up cut-off date and a normalized expense of $84,729 per year.[68]

Andrea Hansen

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

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

[67] Commission File No. ER-2024-0261, Exhibit No. 100, Nathan Bailey Direct Testimony, pg. 9, lines 9-22 and Exhibit 175, Staff Accounting Schedules.

[68] Commission File No. ER-2024-0261, Exhibit No. 100, Nathan Bailey Direct Testimony, pg. 7, lines 13-21, pg. 8, lines 1-11; Exhibit No. 151, Nathan Bailey Surrebuttal/True-Up Direct Testimony, pg. 1, lines 19-22; and Exhibit 175, Staff Accounting Schedules.

Staff Position: Staff recommends the Commission adopt the Agreement. In the alternative, Staff recommends a rate base and amortization expense of $1,916,531 as of the true-up period ending on March 31, 2025, and a normalized expense of $44,828 per year.[69]

Andrea Hansen

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

Staff Position: Staff recommends the Commission adopt the Agreement. If the Commission chooses not to adopt the Agreement, Staff respectfully recommends that the Commission adopt a rate base of $1,716,915 as of the true-up period ending on March 31, 2025, and a normalized expense of $286,153 per year.[70]

Andrea Hansen

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

Staff Position: Staff believes its approach of amortizing interruptible service credits over a six-year period complies with a provision from a stipulation adopted by the Commission in Commission File No. ER-2014-0351 – which states in relevant part:

[69] Commission File No. ER-2024-0261, Exhibit No. 100, Nathan Bailey Direct Testimony, pg. 8, lines 13-23, pg. 9, lines 1-7; Exhibit No. 151, Nathan Bailey Surrebuttal/True-Up Direct Testimony, pg. 1, lines 19-22; and Exhibit 175, Staff Accounting Schedules.

[70] Commission File No. ER-2024-0261, Exhibit No. 100, Nathan Bailey Direct Testimony, pg. 10, Exhibit No. 151, Nathan Bailey Surrebuttal/True-Up Direct Testimony, pg. 1, lines 19-22, pgs. 5-7; and Exhibit 175, Staff Accounting Schedules.

> Empire will continue amortization for the DSM program costs incurred after the end of the Regulatory Plan and prior to any program implementation under MEEIA for a total term of six years.[71]

Andrea Hansen

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

Staff Position: Staff recommends that the Commission adopt the Agreement. In the alternative, Staff recommends a negative a rate base and amortization expense of *negative* $78,258 (the balance through the March 31, 2025, true-up date) with no expense adjustment.[72]

Andrea Hansen

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?

Staff Position: The Commission should include the asset balance of March 31, 2025, in rate base and amortize the balance over six years.[73]

Alexandra Klaus

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

Staff Position: If the Commission opts not to adopt the Global Agreement, the appropriate rate base balance for Empire's Missouri jurisdictional balance of the prepaid

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[71] Commission File No. ER-2024-0261, Exhibit No. 151, Nathan Bailey Surrebuttal/True-Up Direct Testimony, pgs. 6-7.

[72] Commission File No. ER-2024-0261, Exhibit No. 151, Nathan Bailey Surrebuttal/True-Up Direct Testimony, pg. 1, lines 19-20.

[73] Ex. 107, Direct Testimony of Sydney Ferguson, page 5, lines 13-20. The Commission approved the Low-Income Pilot Program (LIPP) for Empire in Case No. ER-2016-0023 as part of the Order Approving Stipulation and Agreement, along with a six-year amortization period for the regulatory asset containing deferred costs. The Commission approved an annual budget of $500,000, with funding split equally between shareholders and ratepayers, as part of the Order Approving Stipulations and Agreements in Case No. ER-2021-0312. In between rate cases, Empire records LIPP costs to a deferred asset for consideration in the next rate case, where an appropriate recovery of the deferred costs is included in rates. Ex. 107, Direct Testimony of Sydney Ferguson, page 5, lines 4-10.

pension asset, pension tracker, and OPEB tracker, rate base should reflect $33,299,061, ($26,112,015), and ($9,256,240) respectively.[74]

Eric Vandergriff

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

Staff Position: 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. The Commission should order Staff's rate base balance as identified in #18 which does not include rebates paid after the December 31, 2023 system operational date.[75]

Paul Graham

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;[76]

b. Amortized over 5 years: Solar rebate expense $2,015,208 and solar initiative expense: $1,221,924.[77]

Paul Graham

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

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[74] Ex. 124, Staff accounting schedules, schedules 2 and 9.

[75](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)

[76] (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)

[77] (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: $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.)

Paul Graham

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

Staff Position: It is known and measurable that Empire will have an overcollection of funds before the effective date of rates in this case for the Riverton 12 O&M tracker. Those overcollections should be tracked and addressed in Empire's next general rate case. Staff has included the Riverton 12 Operations & Maintenance Expenses ("O&M") amortizations currently being collected on Staff Witness Nathan Bailey's proposed amortization tracker.[78]

Paul Graham

21. What balance for the Plant in Service Accounting ("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.[79]

Paul Graham

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

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[78] (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)

[79] (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)

Staff Position: Staff takes no position on this issue, but to the extent that it is addressed by the Agreement.

Eric Vandergriff

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

Staff Position: If the Commission opts not to adopt the Global Agreement Staff's position would be no. Riverton Environmental Costs should not be reflected in rates.[80]

Eric Vandergriff

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

Staff Position: If the Commission opts not to adopt the Global Agreement, 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.[81]

Eric Vandergriff

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

Staff Position: $496,812.[82] The amount reflects the latest known and measurable actual cash payment, not estimates.

Paul Graham

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

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[80] Ex. 124, Staff accounting schedules, schedules 2 and 9.
[81] Ex. 151, Nathan Bailey, CPA Staff true-up cost of service report.
[82] (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)

Staff Position: Three years is reasonable given the balance of the regulatory asset and circumstances by which the regulatory asset has accumulated.[83]

Paul Graham

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

Staff Position: Rate base treatment is not appropriate given the circumstances of the period in which the regulatory asset was created. Although there is a slight regulatory asset, Empire collected from the tax equity partners actual cash of $9.1 million or $5.1 million over the base tracker amount for 2024 in the first quarter of 2025 which created positive regulatory lag for Empire and offsets the argument for rate base treatment of the remaining regulatory asset over the full 3 year amortization period.[84]

Paul Graham

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: 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.[85]

Paul Graham

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 SMWA (Service, Maintenance, and Warranty Agreements)?

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[83] (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)

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

[85] (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)

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.[86]

Alexandra Klaus

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: The Commission should determine there is not a lawful SB-EDR regulatory asset and deny Empire's proposed rate base treatment and corresponding annual amortization for EDR discounts.

Staff calculated the EDR discounts in accordance with Section 393.1640, RSMo., which 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.[87] As such, if the Commission does not approve the Stipulation, it should deny Empire's proposed rate base treatment and corresponding annual amortization for EDR discounts.

Alexandra Klaus

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

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[86] Surrebuttal True-up Testimony of Christopher L. Boronda pages 1, line 22 – page 7, line 12.
[87] Karen Lyons Rebuttal Testimony, page 9, lines 21-23; *see also* Ex. 141, Rebuttal Testimony of Sarah L.K. Lange, page 2, line 17 – page 6, line 4.

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.[88]

Eric Vandergriff

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

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.[89]

Eric Vandergriff

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).[90]

Eric Vandergriff

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.[91]

Eric Vandergriff

[88] Ex. 124, Staff accounting schedules, schedules 2 and 9.
[89] Ex. 124, Staff accounting schedules, schedules 2 and 9.
[90] Ex. 124, Staff accounting schedules, schedules 2 and 11.
[91] Ex. 122, Matthew Young Direct Testimony, pages 10 – 13.

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 Accounting Authority Order ("AAO") liability is $3,250,131. The corresponding amortization expense is ($1,083,377).[92]

Eric Vandergriff

ACCUMULATED DEFERRED INCOME TAXES (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.[93]

Eric Vandergriff

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.[94]

Eric Vandergriff

INCOME STATEMENT ISSUES

38. What is the appropriate balance of retail revenues?

Staff Position: Staff takes no position on this issue, but to the extent that it is addressed by the Agreement. Staff reserves the right to address this issue in the Responsive and Reply Briefs to the extent it is addressed by the other parties.

Carolyn Kerr

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[92] Ex. 124, Staff accounting schedules, schedules 2 and 9.
[93] Ex. 124, Staff accounting schedules, schedule 2.
[94] *Id*.

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.[95]

Eric Vandergriff

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 a typical year of miscellaneous revenues. The miscellaneous revenues appropriate to be included in Empire's revenue requirement as calculated by Staff include the following:

- Franchise Fee Revenues (offset by Franchise Tax Expense): $0, as they are offset by franchise tax expense;
- Unbilled Revenues: $0, removing unbilled revenues from the test year to avoid double counting of revenue using billing determinants;
- Fuel Adjustment Clause ("FAC") Revenues: $0, as they are not collected in base rates;

[95] (Giacone direct page 24-25, Giacone surrebuttal/true-up direct page 7, lines 18-19)(Emery direct page 23, Emery rebuttal page 24-26)

- MEEIA Revenues: $0, as they are not collected in base rates;
- Rent Revenues: $1,083,948, allowing for a five-year normalization due to the dramatic fluctuations in these revenues;
- Forfeited Discounts: $1,499,441, allowing for a five-year normalization due to the dramatic fluctuations in these revenues;
- Reconnect Charges: $82,910, allowing for a three-year normalization of these charges ending at the test year;
- Returned Check Charges/Other Electric Revenue-MO: $356,241, allowing for a three-year normalization of these charges ending at the test year. Both these charges and the reconnect charges should be normalized, in that these charges were not recorded separately in the update period; and
- Plum Point Transmission Credit Revenue: $38,356[96], allowing for a three-year normalization to better reflect the increase in the update period.

This recommendation is based on need, fluctuations, and trends.

Carolyn Kerr

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.[97]

Carolyn Kerr

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

As demonstrated in Staff witness Brooke 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.[98]

Travis Pringle

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[96] Melanie Marek Direct Testimony, page 8, line 19 through page 9, line 17.
[97] Melanie Marek Direct Testimony, page 9, lines 9-10.
[98] *See* Exhibit 165, Surrebuttal/True-Up Direct Testimony of Brooke Mastrogiannis, page 5, for true-up base factor summary and calculation.

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

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.

Travis Pringle

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 Brooke 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.[99]

As demonstrated in Staff witness Antonija Nieto's 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 Fuel Adjustment Clause ("FAC") base factor is $40,317,269.[100]

Travis Pringle

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?

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[99] Ibid.

[100] *See* Exhibit 168, Surrebuttal and True-Up Direct Testimony of Antonija Nieto, page 4, lines 13-18 and page 5, lines 1-7 for true-up summary.

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: No. The Commission should set prices based on a normalized set of prices by looking at the three years of data ending March 31, 2025, the true-up cut-off date, and calculating monthly peak and off-peak price adjustment factors.[101]

Eric Vandergriff

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 ("LTM") costs to include in Empire's cost of service is a two-year average ending September 30, 2024.[102]

Empire has contractually entered into LTMs with third-party vendors that outline a payment schedule and work required at the Riverton and State Line generating stations. Empire has changed its accounting methodology for LTMs since its last rate case, which Staff does not agree with.[103]

Staff does not believe that the use of a deferred debit account is proper for LTM costs, and that Empire's use of the term "prepayments" for discussing any expense that

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[101] Ex. 120, Direct Testimony of Justin Tevie page 4, lines 22-24.
[102] Exhibit 152, page 6, line 15 – page 7, line 12.
[103] *Id*., page 2, lines 5-17.

occurs, is part of the LTM contract, but is prior to any scheduled major maintenance, is in accordance with the Uniform System of Accounts ("USOA").[104]

Travis Pringle

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.[105]

Operation and Maintenance expense are expenses incurred by Empire for its generating facilities continued operation that include production, transmission, and distribution expense.[106]

Staff analyzed costs from August 2018 through September 2024 for plants that are averaged based on a five-year average, and August 2017 through September 2024 for plants that are averaged based on a six-year average. The averages are based on turbine maintenance schedules which are based on hours and/or starts for the overhaul schedule:

- Riverton - Staff used a five-year average to normalize O&M expenses.
- Energy Center - Staff used a five-year average to normalize O&M expenses.
- State Line Unit 1 - Staff used a five-year average to normalize O&M expenses.
- Ozark Beach - Staff used a five-year average to normalize O&M expenses.
- Plum Point - Staff used a five-year average to normalize O&M expenses.

[104] *Id*., pg. 3, lines 5-20 and page 4, lines 1-11.
[105] Exhibit 102, page 5, line 8 – page 7, line 11.
[106] *Id*., page 5, lines 9-12.

- Iatan - Staff used a six-year average to normalize O&M expenses.
- Iatan 2 - Staff used a six-year average to normalize O&M expenses.
- Iatan Common - Staff used a six-year average to normalize O&M expenses.
- State Line Combined Cycle ("SLCC") and State Line CC Common ("State Line Common") - Staff used a six-year average to normalize O&M expenses. The operations costs are based on ownership percentages.
  Empire owns 60% of the SLCC unit and 66.7% of the State Line Common unit, with Westar Energy ("Westar") owning the remaining 40% and 33.3%, respectively. Empire's maintenance cost is weighted based on Empire's ownership and net-generation percentage. The ownership percentage is given a 75% weighting and net-generation is given a 25% weighting.

  The ownership percentage is based on ownership by Empire of 60% of the SLCC unit and 66.7% of the State Line Common unit. For example, to calculate the weighted ownership percentage for the SLCC unit take the total cost x 75% x 60%. However, Staff had to calculate the net-generation percentage based on a calculation using the generation used between Empire and Westar. For example, to calculate the 25% net-generation percentage based for SLCC is total cost x 25% x net generation ratio percentage.[107]

Travis Pringle

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?

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.[108]

Eric Vandergriff

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?

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[107] *Id*., page 6, lines 7-23 and page 7, lines 1-11.
[108] Ex. 124, Staff accounting schedules, schedules 5 and 9.

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.[109]

Eric Vandergriff

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: Staff takes no position on this issue, but to the extent that it is addressed by the Agreement.

Eric Vandergriff

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

Staff Position: Staff recommends that the Commission adopt the Agreement. In the alternative, Staff recommends that the Commission determine that the appropriate amount of vegetation management to include in rates is the test year cost.[110] The amount proffered by Empire for the vegetation management expense does not utilize the test year; instead, Empire uses "its 2024 budgeted costs for vegetation management."[111] Staff reviewed the actual costs that Empire recorded for the year following the test year, which is a 12-month period that ended on September 30, 2024. In conducting this review, Staff found that the actual costs for that time period are 47% higher than the costs represented in the test year and 40% higher than the 2024 budgeted costs for vegetation management that Empire used in its recommendation.[112] It is not "appropriate to adjust

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[109] *Id.*, Staff accounting schedules, schedule 5.
[110] Commission File No. ER-2024-0261, Exhibit No. 174, Matthew R. Young Surrebuttal/True-Up Direct Testimony, pg. 19, lines 15-16.
[111] Commission File No. ER-2024-0261, Exhibit No. 174, Matthew R. Young Surrebuttal/True-Up Direct Testimony, pg. 18, lines 16-17.
[112] Commission File No. ER-2024-0261, Exhibit No. 174, Matthew R. Young Surrebuttal/True-Up Direct Testimony, pg. 19, lines 1-9.

the test year to reflect the 12-months ended September 30, 2024" because (as can be seen by the fact that it exceeds both the test year and the budget) it is an outlier. The more reliable data point is the test year proposed by Staff.[113]

Andrea Hansen

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 normalization ending March 31, 2025, due to fluctuations in the levels of bad debt expense from year to year.[114] Staff reviewed bad debt expense on a cash basis for all services areas between April 1, 2018, and March 31, 2025, and noted fluctuations in the level of bad debt expenses from year to year. Based on those yearly fluctuations, Staff determined a five year normalization was appropriate for all service areas due to an inherent lag between the recognition of the revenue and an uncollectible account write-off; typically about six months.

Staff determined that bad debt should only include Missouri costs, that ratepayers should only pay for Missouri's portion of that expense. Staff's direct revenue requirement model has an 89.1453% jurisdictional allocator applied to the uncollectible account 904 and the adjustment for bad debt expense is subject to the same allocator. Therefore, Staff's revenue requirement accurately reflects the Missouri portion of ongoing bad debt expense.

[113] Commission File No. ER-2024-0261, Exhibit No. 174, Matthew R. Young Surrebuttal/True-Up Direct Testimony, pg. 19, lines 10-16.
[114] Melanie Marek Direct Testimony, page 1, line 21 through page 2, line 16, and Surrebuttal Testimony page 4, lines 12-21.

Although the Company did not agree with Staff's use of a five-year normalization to calculate the bad debt expense, its witness, Charlotte Emery testified that it was "willing to accept this approach to help narrow the contested issues in this case."[115]

Carolyn Kerr

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: Staff recommends the Commission adopt the 50/50 sharing mechanism to split incremental discretionary rate case expense equally between ratepayers and shareholders.[116] This approach is in accordance with binding case law from the Missouri Supreme Court.[117] Empire states it does not oppose the balance that Staff is proposing for this rate case but it does oppose the method Staff used to get there – the 50/50 sharing mechanism. It seems that Empire's primary issue with the abovementioned sharing mechanism is that it does not allow Empire to recover prudently incurred costs.[118] As determined by the Missouri Supreme Court, the issue is not whether these costs were prudent, the issue is whether ratepayers should foot the bill for benefits that will not inure to them, but to shareholders:

> Here, even assuming there was no basis in the evidence to reject the presumption of prudence with respect to one or more of Spire's rate case expenses, the PSC did not err in its decision to exclude a portion of those expenses in setting just and reasonable rates because they served only to benefit shareholders and minimize shareholder risk with no

[115] Emery Rebuttal Testimony, Page 40, Lines 19-22.
[116] Commission File No. ER-2024-0261, Exhibit No. 100, Nathan Bailey Surrebuttal/True-Up Direct Testimony, pg. 3, lines 8-16.
[117] See generally: Spire Missouri, Inc. v. Pub. Serv. Comm'n, 618 S.W.3d 225, 233 (Mo. 2021).
[118] Commission File No. ER-2024-0261, Exhibit No. 18, Charlotte Emery Rebuttal Testimony, pg. 42, lines 7-20.

accompanying benefit (or potential benefit) to ratepayers. (Internal Quotations Omitted)[119]

Moreover, as stated by Staff witness Nathan Bailey: "it is more appropriate to recognize cost-causation principles and divide the cost of 3rd party consultants between ratepayers and shareholders."[120]

Staff would like to clarify that it did not officially take a position on the issue of disallowing the rate case expense associated with Witness John J. Reed. However, Staff's approach in determining rate case expense utilized information from past Empire rate cases and studies.[121] It is Staff's understanding that Mr. Reed was hired for his services in this current case.[122] As such, Staff did not evaluate whether or not expenses related to Mr. Reed's services should be disallowed.

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

Staff recommends the depreciation study be depreciated over a five-year period (in accordance with Commission Rule 20 CSR 4240-3.160) and that the line loss study be depreciated over a four-year period (in accordance with Commission Rule 20 CSR 4240-20.090(13)(B)).

Andrea Hansen

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

[119] Spire Missouri, Inc. v. Pub. Serv. Comm'n, 618 S.W.3d 225, 233 (Mo. 2021).
[120] Commission File No. ER-2024-0261, Exhibit No. 151, Nathan Bailey Surrebuttal/True-Up Direct Testimony, pg. 2, lines 15-16.
[121] Commission File No. ER-2024-0261, Exhibit No. 100, Nathan Bailey Direct Testimony, pg. 2, lines 20-23 and pg.3, lines 1-7.
[122] Commission File No. ER-2024-0261, Exhibit No. 151, Nathan Bailey Surrebuttal/True-Up Direct Testimony, pg. 4, lines 13-23.

Staff Position: The appropriate level of insurance expense to be included in the revenue requirement is based on the actual amount of insurance premiums being paid for the current year and allocating a portion of the expense to Empire's cost of service.[123] This would be done 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.[124]

Carolyn Kerr

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 and 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%.[125] Empire's costs should be annualized by using the update period's balance of actual cash payments made by Empire to entities that had a claim against it, as there was a downward trend in those costs. The Company then elected to capitalize 50% of the expenses associated to those payouts. At that point, the adjustment will be to update the test year to the update period's amount.[126]

Carolyn Kerr

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 and payroll taxes to be included in the revenue requirement are based off of actual employee and wage data as

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[123] Melanie Marek Direct Testimony, page 4, line 7 through page 5, line 2.
[124] *Id*.
[125] Melanie Marek Direct Testimony, page 3, line 13 though page 4, line 6.
[126] *Id*.

of March 31, 2025, excluding open positions.[127] During True-Up Staff made adjustments which impacted payroll related values.[128] This methodology of determining payroll expense and taxes to be included is the most accurate and representative approach for forward-looking rates.[129]

Tracy Johnson

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.[130] The most recent and reliable payroll data should be used for overtime and open position benefits should not be included.[131] Including open position benefits, as suggested by Empire,[132] would be inconsistent with the fundamental ratemaking principle of the known and measurable standard as those employee benefits are not being paid for a position that is currently vacant, resulting in an over-recovery from ratepayers.[133]

Tracy Johnson

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

Staff Position: Empire offers three types of incentive plans, Short Term Incentive Plan ("STIP"), Shared Bonus Pool ("SBP"), and a Long Term Incentive Plan ("LTIP"). With the exception of the LTIP, eligible participants receive an annual cash payout based on

[127] Ex. 170, Surrebuttal Testimony of Lindsey Smith at page 13, line 1 to page 15, line 7.
[128] Ex. 170, True-Up Direct Testimony of Lindsey Smith at page 16, line 4 to page 17, line 3.
[129] Ex. 170, Surrebuttal Testimony of Lindsey Smith at page 13, line 1 to page 15, line 7.
[130] Ex. 170, Surrebuttal Testimony of Lindsey Smith at page 16, line 9 to page 17, line 2.
[131] Ex. 170, Surrebuttal Testimony of Lindsey Smith at Page 15, line 8 to page 16, line 2.
[132] Ex. 17, Direct Testimony of Charlotte Emery at page 45, line 19 to page 48, line 6.
[133] Ex. 170, Surrebuttal Testimony of Lindsey Smith at Page 15, line 8 to page 16, line 2.

goals approved by Empire.[134] With the LTIP, senior officers are annually issued stock as part of their total compensation without any goals to meet.[135]

The appropriate amount of STIP and SBP expense 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.[136] Disallowing such incentives based on financial metrics is based on the fact that the awards are awarded for increasing shareholder value, rather than increasing any benefit to the ratepayers. In addition, the Customer First program has not been successfully implemented, so costs have not been incurred to the benefit of any ratepayers. Therefore, STIP costs that do not provide benefit to ratepayers should be excluded from rates.

The appropriate amount of LTIP is also zero, as it is an equity-based incentive for shareholders and not a benefit to ratepayers.[137] Senior officers do not have any goals to meet in this program in order to be granted stock options. Instead, these awards only benefit shareholders, rather than the ratepayers, as the more successful the business is the higher the value of the stock the corporate officers receive as awards under the LTIP offering. Additionally, Empire has no cash outlay for this equity-based incentive compensation program.

As the Commission explained in its decision in Case No. ER-2019-0374, "The Commission has traditionally disallowed earnings based on compensation to be recovered in rates because those incentives predominantly benefit shareholders and not

[134] Melanie Marek Direct Testimony, page 6, lines 1-8.
[135] Melanie Marek Direct Testimony, page 7, lines 17-23.
[136] 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.
[137] Melanie Marek Direct Testimony, pages 6-8, and Surrebuttal Testimony of Melanie Marek, pages 2-4.

ratepayers." The "incentivizing [of] employees to improve Empire's bottom line aligns the employee interests with the shareholders and not ratepayers." Therefore, disallowing those types of incentive plans "because of its earnings per share target" and base on it being "a stock compensation plan," was appropriate.

Tracy Johnson

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: Staff recommends removing $349,177 from rate base and $870,219 from expense.[138]

Paul Graham

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 fiscal year 2025 PSC assessment. The assessment is incurred by all utilities subject to regulation by the Commission, and is based on such factors as the company's intrastate revenue and Staff time sheet data demonstrating the amount of time dedicated to working on specific utility types by utility company.[139]

Carolyn Kerr

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

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[138] (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)
[139] Melanie Marek Direct Testimony, page 5, lines 3-14.

Staff Position: $530,899, which reflects a 3-year average amount of expense from 2022-2024 for multiple accounts.[140] 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.

Paul Graham

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

Staff Position: Revenue: $1,278,475 Expense: $10,547,334 exclusive of wind property tax which Staff addressed separately in item #81. This compares to Empire's proposed $15,902,230 which includes $4,060,955 of wind property tax or $11,841,275 exclusive of property tax.[141]

Paul Graham

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 normalization ending September 2023.[142] These fees are paid by companies to receive credit ratings and should be normalized over the three-year period, as those fees vary year to year.

Carolyn Kerr

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

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[140] (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)

[141] (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)

[142] Melanie Marek Direct Testimony, page 5, lines 15-22.

Staff Position: FAS 87 cost (pension) should be set equal to the actuarial expense calculated for the 2024 plan year.[143]

Eric Vandergriff

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.[144]

Eric Vandergriff

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.[145]

Eric Vandergriff

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.[146]

Eric Vandergriff

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

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[143] Ex. 150, Matthew Young True-Up Rebuttal Testimony, pages 1 – 2.
[144] *Id*., Matthew Young Rebuttal Testimony, pages 14 – 15.
[145] Ex. 179, Matthew Young True-Up Rebuttal Testimony, pages 1 – 2.
[146] Ex. 122 and 122C, Matthew Young Direct Testimony, pages 23 – 24.

and donations that do not have any direct benefit to ratepayers and that were not proven by Empire in a quantifiable way to be necessary for the provision of safe and adequate service.[147] Staff applied the four criteria set out in Case No. EO-85-185 to determine the inclusion of dues and donations.[148]

The Commission should not recognize any of the Edison Electric Institute ("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.[149]

Tracy Johnson

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

Staff Position: The Commission should remove any expense that meets the Commission criteria to be removed and use allocations corresponding with the accounts from which amounts are to be removed.[150]

Staff relies on the principles the Commission set forth in the 1985 Kansas City Power & Light rate case, Case No. EO-85-185, *In re: Kansas City Power and Light Company* (the "1985 KCP&L Case") in forming its recommendation on the allowable level

[147] Ex. 118, Direct Testimony of Lindsey Smith at page 7, line 12 to page 8, line 20 and Ex. 170, Surrebuttal Testimony of Lindsey Smith at page 4, line 1 to page 6, line 22.
[148] Ex. 118 Direct Testimony of Lindsey Smith at page 7, line 22 to page 8, line 9 and Ex. 170, Surrebuttal Testimony of Lindsey Smith at page 4, line 4-14.
[149] Ex. 118, Direct Testimony of Lindsey Smith at page 8, line 21 to page 11, line 10 and Ex. 170, Surrebuttal Testimony of Lindsey Smith at page 7, line 1 to page 10, line 18.
[150] Ex. 107, Direct Testimony of Sydney Ferguson, page 2, line 8 to page 4, line 6.

of advertising expense.[151] The Commission adopted in the 1985 KCP&L Case an approach that classifies advertisements into five categories and provides separate rate treatment for each category.[152] These categories include: (1) General – advertising that is useful in the provision of adequate service, (2) Safety – advertising which conveys the ways to safely use electricity and to avoid accidents, (3) Promotional – advertising used to encourage or promote the use of electricity, (4) Institutional – advertising used to improve the company's public image, and (5) Political – advertising associated with political issues.[153]

The Commission adopted these categories of advertisements because a utility's revenue requirement should: 1) always include the reasonable and necessary cost of general and safety advertisements; 2) never include the cost of institutional or political advertisements; and 3) include the cost of promotional advertisements only to the extent that the utility can provide cost-justification for the advertisement.[154] Staff developed its recommended level of advertising expense by issuing data request for all costs and expenses associated with advertising for the test year period of 12 months ending September 30, 2023, along with monthly costs, and a list of all advertising in all media forms, transcripts for each advertisement, and classification of each advertisement.[155] Staff completes a review to ensure that only advertising costs for programs necessary for the provision of safe and adequate service are included in Empire's cost of service.[156]

Alexandra Klaus

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[151] *Id.* at page 2, lines 9-11.
[152] *Id.* at page 2, lines 12-14.
[153] *Id.* at page 2, lines 16-22.
[154] *Id.* at page 3, lines 1-5.
[155] *Id.* at page 3, lines 6-11.
[156] Ex. 107, Direct Testimony of Sydney Ferguson, page 3, lines 11-13.

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

Staff Position: The Commission should adjust the amount in the revenue requirement to the update period of the case.[157]

Alexandra Klaus

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

Staff Position: The Commission should make no adjustments to lease expense as all lease expenses are under plant and reserve.[158] Staff reviewed the lease expenses in the test year 12-months ending September 30, 2023, and through the update period of September 30, 2024.[159] Staff reviewed the effective dates and whether the lease expense amounts included in the test year were planned to remain in effect at the same rate in order to determine an appropriate level of lease expense to include in the cost of service; no adjustment was made for lease expenses because all of Empire's current leases are capital in nature.[160]

Alexandra Klaus

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.

Eric Vandergriff

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?

[157] *Id.* at page 4, lines 8-10.
[158] *Id.* at page 4, lines 12-23.
[159] *Id.* at page 4, lines 16-17.
[160] *Id.* at page 4, lines 17-23.

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 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.[161]

Eric Vandergriff

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

Staff Position: Staff's position is to adopt the Global Agreement. However, if the Commission opts not to adopt Staff's stipulated position, then the position below represents the most just and reasonable outcome given that Staff did not believe that the costs related to Empire's cyber security expense is known and measurable.

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

[161] Ex. 168, Antonija Nieto Surrebuttal / True-Up Direct Testimony, Page 2.

does not support Empire's recommendation to use a forecasted level of cyber security costs. See Karen Lyons Surrebuttal Testimony.[162]

Eric Vandergriff

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.[163]

Eric Vandergriff

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

Staff Position: Staff takes no position on this issue, but to the extent that it is addressed by the Agreement.

Eric Vandergriff

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

[162] Ex. 163, Karen Lyons Surrebuttal Testimony, Pages 1 – 4.
[163] Ex. 166, Angela Niemeier Surrebuttal / True-Up Direct Testimony, page 1 – 3.

business day of December of the prior year (7.50% at December 31, 2024) plus 1%, for a total of 8.50%.[164] Empire agrees with the use of the 2024 interest rate.[165]

Tracy Johnson

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

Staff Witness: Staff recommends the Commission adopt Staff's updated variable fuel and purchased power expense – as of the March 31, 2025, cut-off date – in the amount of $86,728,553. [166]

Andrea Hansen

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.[167]

Eric Vandergriff

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.[168]

Eric Vandergriff

[164] Ex. 118, Direct Testimony of Lindsey Smith at pages 6-7, and Ex. 170, Surrebuttal Testimony of Lindsey Smith at page 10, line 19 to page 11, line 9.
[165] Ex. 18 Rebuttal Testimony of Charlotte Emery at page 26, line 15-17.
[166] Commission File No. ER-2024-0261, Exhibit No. 160, Shawn E. Lange Surrebuttal/True-Up Direct Testimony, pg. 2, lines 15-18 and pg. 3, lines 1-7.
[167] Ex. 122 and 122C, Matthew Young Direct Testimony, pages 16 – 18.
[168] Ex. 122 and 122C, Matthew Young Direct Testimony, page 10.

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.[169] Empire depreciated transportation equipment and charged the cost to a clearing account, then distributed those costs among multiple Federal Energy Regulatory Commission ("FERC") accounts. Staff recommends an adjustment to the expense account by including 100% of tis annualized depreciated expense by adjusting Account 403, so that depreciation costs booked to other FERC accounts in the test year are removed in order to avoid double recovery. As such, Staff recommends removing the test year amount depreciated clearings from depreciation expense.[170]

Carolyn Kerr

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.[171]

The Commission should not follow the analysis presented by OPC witness John Robinett because, while Mr. Robinett recognizes that plant balances increased in these accounts, his calculation of the remaining lives for the various generating units did not factor in the changes in service life associated with the addition of new plant in these accounts; instead, his analysis assumes that the average remaining service lives for

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[169] Melanie Marek Direct Testimony, page 3, lines 1-12.
[170] *Id*.
[171] Exhibit 153, Schedule MB-s1.

these accounts has not changed since 2019, despite the addition, retirement, and transfer of assets to and from these accounts since 2019.[172]

By using data on current plant in service and accumulated depreciation reserves based on data through September 30, 2024, but using depreciation study data from December 31, 2019, to determine projected retirement dates for Empire's generation accounts, Mr. Robinett's analysis results in unreasonable depreciation rates that should be rejected by the Commission.[173]

Travis Pringle

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.[174]

Paul Graham

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 including $544,326 for the Missouri jurisdictional amount of Alternative Fuel Credits and $611,567 for the Missouri jurisdictional amount of General Business Credits.[175]

Eric Vandergriff

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[172] *Id*., pg. 3, lines 12-17.
[173] *Id*., page 4, lines 2-16.
[174] (Giacone direct page 12, line 14)(Emery direct page 49, Emery rebuttal page 27)(Emery surrebuttal/true-up direct page 33, lines 1-11)
[175] Ex. 150, Matthew Young Rebuttal Testimony, page 6.

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.[176]

Eric Vandergriff

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.[177]

That being said, in roughly half of the calculations, there is less than a 1% difference between Staff and Empire.[178]

Travis Pringle

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.[179]

Andrea Hansen

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?

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[176] Ex. 150, Matthew Young Rebuttal Testimony, page 6 – 8.
[177] Exhibit 166, Surrebuttal & True-Up Direct Testimony of Angela Niemeier, page 4, lines 14-15.
[178] *Id*., page 4, lines 2-3.
[179] Shawn E. Lange's surrebuttal / true-up direct testimony Pg. 2 Line 15- Pg. 3 Line 9.

Staff Position: No. Liberty should use the Average Rate Assumption Method in accordance with IRS guidance.[180]

Eric Vandergriff

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.[181]

Eric Vandergriff

88. Riverton 10 Repairs

a. Were the Riverton 10 repair costs prudently incurred?

Staff Position: 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. Empire avoided repairing Riverton 10 even after FERC denied a waiver and a borescope inspection of Riverton 11 revealed major reliability.[182]

Paul Graham

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

Staff Position: Empire's failure to comply with SPP's Generating Facility Replacement Request requirement forced it to undertake an unnecessary repair

[180] Ex. 174, Matthew Young Surrebuttal / True-Up Testimony, page 5.
[181] Ex, 150, Matthew Young Rebuttal Testimony, pages 3 – 7.
[182] Ex. 167, Brodrick Niemeier's Surrebuttal Testimony, Page 5, Line 13-page 6, Line 7, and page 7, lines 1 – 13.

Riverton 10. Had Empire complied, the ** [redacted] ** repair on a unit it was actively seeking to replace would not have been required. 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.[183]

Eric Vandergriff

c. Has Empire violated the Commission-ordered Stipulation and Agreement Paragraph 4(j) in Case No. EA-2023-0131?[184]

Staff Position: 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.[185]

Paul Graham

89. Ozark Beach Crane Extension

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

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[183] Ex. 167, 167C, and 167HC, Brodrick Niemeier's Surrebuttal Testimony, Page 5, Line 8 and 9., and Ex. 174, Matthew Young Surrebuttal / True-Up Testimony, page 8.

[184] 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."

[185] Page 3, Lines 3-10 of Brodrick Niemeier's Surrebuttal Testimony.

Staff Position: Yes. The project was reasonable as Empire provided reasonable safety concerns as justification for the project.[186]

Paul Graham

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.[187]

Paul Graham

FUEL ADJUSTMENT CLAUSE ("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,[188] 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.[189]

Travis Pringle

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:

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[186] Page 9, lines 14-16 of Brodrick Niemeier's Surrebuttal Testimony.
[187] Page 9, Lines 7-9 of Brodrick Niemeier's Surrebuttal Testimony.
[188] Staff created Schedule BM-d2 from Empire witness Leigha Palumbo's Schedule LP-7, with modifications.
[189] Exhibit 113, Direct Testimony of Brooke Mastrogiannis, page 2, lines 3-6.

Base Energy Costs	$57,500,149
Net System Inputs	5,174,826,620
Base Factor	$0.01111 per kWh[190]

Travis Pringle

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.

VAF Transmission	1.0376
VAF Primary	1.0534
VAF Secondary	1.0748[191]

Paul Graham

93. What is the percentage of SPP and Midcontinent Independent System Operator, Inc. ("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%[192] and the percentage for MISO transmission expense should remain 50%.

In short, Staff's position is to continue including in the FAC only transmission costs that the Commission approved in Case Nos. ER-2014-0370, ER-2014-0351,

[190] Exhibit 165, page 5, lines 3-9.
[191] Staff witness Alan J. Bax direct testimony, filed July 2, 2025, page 11, lines 1 through 2.
[192] Id., page 5, line 15.

and ER-2019-0374.[193] 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).

Travis Pringle

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[194] rate cases, as well as in the Evergy Missouri West[195] and Evergy Missouri Metro[196] cases.[197]

Travis Pringle

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

Staff Position: None. The Commission has approved including only transmission costs—and no transmission revenues—in the FACs of Empire, Evergy Missouri West, and Evergy Missouri Metro.[198]

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[193] Exhibit 144, Rebuttal Testimony of Brooke Mastrogiannis, pages 2-6.
[194] Case No's ER-2019-0374 and ER-2021-0312.
[195] Case No's ER-2022-0130 and ER-2024-0189.
[196] Case No. ER-2022-0129.
[197] Staff witness Brooke Mastrogiannis Rebuttal Testimony, filed August 18, 2025, page 7 lines 1 through 6.
[198] *Id*., page 6, lines 6-9.

Empire's proposal to include 100% of both transmission revenues and costs results in a higher amount of costs included in the FAC than Staff's proposal to include only transmission costs and does not offset or balance the two items.[199]

Travis Pringle

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

Staff Position: The Commission should require the following FAC reporting requirements of Empire:[200]

1. Monthly Southwest Power Pool ("SPP") market settlements and revenue neutrality uplift charges;
2. Monthly filings that will aid the Staff in performing FAC tariff, prudence, and true-up reviews;
3. Additional FAC monthly reporting, including a detailed listing of all costs and revenues incurred due to the Missouri Joint Municipal Electric Utility Commission ("MJMEUC") contracts;
4. Notification to Staff within 30 days of entering a new long-term contract for purchased power, transportation, coal, natural gas or other fuel (natural gas spot transactions are specifically excluded);
5. Notification to Staff within 30 days of changes to a purchased power contract or entering a new long-term contract for purchased power;
6. Monthly natural gas fuel reports that include all transactions (spot and longer term), including terms, volumes, price, and analysis of number of bids;
7. Every Empire hedging policy in effect at the time the tariff changes ordered by the Commission in this rate case go into effect;
8. Notification to Staff within 30 days of any material change in Empire's fuel hedging policy and Staff access to new policies;
9. Provide Missouri Fuel Adjustment Interest calculation workpapers in electronic format with all formulas intact when Empire files for a change in its cost adjustment factor;

[199] *Id*., lines 16-18.
[200] Exhibit 132, Direct Testimony of Brooke Mastrogiannis, page 2, lines 19-25 through page 3, lines 1-5.

10. Notification to Staff within 30 days of any revisions to Empire's internal policies for participating in the SPP and Staff access to the new policies;
11. Access to all natural gas, nuclear fuel, coal, and transportation contracts and policies upon Staff's request, at Empire's corporate office in Joplin, Missouri;
12. Notification to Staff within 30 days of the effective date of every natural gas contract Empire enters into and giving Staff opportunity to review the contract at Empire's corporate office in Joplin, Missouri;
13. Provide additional FAC monthly reporting to include, by month, the SPP hourly Day-Ahead Locational Marginal Price ("LMP") and the SPP hourly average Real-Time LMP for the Settlement locations related to Empire's generating units and load; and
14. Provide additional FAC monthly reporting to include the monthly Auction Revenue Rights/Transmission Congestion Rights ("ARR/TCR") revenues, sales, purchases and congestion by path between Empire's generating units and load, and other paths that make up Empire's TCR portfolio.

These recommendations are consistent with past Empire rate cases,[201] except for sub-bullets 3, 13, and 14. Sub-bullet 3 was only effective after the last two general rate cases because of the effective date of the MJMEUC contract, and sub-bullets 13 and 14 are newly suggested in this general rate case to be consistent with recent Report and Orders from Evergy[202] and Ameren rate cases.[203]

Travis Pringle

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

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

Travis Pringle

[201] Case No's ER-2021-0312, ER-2019-0374, and ER-2016-0023.
[202] Case No. ER-2024-0189, *Unanimous Stipulation and Agreement*, pg. 9, approved on December 4, 2024.
[203] Case No. ER-2024-0319, *Order Approving Stipulations and Agreements*, pg. 29, issued on April 23, 2025.

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 FAC tariff sheet that the costs incurred to each large load customer should be excluded from the FAC.[204]

Travis Pringle

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

[204] Exhibit 165, page 4, lines 15-18.

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.[205]

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,[206] 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.[207]

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.[208] 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.[209] In addition, there are other states that have 90%/10% or something similar, those are: Colorado, Montana, and Oregon.[210]

Travis Pringle

[205] Exhibit 144, page 8, line 4-page 9, line 2.
[206] Exhibit 113, page 6, lines 20-22.
[207] Exhibit 144, page 9, lines 8-12.
[208] *Id*., page 10, lines 11-13.
[209] *Id*., page 11, lines 3-9.
[210] *Id*., page 12, lines 15-17.

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.[211]

Travis Pringle

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

[211] Exhibit 165, page 4, lines 12-18.

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?

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.[212] Staff analyzed the data provided including calculating the appropriate adjustment comparing the test year to the update period.[213]

Carolyn Kerr

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,[214] items

[212] Randall Jennings Direct testimony filed July 2, 2025, Page 9, Lines 3-5.
[213] Randall Jennings Direct testimony filed July 2, 2025, Page 8, Lines 5-7.
[214] Ex. 105, Kim Cox Direct Testimony, page 6, lines 12-15 and pages 7-8.

included in the joint proposed procedural schedule filed on December 13, 2024,[215] and the corrected format of the December 19, 2024, data.[216]

Eric Vandergriff

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").[217]

Eric Vandergriff

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.[218]

Eric Vandergriff

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

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[215] Ex. 105, Kim Cox Direct Testimony, page 9.
[216] Ex. 105, Kim Cox Direct Testimony, page 10 and Gonzales direct testimony, page 3.
[217] Ex. 105, Kim Cox Direct Testimony, page 14, lines 8-12 and Gonzales direct testimony, page 5, lines 3-9.
[218] Ex. 146, Micheal Stahlman Rebuttal Testimony, pages 2 – 3, lines 1 – 7.

method is consistent with the other billing determinant and revenue adjustments that Staff recommends in this case.

Eric Vandergriff

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

Staff Position: The Commission should use 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.[219] 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.[220] Staff recommends the true-up energy efficiency adjustment of ** [redacted] ** for the true-up period ending March 31, 2025.[221]

Alexandra Klaus

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.[222]

Eric Vandergriff

[219] Ex. 169C, Poudel Surrebuttal / True-Up Direct Testimony, page 2, lines 6 and 7.
[220] *Id.* at page 2, lines 7-9.
[221] *Id*. at page 2, lines 10 and 13.
[222] Ex. 155, Kim Cox Surrebuttal / True-Up Direct Testimony, page 2, lines 1-7.

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.[223]

Eric Vandergriff

i. What non-Missouri Kilowatt hour ("kWh") adjustment should 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.[224]

Eric Vandergriff

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

Staff Position: Staff recommends removing the revenue that was collected during the update period as Empire has proposed to rebase the EECR to zero.[225]

Eric Vandergriff

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

Staff Position: Staff recommends a two-step process.

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

[223] Ex. 105, Kim Cox Direct Testimony, page 17, lines 2-15.
[224] Ex. 105, Kim Cox Direct Testimony, page 17, lines 16-20 and page 18, lines 1-12.
[225] Ex. 105, Kim Cox Direct Testimony, page 18, lines 14-18.

Cost of Service ("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.[226]

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. [227]

Alexandra Klaus

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

Staff Position: The Commission should adopt Staff's recommendation that, given the circumstances surrounding this case and the roll out of Empire's "Customer First" billing system and software, 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

[226] Rate Design Direct Testimony of James Busch, page 3.
[227] Rate Design Direct Testimony of Sarah Lange, page 4, pages 71-74.

class.[228] Class Cost of Study (CCOS) results should not be the only factor in applying a rate increase to a utility's charges for service,[229] and Staff's recommendation can be adopted by the Commission regardless of any class cost of service study results presented in this case. 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.[230] 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.[231] 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. [232]

Based on limitations in Empire's data, no CCOS study fully recognizes the demand carrying capability of the customer-allocated distribution components or the customer-specific infrastructure required by customers served at voltages above secondary, or refines allocations of distribution costs and components to the extent necessary to review the reasonableness of intraclass revenue responsibility as reflected

[228] Ex. 130, Rate Design Direct Testimony of Sarah Lange, page 71, line 15 - page 73, line 14.
[229] *Id.* at page 71, lines 2-4.
[230] *Id.* at page 71, lines 4-7.
[231] *Id.* at page 71, lines 7-10.
[232] *Id.* at page 71, lines 10-14.

in rate design. Due to concerns with the reliability of hourly data, the production allocation of all filed CCOS studies is also of concern.[233]

The CCOS study results of Empire, or those based on the Empire study, should not 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,[234] (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,[235] (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,[236] 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.[237]

Alexandra Klaus

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

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[233] Ex. 130, Rate Design Direct Testimony of Sarah Lange, page 58, line 4 - page 59, line 21.

[234] Ex. 159, Surrebuttal Testimony of Sarah Lange, page 3, line 7 - page 4, line 34; Ex. 141, Rebuttal Testimony of Sarah Lange, page 7, line 1-page 9, line 10; Ex. 141, Rebuttal Testimony of Sarah Lange, page 18, line 1 – page 19, line 16.

[235] Ex. 141, Rebuttal Testimony of Sarah Lange, page 7, line 1-page 9, line 10; *Id.* at page 13, line 15 - page 18, line 19.

[236] Ex. 141, Rebuttal Testimony of Sarah Lange, page 7, line 1-page 9, line 10; *Id.* at page 19, line 17 – page 21, line 6.

[237] Ex. 159, Surrebuttal Testimony of Sarah Lange, page 9, line 1 – page 10, line 2.

Staff Position: The Commission should rely on allocation of all production cost of service and revenues, including the $69.4 million recorded outside of the production accounts, in a manner that fairly aligns cost causation with revenue responsibility.[238] Renewable generation is over 11% of Empire's Cost of Service, 15% of Empire's gross plant, and 20% of Empire's ratebase. [239] Because the Empire and derivative MECG and Consumers Council of Missouri ("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.[240] Moreover, 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.[241]

Alexandra Klaus

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

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.[242] 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

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[238] Ex. 159, Surrebuttal Testimony of Sarah Lange, page 3, line 7 - page 4, line 34; Ex. 141, Rebuttal Testimony of Sarah Lange, page 7, line 1-page 9, line 10; Ex. 141, Rebuttal Testimony of Sarah Lange, page 18, line 1 – page 19, line 16; *Id.* at page 13, line 15 - page 18, line 19.
[239] Ex. 141, Rebuttal Testimony of Sarah Lange, page 13, lines 21-23.
[240] *Id.* at page 13, line 15 - page 19, line 15.
[241] *Id*. at page 18, lines 5-7.
[242] Ex. 141, Rebuttal Testimony of Sarah Lange, page 19, line 17 – page 20, line 17.

of customer count.[243] In general, Staff's distribution classifications and allocations better align with the 1996 National Association of Regulated Utility Commissioners ("NARUC") manual than those of Empire (adopted by MECG) or CCM.[244]

Alexandra Klaus

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.[245] 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.[246] 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.[247]

Alexandra Klaus

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

Staff Position: If the Staff revenue requirement allocation method and recommended revenue requirement are ordered in this case, Staff recommends that the Commission apply an equal percent adjustment to each rate element within each of the

[243] *Id*. at page 20, line 11- page 21, line 6.
[244] Ex. 130, Rate Design Direct Testimony of Sarah Lange, page 61, line 16 – page 68, line 10; Ex. 141, Rebuttal testimony of Sarah Lange, page 19, line 17 - page 21, line 6.
[245] Ex. 159, Surrebuttal Testimony of Sarah Lange, page 7, lines 6-8.
[246] *Id.* at page 7, lines 10-15.
[247] *Id.* at page 7, lines 15-17.

non-residential rate classes.[248] This includes the rates associated with the electric vehicle pilot program.[249]

Alexandra Klaus

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: The Commission should Order elimination of the Optional Time of Use Adjustment, as agreed by Empire in Tim Lyons' rebuttal testimony.[250]

Staff agrees with Empire's assessment that it has no confidence in the ability of Empire to make changes to its billing system at this time and the Commission should order Empire to file timelines on the recommended rate modernization efforts (below) no later than six months after the tariffs implementing this case take effect:[251]

1. Continued monitoring of the off-peak discount rate.

2. Coincident-Peak demand charges: Staff recommends that billing demand charges be based on customers usage during a defined time period, such as 6:00 am – 9:00 pm, as opposed to the customer's non coincident demand.

3. Explicit rates for each voltage: Consistent with modernization efforts with Ameren Missouri, Evergy Missouri Metro, and Evergy Missouri West, Staff recommends setting out discrete rates within a given service classification for service at (1) transmission voltages, (2) subtransmission voltages, (3) primary voltages, and (3) secondary voltages, as applicable. Staff recommends that Empire review its billing

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[248] Ex. 207, Class Cost of Service Testimony of Marina Gonzales, page 2, lines 6-8.
[249] *Id*. at page 2, lines 8-9.
[250] Ex. 130, Rate Design Direct Testimony of Sarah Lange, page 54, line 18 – page 56, line 34; Ex. 35, Rebuttal Testimony of Timony Lyons, page 19, lines 15-18.
[251] Ex. 159, Surrebuttal Testimony of Sarah Lange, page 10, lines 13-21.

system capabilities and determine whether it anticipates any challenges in modifying its rates to explicitly bill customers served at a different voltage from what is typical for a rate schedule. Empire should provide this information in its rebuttal filing. Staff anticipates that unless billing systems are unable to accommodate this change, this change will promote clarity and will not negatively (or positively) impact any customer.

4. Modernization of the Large Power Rate Schedule. Staff supports eventual restructuring the LPS rate schedule to a design that acknowledges the relationship of the time of energy consumption to the price of the energy, which varies with time, on a non-optional basis.

5. Potential implementation of a reactive demand charge.

6. Consistency across voltages: Consistent with modernization efforts with Ameren and the Evergy utilities, Staff recommends movement toward establishing consistent customer charge rates and facilities demand rates for customers served at a given voltage level, regardless of service classification (except for LLCS, as discussed within).

7. Phase out of hours use billing.

8. Continued monitoring of summer/winter billing seasons, with potential subdivision of the winter billing season to provide different rates for the spring and fall seasons.[252]

[252] Ex. 130, Rate Design Direct Testimony of Sarah Lange, page 6, lines 3-4 and page 54, line 18 – page 55, line 14.

Staff agrees with the recommendation of Midwest Energy Consumers Group witness Ms. Maini that there should be collaborative work among the parties for rate modernization.[253]

Alexandra Klaus

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

Staff Position: In Empire's tariff, P.S.C. Mo. No. 6 Sec. 3 Original Sheet No. 10b, the sentence "New installations under this program shall not be available during program Year 5," should be replaced with "New installations under this program shall not be available after the effective date of rates in File No. ER-2024-0261."[254]

Alexandra Klaus

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[255] for the update period.

Travis Pringle

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 provided for incorporation into Staff's revenue requirement and rate design.[256] Staff analyzed the data provided including calculating the appropriate adjustment comparing the test year to the update period.[257]

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[253] Ex. 159, Surrebuttal Testimony of Sarah Lange, page 12, lines 8-10.
[254] Ex. 130, Rate Design Direct Testimony of Sarah Lange, page 77, lines 11-15.
[255] Justin Tevie Direct Testimony, Page 3,line 2.
[256] Randall Jennings Direct testimony filed July 2, 2025, Page 12, Lines 13-14.
[257] Randall Jennings Direct testimony filed July 2, 2025, Page 10, Lines 6-18.

It did so by analyzing multiple contracts with billing irregularities involving some months being billed by multiples of the expected amount, and other months not having an XC charge listed at all and taking these additional or multiple adjustments and comparing them to the amount that would have been charged if each month had been charged correctly. The difference was then entered as a manual adjustment and totaled for the update period, resulting in an increase in revenue. However, with the adjustments listed earlier, the adjusted XC revenues ended with a net decrease. The staff then adjusted the XC usage for annualization. This leads to the recommended amount of XC charges moving forward reflecting the updated monthly rates, which the customers will pay in perpetuity, according to the Company.[258]

Carolyn Kerr

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

Staff Position: Staff recommends that the TS Interruptible Credit should not be increased, 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 Empire witness Kavita Maini's proposal for an increase in the interruptible credit.[259],[260]

The TS interruptible credit is currently being taken advantage of by one customer. It is not cost efficient for Empire to increase the credit on the basis of reductions in energy usage based on the minimal interruptions of that single customer.[261] The current

[258] Randall Jennings Direct testimony filed July 2, 2025, Page 12, lines 9-11.
[259] Randall Jennings Rebuttal testimony Page 7, lines 1-6.
[260] Kavita Maini's Surrebuttal testimony, Page 17, lines 18-22.
[261] Randall Jennings Rebuttal Testimony, Page 4, lines 8-10. See, Page 3, lines 4-19.

rate more than adequately compensates that customer for the inconvenience of curtailment.[262]

Carolyn Kerr

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.[263]

Eric Vandergriff

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 the solar rebate rider (Rider SR), P.S.C. Mo. No. 6, Sec. 4, Original Sheet 23 to 23h.[264]

Carolyn Kerr

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.

Staff recommends freezing the Residential EV Charger Pilot Program after the effective date of rates in this case, and the tariff language on P.S.C. Mo. No. 6 Sec. 3 Original Sheet No. 10b, be changed from "New installations under this program shall not be available during program Year 5," should be replaced with

[262] Randall Jennings Rebuttal Testimony, Page 5, lines 13-14.
[263] Ex. 155, Kim Cox, Surrebuttal / True-up Direct Testimony, page 3, lines 7-14.
[264] Ex. 125, Amanda Arandia Direct Testimony, page 2, lines 1-15.

"New installations under this program shall not be available after the effective date of rates in File No. ER-2024-0261."[265]

Eric Vandergriff

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 his Direct testimony. Staff's testimony lists items in previous tariff filings that were either omitted or implemented pursuant to a previous stipulation and agreement (Case No. ER-2021-0312) and should have had its terminology changed.[266] These changes would be for the purpose of clean-up for the compliance tariffs in this case, in that the particular items are either titled or filed incorrectly. Mr. Jennings specifically lists nine items in his testimony that need such modifications.[267]

Carolyn Kerr

GREEN BUTTON CONNECT

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

Renew Missouri Advocates d/b/a Renew Missouri (an intervenor in this case) proposed that the Commission order Empire to implement Green Button Connect My Data ('GBC"). Staff's original position on the issues is set forth in detail below, but Staff believes that the stipulation and agreement adequately addresses Staff concerns, and the Commission should adopt the stipulation and agreement. In the stipulation and agreement, Empire

[265] Ex. 130, Sarah L.K. Lange Direct Testimony pages 76 - 77.
[266] Randall Jennings Direct Testimony filed July 21, 2025, Pages 1-3.
[267] Randal Jennings Direct Testimony filed July 21, 2025, Page 1, lines 19-21 through Page 3, lines 1-16.

agrees to conduct further evaluation of the Green Button Connect initiative prior to committing to full implementation. This evaluation will include a review of customer experience impacts, system integration costs (particularly within SAP), Green Button Connect implementation costs, and the value of customer interval data. Empire agrees to initiate a competitive solicitation process for the implementation of Green Button Connect, with the goal of evaluating both cost parameters and compatibility with the Company's existing SAP systems. This comprehensive assessment will be completed within one year of the effective date of rates established in this proceeding. Based on the results of the evaluation and input from stakeholders, Empire will determine the appropriateness of moving forward with implementation. If deemed appropriate, Empire will target full implementation no later than the end of 2028. A tariff workshop will be held beginning six months prior to any planned launch to support transparency and stakeholder engagement. Staff believes that the stipulation and agreement best resolves this issue.

Staff Position: Should the Commission elect to not adopt the stipulation and agreement on this issue, it is Staff's position that the Commission should not order Empire to implement GBC in this rate case. 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.[268]

Douglas Hennon

[268] Rebuttal testimony of Matthew W. Lucas, Pg. 1-6.

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 proposed 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 the position of regulating the activities of third parties outside its jurisdiction.[269]

Douglas Hennon

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.[270]

Douglas Hennon

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.[271]

Douglas Hennon

[269] Rebuttal testimony of Matthew W. Lucas, Pg. 6-7.
[270] Rebuttal testimony of Matthew W. Lucas, Pg. 7-9.
[271] Rebuttal Testimony of Matthew W. Lucas. Pg. 9.

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?

Staff Position: *For information relating to the appropriate rate base amount and amortization treatment for the Low-Income Pilot Program, please see Section/Issue 15.*

Travis Pringle

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 on this issue, but to the extent that it is addressed by the Agreement.

Travis Pringle

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

Staff Position: Staff takes no position on this issue, but to the extent that it is addressed by the Agreement.

Travis Pringle

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.[272]

Travis Pringle

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

[272] *Id*, page 4, lines 15-21 and page 5, lines 1-4.

Staff Position: The Commission should adjust the test year amount to include the allowed amount to be collected from ratepayers.[273] The Critical Medical Needs Program ("CMNP") was approved by the Commission for Empire in Case No. ER-2021-0312 as part of the Order Approving Stipulations and Agreements.[274] The Commission-approved budget is $100,000, split equally between shareholders and ratepayers and any unspent funds from the program are to roll over annual to Empire's low-income weatherization program.[275] Staff adjusted Empire's CMNP test year balance to ensure the recommended amount of ratepayer funding is included in rates; Empire booked $(33,333) to the test year for ratepayer expense, and this was adjusted to match the Commission-ordered amount.[276] Staff will compare the actual CMNP expenditures with funds collected from ratepayers in Empire's next rate case.[277]

Alexandra Klaus

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 on this issue, but to the extent that it is addressed by the Agreement.

Travis Pringle

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

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[273] Ex. 107, Direct Testimony of Sydney Ferguson, page 6, lines 9-13.
[274] *Id.* at page 6, lines 4-5.
[275] *Id.* at page 6, lines 6-7.
[276] *Id.* at page 6, 9-11.
[277] *Id.* at page 6, lines 11-13.

Staff Position: Staff takes no position on this issue, but to the extent that it is addressed by the Agreement.

Travis Pringle

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 on this issue, but to the extent that it is addressed by the Agreement.

Travis Pringle

MISCELLANEOUS ISSUES

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

Staff Position: Staff believes that no action is necessary at this point in time. However, Staff may make recommendations related to Empire's 2024 infrastructure inspections in Commission File No. OO-2025-0233.[278]

Andrea Hansen

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

Staff Position: If the Commission opts not to adopt the Global Agreement, Staff's position is yes.[279] The Commission should order Empire to initiate internal audits to:

- Examine the capitalization rate applied to I&D and worker's compensation costs;
- Review processes and controls over costs passing through clearing accounts to ensure capitalized have a definitive relationship with capital activity;

[278] Commission File No. ER-2024-0261, Exhibit No. 138C, Claire M. Eubanks Rebuttal Testimony, pg. 13, lines 11-13.
[279] Ex. 122 and 122C, Matthew Young Direct Testimony, pages 24 – 31.

- Ensure its ethical conduct policies clearly communicate expectations;
- Ensure policies and controls on ethical conduct are enforced;
- Review authorization procedures for capital projects to ensure costs and plans are properly reviewed so that the project provides the most benefit to ratepayers at the least cost;
- Ensure policies governing the procurement of labor and non-labor required for a capital project clearly communicate expectations; and
- Ensure controls governing the authorization of capital projects and the procurement of labor and non-labor required for a capital project are enforced.

The Commission should allow Empire one year from the operation of law date in this rate proceeding to complete these internal audits. Further, the Commission should direct Empire to file the results of the internal audits in this rate case docket for review by the parties to this case.

Eric Vandergriff

125. Has Liberty fulfilled its requirements pertaining to the cost/benefit analysis 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.[280] Empire outlined its framework in its 2025 PISA Report, Exhibit 4 (Case No. 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.[281]

[280] Commission File No. ER-2024-0261, Exhibit No. 106, Claire M. Eubanks Direct Testimony, pg. 7, line 1-6.
[281] Commission File No. ER-2024-0261, Exhibit No. 106, Claire M. Eubanks Direct Testimony, pg. 7, line 1-6.

Additionally, Section 393.1400.4, RSMo states in relevant 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, the electrical corporation shall identify all costs and benefits that can be quantitatively evaluated and shall further identify how those costs and benefits are quantified.[282]

There are four Empire projects which potentially meet the twenty-million-dollar threshold laid out in Section 393.1400.4, RSMo (according to Empire's 2023 and 2024 PISA filings). These are: 1). A substation in Arkansas, 2). Customer First, 3). the Riverton 10/11 replacement, and 4). the Rebuild of Substation #292.[283] Staff's position on each is discussed in turn below:

1. According to Empire, the Arkansas substation is mostly designated to Arkansas.
2. Customer First is not a construction project. Thus, Staff is unclear whether a cost benefit analysis is required.
3. Empire cites to its IRP for the Riverton 10/11 project, which is concerning for Staff.
4. In its 2025 PISA, Empire included a cost benefit analysis for the Rebuild of Substation #292.[284]

Andrea Hansen

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?

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282 MO. REV. STAT. § 393.1400.4 (2025).
283 Commission File No. ER-2024-0261, Exhibit No. 156C, Claire Eubanks Surrebuttal/True-Up Direct Testimony, pg. 6, lines 1-3.
284 Commission File No. ER-2024-0261, Exhibit No. 156C, Claire Eubanks Surrebuttal/True-Up Direct Testimony, pg. 6, lines 3-10.

Staff Position: Staff takes no position on this issue, but to the extent that it is addressed by the Agreement.

Eric Vandergriff

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 no position on this issue, but to the extent that it is addressed by the Agreement.

Eric Vandergriff

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

Staff Position: Moved to File No. EO-2026-0101.

Eric Vandergriff

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.[285]

Eric Vandergriff

130. Should Empire continue its pension and OPEB tracker?

Staff Position: Yes. Staff recommends the continuation of Empire's historical trackers and agreements.[286]

Eric Vandergriff

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

[285] Ex. 122 and 122C, Matthew Young Direct Testimony, Pages 17 – 18.
[286] Ex. 122 and 122C, Matthew Young Direct Testimony, Page 21.

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.[287]

Eric Vandergriff

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 the Direct Testimony of Staff witness Alan J. Bax.

Paul Graham

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

Paul Graham

[287] Ex. 122 and 122C, Matthew Young Direct Testimony, Page 19 – 20.

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.[288]

Paul Graham

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.

Eric Vandergriff

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

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,

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

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.[289]

Eric Vandergriff

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

Staff Position: The PAYGO tracker should be discontinued.[290]

Paul Graham

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

Staff Position: The PAYGO tracker is currently in rates and cannot 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.[291]

Paul Graham

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

Staff Position: Staff recommends the Commission adopt the Agreement. In the alternative, Staff does recommend that Staff's ongoing Amortization Tracker be adopted. The methodology behind this tracker is "substantially the same as other tracking mechanisms established for Ameren Missouri, Evergy Metro, Evergy West, and Missouri

[289] Ex. 168, Antonija Nieto Surrebuttal / True-Up Direct Testimony, Page 4.
[290] (Giacone direct page 26-28, Giacone surrebuttal/true-up direct page 7, line 17) (Emery rebuttal page 24-26)
[291] (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)

American Water." By using this tracker, Staff goal is to track "dollar for dollar recovery from, or return to, ratepayers."[292]

Andrea Hansen

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.[293]

Eric Vandergriff

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 on this issue, but to the extent that it is addressed by the Agreement.

Travis Pringle

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[294]

Paul Graham

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[292] Commission File No. ER-2024-0261, Exhibit No. 151, Nathan Bailey Surrebuttal/True-Up Direct Testimony, pg. 8, lines 2-19.
[293] Ex. 122 and 122C, Matthew Young Direct Testimony, Pages 10 – 13.
[294] (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.[295]

A.i. How should the true-up cut-off date of March 31, 2025 impact the Commission's determination of 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.[296]

Eric Vandergriff

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.[297]

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[295] Ex. 122 and 122C, Matthew Young Direct Testimony, page 19 and Ex. 174, Surrebuttal / True-up Direct Testimony, page 13.
[296] Ex. 150, Matthew Young Rebuttal Testimony, pages 3 – 7.
[297] Ex. 123, and 123C, Charles Tyrone Thomason's Direct Testimony, page 71, line 14 to page 72, line 7.

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.[298] 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.[299]

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.[300] Cited in this case.[301]

Eric Vandergriff

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?

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[298] Ex. 162, J Luebbert Surrebuttal / True-Up Direct Testimony, page 8.
[299] Ex. 162, J Luebbert Surrebuttal / True-Up Direct Testimony, page 7.
[300] Ex. 123 and 123C, Charles Tyrone Thomason's Direct Testimony, page 71, line 14 to page 72, line 7.
[301] Ex. 148, Charles Tyrone Thomason's Rebuttal Testimony, page 39, line 15 through page 42, line 15.

Staff Position: No.[302]

Eric Vandergriff

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.[303] The metrics proposed in Empire's rebuttal testimony are not sufficient for that task.[304]

Eric Vandergriff

C. 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.[305] 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

[302] Ex. 174, Matthew Young Surrebuttal / True-up Direct Testimony, pages 12 – 13.
[303] Ex. 172, Charles Tyrone Thomason's Surrebuttal Testimony, page 19, lines 18 – 23.
[304] Ex. 172, Charles Tyrone Thomason's Surrebuttal Testimony, page 16, lines 3 – 7.
[305] Exhibit 104, Direct Testimony of James A. Busch, page 2, lines 3 -5.

to customers that the Commission understands the anger, confusion, and harm that they have experienced [306]

That being said, the $97 million total revenue requirement agreed to amongst the signatories to the Agreement is lower than Staff's revenue requirement which includes the 100 basis point reduction proposed by Mr. Busch. Thus, approval of the Agreement is the best resolution of this issue.

Travis Pringle

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.[307]

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.[308]

Eric Vandergriff

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

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[306] *Id*, page 8, lines 1 – 7.
[307] Ex. 123 and 123C, Charles Tyrone Thomason's Direct Testimony, page 72, lines 9-13.
[308] Ex. 172, Charles Tyrone Thomason's Surrebuttal Testimony, page 18, lines 14 – 20.

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.[309]

Eric Vandergriff

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.[310]

Eric Vandergriff

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.[311] 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.

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[309] Ex. 123 and 123C, Charles Tyrone Thomason's Direct Testimony, page 35, lines 18 – 19.
[310] Ex. 123 and 123C, Charles Tyrone Thomason's Direct Testimony, page 41, lines 2 – 3.
[311] Ex. 123 and 123C, Charles Tyrone Thomason's Direct Testimony, page 51, lines 18 – 23.

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.[312]

Eric Vandergriff

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?

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.[313]

Eric Vandergriff

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.[314] 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.

[312] Ex. 162 and 162C, J Luebbert Surrebuttal Testimony, page 10.
[313] Ex. 123 and 123C, Charles Tyrone Thomason's Direct Testimony, page 54, lines 2 – 4.
[314] Ex. 123 and 123C, Charles Tyrone Thomason's Direct Testimony, page 61, lines 11 – 13 and page 63, lines 1 – 4.

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.[315]

Eric Vandergriff

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.[316]

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.

Eric Vandergriff

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 Representatives have conveyed to customers. Staff's position is that consistent messaging is an important part of providing equal levels of customer service across

[315] Ex. 162 and 162C, J Luebbert Surrebuttal Testimony, page 10.
[316] Ex. 148, Charles Tyrone Thomason's Rebuttal Testimony, page 24, line 14 through page 25, line 2.

Customer Service Representatives. This can be facilitated by the proper documentation of information that was conveyed in account notes.[317]

Eric Vandergriff

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 ("CSR") 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.[318]

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?

Eric Vandergriff

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.[319]

Eric Vandergriff

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[317] Ex. 148, Charles Tyrone Thomason's Rebuttal Testimony, page 25, lines 3 – 8.
[318] Ex. 148, Charles Tyrone Thomason's Rebuttal Testimony, page 25, lines 11 – 15.
[319] Ex. 148, Charles Tyrone Thomason's Rebuttal Testimony, page 25, lines 16 – 19.

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?

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.[320]

Eric Vandergriff

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.[321]

Eric Vandergriff

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?

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[320] Ex. 148, Charles Tyrone Thomason's Rebuttal Testimony, page 15, lines 16 – 22.
[321] Ex. 148, Charles Tyrone Thomason's Rebuttal Testimony, page 34, lines 6 – 14.

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.[322]

Eric Vandergriff

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.[323]

Eric Vandergriff

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 on this issue, but to the extent that it is addressed by the Agreement.

Eric Vandergriff

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?

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.

Eric Vandergriff

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?

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[322] Ex. 148, Charles Tyrone Thomason's Rebuttal Testimony, page 36, lines 22 – 30.
[323] Ex. 148, Charles Tyrone Thomason's Rebuttal Testimony, page 39, line 15 through page 42, line 15.

Staff Position: Staff takes no position on this issue, but to the extent that it is addressed by the Agreement.

Eric Vandergriff

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 on this issue, but to the extent that it is addressed by the Agreement.

Eric Vandergriff

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.[324]

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.[325]

Eric Vandergriff

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

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[324] Ex. 150, Matthew Young Rebuttal Testimony, pages 8 – 9.
[325] Ex. 148, Charles Tyrone Thomason's Rebuttal Testimony, page 6, lines 14 – 20.

Staff Position: No. Cost increases of this nature are not reflected in Staff's revenue requirement.[326]

Eric Vandergriff

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 on this issue, but to the extent that it is addressed by the Agreement.

Eric Vandergriff

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

Staff Position: Staff takes no position on this issue, but to the extent that it is addressed by the Agreement.

Eric Vandergriff

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 on this issue, but to the extent that it is addressed by the Agreement.

Eric Vandergriff

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?

[326] Ex. 150, Matthew Young Rebuttal Testimony, pages 8 – 9.

Staff Position: No. Empire should not participate in pension risk transfer activities without the Commission's approval.[327]

Eric Vandergriff

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

Staff Position: If the Commission opts not to adopt the Global Agreement, Staff position is that it recommends the Commission to order Empire to continue to honor its prior agreements.[328]

Eric Vandergriff

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.[329] Since this has potential ratemaking impacts, it will start soon after the effective date of rates in this case, and because Empire does not yet have a plan in place, this is a transparent and proactive approach to the uniqueness of the item and addressing the potential ratemaking options. Actual ratemaking impacts will be addressed in Empire's next rate case.

Paul Graham

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?

[327] Ex. 150, Matthew Young Rebuttal Testimony, pages 2 – 3.
[328] Ex. 150, Matthew Young Rebuttal Testimony, pages 2 – 3.
[329] (Giacone direct page 5, lines 14-18)

Staff Position: Empire should offer a self-read option, provided certain conditions are included, for instance, that any allowance for self-read should include a provision for the utility to return to monthly reads with applicable charges if a customer fails to provide accurate and timely self-reads.[330]

Empire's remote meter reading opt-out provision currently allows residential customers the option of refusing the installation of remotely read metering or requesting the removal of previously installed remotely read metering.[331] In such instances, non-standard metering equipment will be installed that requires a manual meter read.[332] Customers requesting non-standard metering service will be charged a one-time setup charge of $150.00 and a monthly recurring Non-Standard Meter Charge of $45.00.[333] Empire should establish a one-time setup charge of $125.00 and a monthly recurring charge of $15.00, as Section 386.820.2(2), enacted by Senate Bill 4, established amounts not to be exceeded.[334] These charges may be set at less than the statutory amount; because the current recurring charge is $45.00, a $15.00 charge should be set until Empire has fully evaluated the change or until any necessary rules the Commission may establish are effective.[335]

Allowing customers to opt-out of non-standard meters is consistent with effective tariffs of other utilities, including Evergy Missouri West, Spire Missouri Inc., Empire Water,

[330] Ex. 129, Direct testimony of Coty King, page 4, lines 22-25.
[331] *Id.* at page 2, lines 3-5.
[332] *Id.* at page 2, lines 5-6.
[333] *Id.* at page 2, lines 6-12; Transcript - Volume XII (Evidentiary Hearing – Jefferson City, MO – October 15, 2025), page 82, lines 21-22, and page 87, lines 13-15.
[334] Ex. 129, Direct testimony of Coty King, page 2, line 15 – page 3, line 1; *see also id.* at page 2, footnote 2.
[335] *Id.* at page 2, line 19 – page 3, line 3.

Liberty Utilities (Missouri Water), and Ameren Missouri.[336] Additionally, Evergy Missouri West ("EMW") allows a self-read option for AMI-opt Out customers, which works by allowing customers to self-report the usage for each month and EMW verifies the usage on a semiannual basis.[337]

Based on the foregoing, Empire should offer a self-read option, provided that any allowance for self-read should include a provision for the utility to return to monthly reads with applicable charges if a customer fails to provide accurate and timely self-reads.[338]

Alexandra Klaus

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 supports the changes in the Emergency Energy Conservation Plan described in the direct testimony of Dmitry Balashov with the exception of removing the content related to essential services/critical loads.[339] The purpose of Empire's existing Emergency Energy Conservation Plan is to define actions that will be taken when an imminent fuel shortage threatens the ability of Empire to continue services.[340] However, the Emergency Conservation Plan may be implemented unrelated to fuel shortages, such as when load sheading needs to occur.[341] Empire's proposed Emergency Conservation Plan tariff[342] should be modified to include the following language:[343]

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[336] *Id.* at page 3, lines 8-9. Transcript - Volume XII (Evidentiary Hearing – Jefferson City, MO – October 15, 2025), page 86, lines 4-17.
[337] *Id.* at page 4, lines 1-6.
[338] *Id.* at page 4, lines 22-25.
[339] Ex. 129, Direct testimony of Coty King, page 5, lines 9-16.
[340] *Id.* at page 5, lines 4-6.
[341] *Id.* at page 5, lines 6-7.
[342] P.S.C. Mo. No. 6, Sec. 5, 1st No. 22.
[343] Ex. 129, Direct testimony of Coty King, page 5, lines 16-26, and page 6, Lines 1-5

> 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; and
> (10) Registered heating/cooling centers

These critical loads provide essential services to the communities served by Empire and should have special provisions to ensure these customers are prioritized from interruptions of service to the extent possible.[344]

Alexandra Klaus

CONCLUSION IN SUPPPORT OF ADOPTING THE GLOBAL AGREEMENT

Staff adopted the Global Agreement as its position because, in this record, it is the most just and reasonable outcome for Empire and its stakeholders. The Global Stipulation is not unanimous. However, all parties contributed to it, and all stakeholders are represented. Staff, Empire, MECG, and Renew Missouri supplemented the Global Agreement with customer service metrics that Empire is required to meet for three consecutive months, starting on January 1, 2026, before current rates are changed.

[344] *Id.* at page 5, lines 10-12.

The Global Agreement includes multiple provisions that benefit ratepayers that we could not have reached short of an agreement with Empire. The Global Agreement holds Empire accountable for improving service quality while allowing it a reasonable opportunity to earn a fair return on its prudent investments based upon its future performance.

The Commission retains full authority to review the entire record and reach whatever conclusion it believes best satisfies those standards. Staff no longer advocates for its original position, however, if the Commission chooses not to adopt the Global Agreement, then Staff submits that the next-best result is its original position.

That said, If the Commission were to reject the Global Agreement, Empire's customers could lose several tangible benefits the Global Agreement provides, such as:

- No new rate case for at least 24 months after the effective date of these rates.
- Three-year phase-in of the rate increase:
    - Year 1 - recovering approximately $32.3 million increase over agreed upon revenues in this proceeding;
    - Year 2 - recovering approximately $64.6 million increase over agreed upon revenues in this proceeding; and
    - Year 3 - recovering $97 million increase over agreed upon revenues in this proceeding.
- Internal ethics and capitalization audits to be completed within one year of new rates taking effect.
- $8.5 million in arrearage forgiveness through a targeted relief initiative.
- Low-Income Pilot Program: continuation of the 50/50 customer-company match with an increased annual cap of $900,000.
- Critical Medical Needs Program: continued annual funding of $50,000 from customers and $50,000 from shareholders.
- Customer First Name Change: replacement with a neutral title to reflect service improvement efforts.

Staff's pre-stipulated position supported a $128 million revenue requirement and did not include most of these benefits. Empire's original request was $168 million.

The Global Agreement balances the reality of rate shock, poor customer service, and Empire's entitlement to opportunity to a fair return on its prudent investments. The Global Agreement secures customer protections and certainty for at least two years.

Adopting the Global Agreement will also reduce the likelihood of further litigation. It will assure both the Commission and the public that Empire can maintain financial stability while focusing on service quality improvements that arose in this case. The two-year moratorium provides Staff, the Office of the Public Counsel, and the Commission an opportunity to verify that Empire corrects the issues identified in this record before its next general rate case.

WHEREFORE, for the reasons stated above, Staff respectfully recommends that the Commission adopt the Global Agreement in its entirety.

Respectfully submitted,

/s/ Eric Vandergriff
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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been transmitted by electronic mail to all parties and/or counsel of record this 16th day of December, 2025.

/s/ Travis J. Pringle