

Exhibit No.:
Issue(s)

WNAR/
FAC

Witness/Type of Exhibit:
Sponsoring Party:
Case No.:

Mantle/Direct
Public Counsel
ER-2019-0374

DIRECT TESTIMONY

OF

LENA M. MANTLE

Submitted on Behalf of the Office of the Public Counsel

EMPIRE DISTRICT ELECTRIC COMPANY

CASE NO. ER-2019-0374

**

**

**Denotes Highly Confidential and Confidential Information
that has been Redacted**

January 15, 2020

NON – PROPRIETARY

TABLE OF CONTENTS

Testimony	Page
Introduction	1
Weather Normalization Adjustment Rider	4
OPC's Recommended Modifications to Empire's FAC	7
Adjustment for Asbury Power Plant Retirement	21

DIRECT TESTIMONY
OF
LENA M. MANTLE
THE EMPIRE ELECTRIC COMPANY
FILE NO. ER-2019-0374

INTRODUCTION

1
2 **Q. What is your name and business address?**

3 A. My name is Lena M. Mantle and my business address is P.O. Box 2230, Jefferson
4 City, Missouri 65102.

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

6 A. I am employed by the Missouri Office of the Public Counsel (“OPC”) as a Senior
7 Analyst.

8 **Q. On whose behalf are you testifying?**

9 A. I am testifying on behalf of the OPC.

10 **Q. To what are you testifying?**

11 A. I am testifying on three different issues. First, I testify on why the Commission
12 should not approve a weather normalization rider for The Empire District Electric
13 Company (“Empire”). Second, I provide testimony regarding the modifications I
14 recommend the Commission make to Empire’s FAC. I conclude a discussion of
15 the implications on the fuel adjustment clause (“FAC”) and the fuel costs of the
16 retirement of the Asbury power plant (“Asbury”).

17 **Q. What are your experience, education and other qualifications, particularly on**
18 **the topics to which you are testifying?**

19 A. I was employed by the OPC in my current position as Senior Analyst in August 2014.
20 In this position, I have provided expert testimony in electric and water cases before

1 the Commission on behalf of the OPC. I am a Registered Professional Engineer in
2 the State of Missouri.

3 Prior to being employed by the OPC, I worked for the Staff of the Missouri
4 Public Service Commission (“Staff”) from August 1983 until I retired as Manager of
5 the Energy Unit in December 2012. During my employment at the Missouri Public
6 Service Commission (“Commission”), I worked as an Economist, Engineer,
7 Engineering Supervisor and Manager of the Energy Unit. While on the Commission
8 Staff, I participated in the development of a leading-edge methodology for weather
9 normalizing hourly class energy for rate design cases. I took the lead in developing personal
10 computer programming of this methodology and applied this methodology to weather-
11 normalize electric usage in numerous electric rate cases. After the Missouri Legislature
12 passed Section 366.266, RSMo in 2005, enabling the electric utilities to request a fuel
13 adjustment clause (“FAC”), I was instrumental in the development and application of
14 the Commission’s FAC rules and the FAC’s of the electric utilities in Missouri.

15 Attached as Schedule LMM-D-1 is a brief summary of my experience with
16 OPC and Staff and a list of the Commission cases in which I filed testimony,
17 Commission rulemakings in which I participated, and Commission reports in rate
18 cases to which I contributed as Staff. Attached as Schedule LMM-D-2 is the
19 *Electric Utility Fuel Adjustment Clause in Missouri: History and Application*
20 *Whitepaper* that I wrote to provide background and a description on various aspects
21 of the FAC in Missouri.

22 **Q. What recommendations do you make in this testimony?**

23 A. I make the following recommendations:

24 1) The Commission should deny Empire’s request for a weather normalization
25 rider;

- 1 2) The incentive mechanism of Empire’s FAC be modified to an 85/15 sharing
2 mechanism where customer exposure is reduced to 85 percent of FAC cost
3 increases and decreases;
- 4 3) The transmission costs included in Empire’s FAC remain as they are currently,
5 and any transmission revenues associated with Southwest Power Pool (“SPP”)
6 schedules and Mid-Continent Independent System Operator (“MISO”) costs
7 currently included in the FAC also be included. The percentage of
8 transmission costs and revenues included be modified to match the
9 circumstances that will be impacting the transmission costs and revenues
10 when rates from this case become effective;
- 11 4) The FAC language that has been in effect and that Empire has proposed in this
12 case regarding the costs and revenues from purchased power agreements
13 (“PPAs”) be followed for Empire’s PPA with the Missouri Joint Municipal
14 Electric Utility Commission (“MJMEUC”), and the Commission require, as
15 a part of Empire’s monthly FAC filing, a detailed listing of the costs incurred
16 due to the contracts and the revenues that Empire receives;
- 17 5) With respect to Empire’s wind projects, the Commission order Empire to:
 - 18 a. Not pass any direct or indirect costs connected with the wind projects
19 through its FAC until a Commission order expressly allows it;
 - 20 b. Develop policies and procedures to prevent wind project costs from
21 being included in the FAC until a Commission order expressly allows
22 it;
 - 23 c. Submit those policies and detailed documentation of the procedures it
24 has developed to the Commission Staff and OPC by September 1,
25 2020; and
 - 26 d. Include language in the FAC tariff sheet explicitly stating that no costs
27 associated with the wind projects shall pass through the FAC; and
- 28 6) With respect to the retirement of Asbury:

- 1 a. Empire’s FAC costs¹ for Asbury should not be included when setting
2 the base rate in Empire’s FAC nor should they be included in Empire’s
3 revenue requirement; or
4 b. Alternatively, if Empire’s rates are set based on Asbury being
5 operational, the tracking of costs for an accounting authority order for
6 the retirement of Asbury should not include any of the costs of or
7 missed revenues from Asbury that Empire does not recover through
8 its FAC.

9 **Weather Normalization Adjustment Rider**

10 **Q. What is your recommendation to the Commission regarding Empire’s request**
11 **for a weather normalization rider to adjust the revenues of its residential and**
12 **small general service customers?**

13 A. I recommend the Commission not approve a weather normalization rider for
14 Empire.

15 **Q. Would you explain the rationale for your recommendation?**

16 A. Senate Bill 564, which the Missouri Legislature passed in 2018, changed the
17 language of Section 386.266.3 RSMo, which added a provision to allow electric
18 utilities the option of requesting a rate adjustment mechanism to reflect the effects
19 of weather and conservation. One of the customer protections of this legislation is
20 the requirement of the Commission to approve, modify, or reject this mechanism.²
21 This means that, unlike other rate adjustment mechanisms authorized by state
22 statute, this type of rate adjustment mechanism is a privilege not a right. The statute
23 requires the Commission to consider all relevant factors which may affect the costs
24 or overall charges when determining whether to approve such a mechanism.

¹ In this testimony, FAC costs refers to the fuel, purchased power and transmission costs net of the off-system sales, transmission and other revenues included in the FAC as ordered by the Commission.

² Section 386.266.5 RSMo.

1 The most important factor to consider when determining the need for a
2 weather normalization rider is whether Empire needs such a mechanism to provide it
3 an opportunity to earn a fair return on equity. Recent history shows that Empire does
4 not need the rider to earn its authorized return on equity.

5 **Q. What evidence do you have that Empire has been able to earn a fair return on**
6 **equity without this rider?**

7 A. Yes. One of the requirements of electric utilities with a fuel adjustment clause is
8 that they have to submit surveillance reports to the Commission quarterly. One of
9 the requirements of this report is for the utility to provide its actual earned return
10 on equity for the previous twelve months. The graph below shows the twelve-
11 month return on equity by quarter as submitted to the Commission by Empire for
12 the twelve months ending March 2018 (“1Q 2018”) through the twelve months
13 ending September 2019 (“3Q 2019”).

14 **

15 **

1 This graph clearly shows that Empire has been earning above its authorized return
2 on equity of 9.75 percent³ earning for a time more than ** ** above the
3 authorized return This graph also clearly shows that Empire does not need a
4 weather normalization rider to enable it to earn its authorized return on equity.

5 **Q. Do you have any other evidence that Empire has been earning its authorized**
6 **return on equity without a weather normalization mechanism?**

7 A. Yes. Empire provides the following rationale for why it was filing this general rate
8 increase case in its *Notice of Intended Case Filing* in this case:

9 Empire's last request for an overall increase in rates for electric
10 service was docketed as Case No. ER-2016-0023, and the
11 Commission order authorizing the continuation of a FAC for Empire
12 was issued in said case on August 10, 2016, effective September 9,
13 2016. Empire is thus required to file a general rate case with the
14 effective date of new rates to be no later than four years after
15 September 9, 2016.

16 Empire did not file this case because it needed a rate increase to have an opportunity
17 to earn its allowed return on equity. It filed this rate case because statute requires
18 an electric utility with a FAC to file at least every four years. Without that provision
19 in statute, it is likely that Empire would not have come in for a rate case for another
20 year when it requests the costs of its wind projects be included in its customers'
21 rates.

22 **Q. Why do you think that provision was included in the statute?**

23 A. My opinion is that this important customer protection was included in the statute
24 so at times of declining non-fuel costs the rates would be reset at least every four

³ The last Commission ordered return on equity for Empire was 9.75 percent in case ER-2008-0093. Empire's quarterly surveillance reports use this as its authorized rate with a note that subsequent rate cases have been black box settlements that do not identify an authorized return on equity. In subsequent rate cases, Stipulation and Agreements have indicated the return on equity was a range of 9.5 to 9.9 percent.

1 years to pass the benefits of the declining costs to the customers. In other words, it
2 prevents the electric utility from over-earning for more than four years.

3 **Q. What does it mean when an electric utility goes four years without a general**
4 **rate increase?**

5 A. It means that the earnings of the utility were good enough to pay its bills and satisfy
6 its shareholders. In more technical terms, it means the utility was not under-earning
7 its allowed return on equity.

8 **Q. Is there any other reason why the Commission should not approve a weather**
9 **normalization rider for Empire?**

10 A. Yes. With the proliferation of available rate adjustment mechanisms, customers'
11 bills have become more complicated and harder to understand. For example, many
12 customers do not understand why the fuel adjustment charge on their bills does not
13 go down when their cost of gas at the gas station goes down. Adding another
14 mechanism when it is not necessary will only add to the customers' confusion
15 regarding their bills.

16 Additionally, there are many problems with the design of the weather
17 normalization mechanism that Empire is proposing. I have discussed my concerns
18 with Empire and Staff in a conference call and will provide rebuttal testimony to
19 the Commission regarding my concerns.

20 **OPC's Recommended Modifications to Empire's FAC**

21 **Q. Would you first summarize the modifications you are proposing to Empire's**
22 **FAC?**

23 A. I recommend the Commission make the following modifications to Empire's FAC:

- 24 1. Modify the incentive mechanism to an 85/15 sharing mechanism where
25 customer exposure is reduced to 85 percent of FAC cost increases and
26 decreases;

- 1 2. Include in Empire’s FAC certain transmission revenue consistent with
2 transmission costs already included;
3 3. Order costs and non-capacity related revenues from Empire’s contract with
4 the Missouri Joint Municipal Electric Utility Commission (“MJMUEC”) to
5 flow through the FAC; and
6 4. Order Empire to take actions to assure that none of the costs of Empire’s
7 wind projects will be included in the FAC resulting from this case.

8 **Q. What is the current incentive mechanism in Empire’s FAC?**

9 A. Currently 95 percent of the difference between Empire’s actually incurred FAC
10 costs⁴ and the normalized FAC costs set in the last rate case (FAC base) is
11 recovered from or returned to customers. The other five percent of actual FAC
12 costs increases or savings as compared to the FAC base is absorbed or retained by
13 Empire. This incentive mechanism is commonly referred to as a 95/5 sharing
14 mechanism.

15 **Q. What changes do you propose for Empire’s FAC incentive mechanism?**

16 A. I recommend the Commission order Empire to change its FAC sharing mechanism
17 from a 95/5 sharing, where customers are responsible for 95 percent of the
18 difference between the FAC base set in the rate case and the actual FAC costs
19 incurred, to an 85/15 sharing mechanism reducing customer exposure to 85 percent
20 of FAC cost increases and decreases.

21 **Q. As some background, what do you mean by “FAC costs” and “FAC base”?**

22 A. Simply put, the Commission determines the FAC base from normalized FAC costs
23 in a rate case.

⁴ As previously defined in footnote 1, in this testimony FAC costs refers to the fuel, purchased power and transmission costs net of the off-system sales, transmission and other revenues included in the FAC as ordered by the Commission.

1 More detailed and as defined in footnote 1, FAC costs are the net of the fuel
2 and purchased power related costs and revenues that are included in the FAC. The
3 costs and revenues included in a utility's FAC are determined by the Commission
4 in a general rate case such as this case. FAC costs are included in the cost-of-service
5 used to set permanent rates in the general rate case.

6 The FAC base is the dollar amount of the FAC costs that are included in
7 permanent rates. The FAC base is divided by the rate case normalized energy usage
8 to determine the FAC base rate. At the end of each biannual accumulation period,
9 the actual energy used by the utility's customers is multiplied by this rate to
10 determine how much of the actual costs have already been recovered from those
11 customers in its permanent rates. The difference between this amount and the
12 actual costs is the amount that is billed or returned to the utility's customers through
13 the FAC rider

14 A more detailed discussion of the parameters and design of the FAC is
15 included in the whitepaper attached to this testimony as Schedule LMM-D-2.

16 **Q. What would be the impact of changing from the current 95/5 sharing to your**
17 **recommended 85/15 sharing incentive mechanism?**

18 A. While Empire does not have complete control of the fuel and purchased power costs
19 it incurs, there are actions Empire can take to increase the efficiency of its fuel and
20 purchasing expenditures. Increasing the share of savings/losses for Empire creates
21 a greater incentive for Empire to manage the FAC costs that it incurs and passes on
22 to its customers. It also reduces the likelihood of gamesmanship with the FAC.
23 While a utility may be willing to forgo five percent of the difference between actual
24 FAC costs and the FAC base, it would be less likely to forgo 15 percent.

25 **Q. Do you have an example of when 5 percent was not enough of an incentive for**
26 **Empire to have an accurate FAC base rate?**

1 A. Yes. In this case, in its suggestions in opposition to OPC's motion to modify the
2 test year Empire filed on January 1, 2020, Empire points out to the Commission
3 that the position Empire is taking with respect to including Asbury costs and
4 revenues in its FAC base would result in an immediate under-recovery of FAC
5 costs. In other words, Empire is recommending the Commission adopt Empire's
6 position regarding Asbury knowing that a consequence of this decision is a five
7 percent under-recovery of costs for Empire.

8 **Q. Would Empire's position regarding the inclusion of Asbury be different if it**
9 **knew that it would absorb 15 percent of the cost increase instead of five**
10 **percent?**

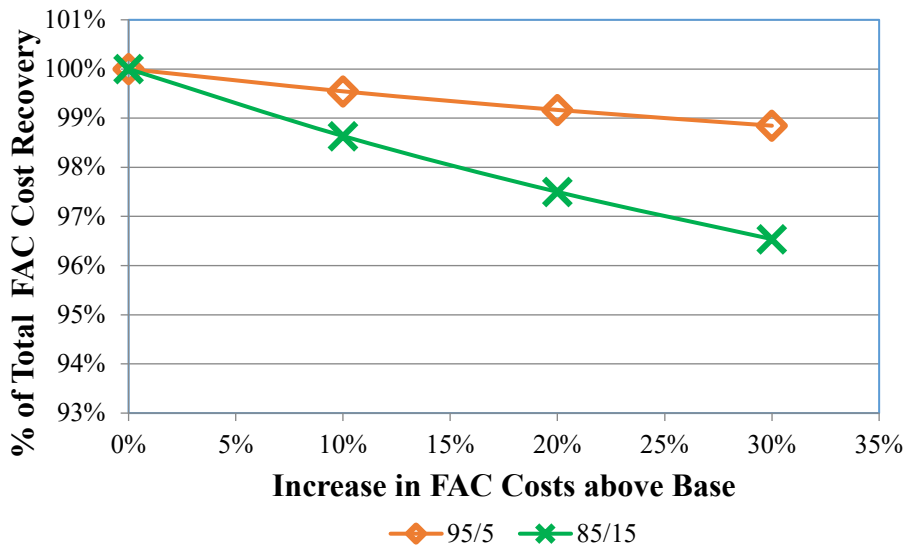
11 A. I do not know. However, it is obvious that five percent is not enough of an incentive
12 for Empire to support setting the FAC base consistent with the actual fuel costs it
13 expects to be incurring at the time the rates from this case go into effect.

14 **Q. How would changing the sharing mechanism impact the recovery of actual**
15 **FAC costs?**

16 A. The impact would be different depending on whether the actual FAC costs were
17 below or above the FAC base set in the rate case.

18 **Q. How much of its actual FAC costs would Empire recover if its actual FAC**
19 **costs are higher than its FAC base costs included in its permanent rates in the**
20 **rate case?**

21 A. Empire would recover all of the FAC costs included in its permanent rates and 85
22 *percent of the difference* between its actual FAC costs and the base FAC costs
23 included in permanent rates. The graph below shows the percentage of its actual
24 FAC costs Empire would recover if its actual FAC costs increased above the FAC
25 base set in a rate case.



1

2

3

4

5

6

As the graph above demonstrates, with an 85/15 sharing, Empire would still recover over 98.6 percent of its actual FAC costs if its actual FAC costs were 10 percent over the base FAC costs. With the current 95/5 sharing, Empire recovers almost 99.6 percent of its actual FAC costs when those costs increase by 10 percent over its FAC base.

7

Q. What is the dollar impact of a ten percent increase above the FAC base Empire has proposed in this case?

8

9

A. If the FAC base was set at the \$132 million Empire is proposing and Empire's actual FAC costs were 110 percent of that FAC base or an increase of \$13.2 million, Empire would recover \$1.2 million less if the sharing incentive mechanism was changed from 95/5 to 85/15.

10

11

12

13

Q. What would be the impact to Empire of changing the sharing mechanism from 95/5 to 85/15 when its actual FAC costs fall below the FAC base Empire has proposed in this case?

14

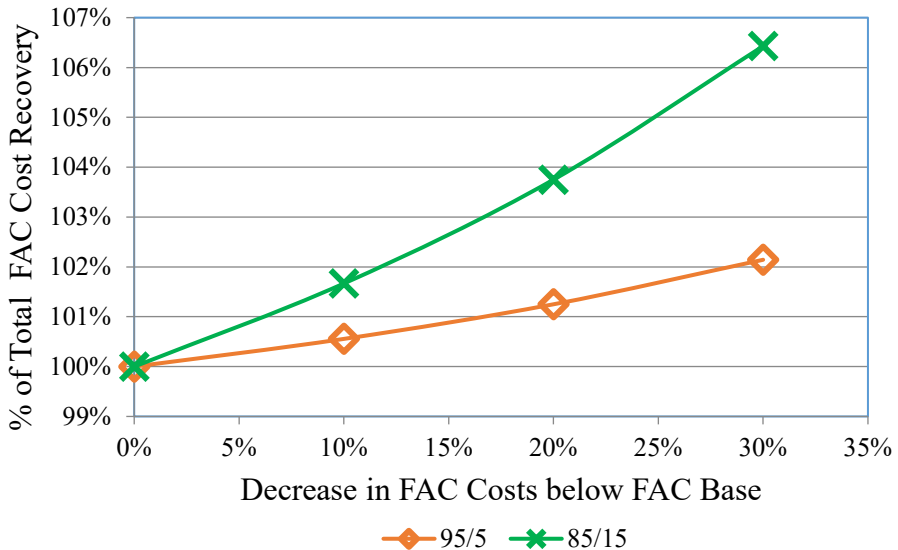
15

16

A. When actual FAC costs fall below the FAC base, both sharing mechanisms would result in Empire recovering more than 100 percent of its actual FAC costs. Empire

17

1 would recover the FAC base set in its rate case through its permanent rates, which
2 in this example would be more than the actual FAC costs, but then only have to
3 return a portion, either 95% or 85%, of the net of its actual FAC costs and FAC
4 base (savings) back to its customers through its FAC creating an earnings
5 opportunity for Empire. As shown in the graph below, an 85/15 sharing would
6 actually allow Empire to have a greater earnings opportunity than the current 95/5
7 sharing.



8 This graph shows that when actual FAC costs fall *below* the FAC base set in the
9 rate case, the sharing mechanisms allow Empire to recover from its customers more
10 than 100% of its actual FAC costs. With the current 95/5 sharing, when actual FAC
11 costs fall 10% below the base FAC cost, Empire recovers from its customers 100.6
12 percent of its actual FAC costs. By changing the sharing to 85/15, Empire would
13 recover from its customers 101.7 percent of its actual FAC costs. While that does
14 not seem to be much of a difference, based on the FAC base Empire is proposing
15 in this case it would result in an additional earnings of over \$1.4 million.
16

1 **Q. How did you determine that an 85/15 sharing is the appropriate sharing**
2 **mechanism?**

3 A. The public interest is better served by placing an increased incentive on Empire to
4 prudently manage and accurately calculate its normalized fuel costs. The current
5 95/5 sharing is not enough of an incentive because it still allows Empire to recover
6 virtually all its fuel costs when those costs increase as shown in the graph above.
7 Senate Bill 564, which the Missouri Legislature passed in 2018, includes a
8 provision allowing, upon election by an electric utility, plant in-service accounting
9 (“PISA”), but it only allows 85% of the depreciation expense and return associated
10 with qualifying plant to be included for recovery in the electric utility’s rate base in
11 its next general rate case.⁵ The Legislature’s selection of an 85/15 incentive
12 mechanism for PISA provides a more reasonable alternative to the 95/5 incentive
13 mechanism previously adopted by the Commission for Empire’s FAC.

14 **Q. How is this statute that pertains to plant in-service accounting relevant to the**
15 **FAC?**

16 A. This statute defines the incentive the legislators believe would protect ratepayers’
17 interests. As the Commission found in its *Report and Order* in File No.
18 EA-2018-0202:

19 When Senate Bill 564 was initially introduced, it required all
20 depreciation expense and associated return to be deferred. The
21 eighty-five percent limitation was added to the legislation by the
22 General Assembly during the legislative process.⁶

23 Further, the Commission stated in its Decision in that same *Report and Order* “the
24 eighty-five percent limitation on the utility’s ability to defer costs is likely a

⁵ Section 393.1400 RSMo.

⁶ EA-2018-0202, *In the Matter of the Application of Union Electric Company d/b/a Ameren Missouri for Permission and Approval and a Certificate of Convenience and Necessity Authorizing it to Construct a Wind Generation Facility*, Findings of Fact, page 6, paragraph 8.

1 legislative compromise intended to maintain some regulatory lag to protect
2 ratepayer interests.”⁷

3 **Q. Is there similar language identifying an incentive mechanism in the statute**
4 **that enables the Commission to authorize an electric utility to use a FAC?**

5 A. No. The enabling statute for the FAC, passed more than a decade before the PISA
6 statute, includes a provision allowing an incentive-based plan approved by the
7 Commission.⁸ However, this provision does not define the incentive. It was left
8 for the Commission’s determination.

9 **Q. Is the 85/15 incentive mechanism you are proposing for Empire’s FAC the**
10 **same as the 85/15 mechanism in the PISA statute?**

11 A. While the sharing percentages are the same there would be a notable difference
12 with the application of the percentages. The PISA 85/15 sharing mechanism
13 applies only to cost increases. As previously described, the FAC 85/15 sharing
14 mechanism would apply to both costs increases and decreases, and would result in
15 additional earnings for Empire when its actual FAC costs fall below the base set in
16 the rate case. The additional earnings to Empire under an 85/15 sharing when fuel
17 and purchased power costs decrease would work as an *incentive* for Empire to seek
18 reductions in its fuel and purchased power costs.

19 **Q. The next modification that you listed is the addition of some transmission**
20 **revenues to Empire’s FAC. Do you agree with Empire witness Aaron Doll**
21 **who provided in his supplemental direct testimony that all transmission costs**
22 **and revenues should be included in Empire’s FAC?**

23 A. No. Even though Mr. Doll’s testimony reads as if OPC agrees with Empire with
24 respect to transmission costs and revenues, OPC does not agree with Empire’s

⁷ Page 10.

⁸ Section 386.266.8 RSMo.

1 request that 100 percent of all transmission costs and revenues should be included
2 in Empire’s FAC. However, I do agree that some transmission revenues should be
3 in Empire’s FAC, but at a percentage calculated consistent with prior Commission
4 orders.

5 **Q. Why should transmission revenues be included in Empire’s FAC?**

6 A. Empire receives revenues under the same SPP schedules for which it is assessed
7 charges. It also receives revenue from MISO for reactive power.⁹ For consistency,
8 the costs should be offset by the revenues also received for that service.

9 **Q. What is the percentage based on?**

10 A. The Commission’s order in case no. ER-2014-0351 provides that:

11 [T]he costs Empire incurs related to transmission that are
12 appropriate for the FAC, from a policy perspective and by statute
13 are:

14 1) costs to transmit electric power it did not generate to its own load
15 (“true purchased power”); and,

16 2) costs to transmit excess electric power it is selling to third parties
17 to locations outside of SPP (“Off-system sales”).¹⁰

18 In that case, the Commission determined that 34 percent of Empire’s SPP
19 transmission and 50 percent of its MISO transmission costs should flow through its
20 FAC. In the last Empire general rate case, ER-2016-0023, the parties entered into
21 a stipulation and agreement to continue to use those percentages.¹¹ Currently 34
22 percent of SPP costs associated with network transmission service¹² and 50 percent
23 of MISO costs¹³ are included in Empire’s FAC.

⁹ Supplemental direct testimony of Empire witness Aaron Doll, page 3, lines 19-20.

¹⁰ *Report and Order*, page 28.

¹¹ ER-2016-0023, *Stipulation and Agreement*, pages 8 and 9, filed on June 20, 2016.

¹² SPP Schedules 2, 3, and 11.

¹³ Network transmission service; point-to-point transmission service; system control and dispatch; and reactive supply and voltage control.

1 I recommend that the transmission costs identified by SPP Schedule and
2 MISO cost type currently included in Empire’s FAC remain the same and that any
3 revenues associated with the same SPP schedules and MISO costs be included in
4 Empire’s FAC. The percentage of those costs and revenues included should be
5 modified to match the circumstances that will be impacting the transmission costs
6 and revenues when rates from this case become effective.

7 **Q. What should be the percentages of transmission costs and revenues that the**
8 **Commission should allow in Empire’s FAC?**

9 A. The percentage of SPP transmission costs and revenues that would be included on
10 a going forward basis should be determined from a fuel run model that does not
11 include the Asbury plant.¹⁴ However, if the fuel run that is used to determine this
12 percentage includes Asbury and the Commission allows increased costs from the
13 retirement of Asbury to be tracked for potential future recovery from customers, I
14 recommend any transmission costs not recovered through the FAC not be included
15 as a costs for potential recovery in the next case.

16 If the contract with Missouri Joint Municipal Electric Utility Commission
17 (“MJMEUC”) is treated as recommended in this testimony, the percentage of MISO
18 transmission costs and revenues should remain at 50 percent.

19 **Q. What is the MJMEUC contract?**

20 A. Empire witness Sheri Richard, in her corrected direct testimony in this case,
21 discusses the ending of a 10-year contract with three wholesale customers in May
22 2020 and provides a vague description of an agreement Empire entered into to sell
23 capacity and energy to a new customer beginning in June of 2020.¹⁵ This
24 agreement is a purchased power agreement (“PPA”) between Empire and

¹⁴ Excluding Asbury will result in a higher percentage but is consistent with OPC’s position that costs affected by the Asbury retirement should be considered in this case.

¹⁵ Page 27, line 18 through page 28 line 9.

1 MJMEUC. While I am not an attorney, my understanding from reading this
2 contract is that it is a ***

3
4
5
6
7
8
9
10
11 *** A copy of this contract
12 obtained from Empire in response to OPC data request 8004.1 is attached to this
13 testimony as Schedule LMM-D-3 HC.

14 **Q. Since this contract is effective outside the true-up period of this rate case, why**
15 **are you testifying about it now?**

16 A. The FAC is prospective in nature. The FAC is more than just a base FAC amount.
17 It is the boundaries and customer protections of the FAC that are in effect until
18 Empire's next general rate increase case. The FAC applies to PPAs that Empire
19 enters into for both the purchase and sale of energy between cases. The
20 Commission-approved FAC in this case will determine how this PPA is treated in
21 June of 2020, through the effective date of rates in the next Empire general rate
22 case.

23 **Q. What is your recommendation for how the Commission should treat the**
24 **MJMEUC contract?**

25 A. I recommend Empire follow the FAC language that has been in effect and that it
26 has proposed in this case. All current FAC non-labor costs including but not limited
27 to fuel and transmission costs for these resources should continue to flow through

1 the FAC. All revenues provided to Empire from MJMEUC, except for the revenue
2 provided for capacity,¹⁶ should also be included in the FAC. For transparency as
3 to the prudence of this PPA, the Commission should require, as a part of the
4 monthly FAC report required to be submitted by Empire, a detailed listing of the
5 costs incurred due to the contracts and the revenues that Empire receives. The
6 detailed listing should differentiate between the costs and revenues that are in the
7 FAC and those that are outside of the FAC.

8 **Q. Should the Commission's allowance of Empire's costs and revenues from this**
9 **PPA to flow through its FAC be a signal that this contract is prudent for**
10 **Empire?**

11 A. No. This PPA should be reviewed to determine prudence in the first FAC prudence
12 audit where Empire's costs and revenues from this PPA are included.

13 **Q. What is your concern regarding Empire's wind projects and Empire's FAC?**

14 A. I am concerned that some costs of the wind projects may be charged to Empire's
15 customers through its FAC prior to Empire's next general electric rate case.

16 **Q. Why do you have that concern?**

17 A. An important part of the wind project financial feasibility is Empire's payment to
18 the wind holding companies of hedges for each MWh of energy generated. Empire
19 believes there will be some energy generated from these wind projects prior to its
20 next general electric rate case, and its witness Aaron Doll has prefiled direct
21 testimony in which he requests language be included in Empire's FAC to assure
22 that SPP revenues for this energy does not pass through to Empire's customers prior
23 to Empire starting to recover its investment in the wind projects through retail

¹⁶ This is consistent with the current FAC. Only capacity revenues from contracts of less than a year flow through the FAC.

1 rates.¹⁷ In its response to OPC data request 1318 in Case No. EO-2018-0092¹⁸
2 provided on April 30, 2018, Empire stated that it anticipated that the net
3 cost/revenue of the hedge would be recorded in Federal Energy Regulatory
4 Commission (“FERC”) account 555 Purchased Power. Empire’s proposed FAC
5 tariff sheets include purchased power costs included in FERC account 555.

6 In this case, Case No. ER-2019-0374, OPC again asked in its data request
7 8049 how Empire intended to account for the hedging costs. In response to that
8 data request, Empire stated that it has not determined how it will account for the
9 costs that are incurred due to the hedge agreement.

10 Since Empire does not seem to know yet how these costs will be treated, I
11 want an assurance that no costs, including hedging costs, pass through Empire’s
12 FAC to its customers before Empire’s next general electric rate case.

13 **Q. You testified that Empire prefiled testimony by which it is requesting FAC**
14 **language to keep any SPP revenues from the wind projects from flowing**
15 **through its FAC. Did it request any similar language regarding wind project**
16 **costs?**

17 A. No. Empire did not propose such language in its direct or supplemental direct
18 testimony. Once I learned that Empire had entered into a hedge agreement for one
19 of the wind projects, I asked Empire, in OPC data request 8049, to provide a
20 description of Empire’s policies and procedures to prevent Empire’s hedging costs
21 from flowing through the FAC. Empire objected to this data request but provided
22 the following in response the request for policies and procedures:

23 With regard to the change being requested in this case, the proposed
24 revision explained in the Direct Testimony of Aaron Doll adds
25 language further defining what is included in OSSR. In the
26 Company’s current FAC Tariff, OSSR is defined as “Revenue from
27 Off-System Sales (Excluding revenue from full and partial

¹⁷ Direct testimony of Aaron Doll, pages 2-4.

¹⁸ *In the Matter of the Application of The Empire District Electric Company for Approval of Its Customer Savings Plan*

1 requirements sales to municipalities).” Future generation projects,
2 such as the wind projects, will produce sales before the inclusion in
3 rates of the associated generation costs. Therefore, in order to
4 provide for equitable treatment of revenue (including hedge
5 revenues/costs) in such situations, the Company has proposed to
6 modify the definition of OSSR to only include sales revenue
7 received from generation projects that have been declared
8 Commercially Operational and are being recovered through
9 customer rates. The current rate case does not address how hedge
10 costs and revenues will flow through the FAC as this will be
11 addressed in a future rate case. As described in testimony in Case
12 No. EA-2019-0010, it is Empire’s intent for the hedge results to
13 have no impact on customer rates.

14 **Q. Is assurance that it is “Empire’s intent” for the hedge costs to have no impact**
15 **on customer rates sufficient for you?**

16 A. No. Intent can change over time. This is why OPC is recommending the
17 Commission order that no hedging or other costs of the wind projects be allowed
18 to be recovered through the FAC prior to the effective date of the rates in Empire’s
19 next rate case.

20 **Q. Are you aware of any language in Empire’s proposed FAC tariff sheets that**
21 **Empire could possibly use to pass the hedging costs from these wind projects**
22 **to its customers through its FAC?**

23 A. Yes. Schedule AJD-1 attached to the direct testimony of Empire witness Doll
24 provides Empire’s proposed FAC tariff sheets. These sheets allow hedging costs
25 recorded in Federal Energy Regulatory Commission (“FERC”) accounts 501, 506,
26 547, 548, 509, 411 and 447 to be included in Empire’s FAC. The proposed tariff
27 sheets include on page 6 of 9 of this schedule the following definition of hedging
28 costs:¹⁹

29 Hedging costs are defined as realized losses and costs (including
30 broker commission fees and margins) minus realized gains
31 associated with mitigating volatility in the Company’s cost of fuel,

¹⁹ This is identical to language that is in Empire’s current FAC.

1 fuel additives, fuel transportation, emission allowances and
2 purchased power costs, *including but not limited to*, the Company's
3 use of derivatives whether over-the-counter or exchanged traded
4 including, without limitation, futures or forward contracts, puts,
5 calls, caps, floors, collars and swaps. (emphasis added)

6 With this broad definition, the wind hedging costs could be included in the FAC
7 prior to Empire's next rate case and the parties would have no recourse to say that
8 it was imprudent for the costs to flow through Empire's FAC. A Commission order
9 excluding both wind project revenues and costs from the FAC prior to the next rate
10 case would ensure the company and customers are both treated fairly and equally.

11 **Q. What is your recommendation to the Commission regarding the costs of the**
12 **wind projects and Empire's FAC?**

13 A. Because there may be other instances in Empire's FAC tariff sheets other than the
14 hedging language identified above that could allow costs from the wind projects to
15 pass through Empire's FAC, I recommend the Commission order Empire to:

- 16 1) Not pass any direct or indirect costs connected with the wind projects through
17 its FAC until a Commission order expressly allows it;
- 18 2) Develop policies and procedures to prevent wind project costs from being
19 included in its FAC until a Commission order expressly allows it;
- 20 3) Submit this policy and detailed documentation of the procedures it has
21 developed to the Commission Staff and OPC by September 1, 2020; and
- 22 4) Include language in its FAC tariff sheet explicitly stating no costs associated
23 with the wind projects shall pass through its FAC.

24 **Adjustment for Asbury Power Plant Retirement**

25 **Q. What is Empire's Asbury Power Plant?**

26 A. Asbury is an approximately 200 MW cyclone steam generator commissioned in
27 1970 that is located in Jasper County near Asbury, Missouri. Empire is the sole
28 owner of Asbury. Empire burns a blend of low-sulfur Wyoming coal and local

1 bituminous coal at Asbury. In 2014 Empire retrofitted Asbury with an air quality
2 control system (“AQCS”). That retrofit extended the expected retirement date of
3 the plant at that time from 2030 to June 2035.

4 In its fuel model run for this rate case, Empire estimated that, on a
5 normalized basis, Asbury provides approximately 18.5 percent of Empire’s total
6 generation provided to SPP. Empire’s fuel runs showed that only Empire’s
7 Riverton 12 combined cycle plant would, on a normalized basis, provide more
8 generation than Asbury.

9 **Q. When does Empire plan to retire Asbury?**

10 A. On December 29, 2019, Empire stated in its response to OPC’s motion to modify
11 the test year that it is retiring Asbury on March 1, 2020.²⁰

12 **Q. You stated earlier that based on its fuel run, on a normalized basis, Empire**
13 **estimated that Asbury would provide Empire with approximately 18.5 percent**
14 **of Empire’s total generation. What impact does running Asbury have on**
15 **Empire’s test year fuel costs?**

16 A. Based on a supplemental direct workpaper from Empire’s witness Aaron Doll,
17 Empire’s fuel costs for Asbury in this case are:²¹

18 **

19 **

²⁰ Empire’s Response to Public Counsel’s Motion to Modify Test Year, paragraph 5.

²¹ Aaron Doll supplemental direct workpaper “AD Supp Direct 2019 MO Rate Case Model Output – Finalv3 – Confidential,” tab “Costs.”

1 **Q. Will Empire’s fuel costs decrease after Empire retires Asbury on March 1, 2020?**

2 A. Yes. However, it is not only the costs of generating electricity at Asbury that will
3 decrease. Revenues from SPP for sales of electricity that Asbury generates will
4 decrease as well. Empire’s test year fuel model results included an estimate that
5 Asbury would generate revenues of ** ** from the SPP energy
6 market. In Empire’s test year fuel run, those revenues exceed the fuel costs of
7 running Asbury, *i.e.*, they result in a positive margin to Empire from Asbury during
8 the test year.

9 **Q. How does retiring Asbury impact the FAC costs that Empire included in its**
10 **revised direct case?**

11 A. Because of the complex interactions between fuel costs, market prices, and forced
12 outages, the best way to get an estimate would be to do a fuel model run that does
13 not include Asbury. Since I do not have the ability to do such a fuel run I used
14 Aaron Doll’s workpapers²² to estimate that retiring Asbury would cause Empire’s
15 total annual fuel costs to increase by approximately \$1.3 million. In turn, using
16 Empire’s FAC base rate of \$24.16 per megawatt-hour (“MWh”) that Aaron Doll
17 provides in his supplemental direct testimony as the starting point, removing the
18 my estimated impacts of Asbury from Empire’s FAC would increase its FAC base
19 rate by \$0.24/MWh to \$24.40/MWh.

20 **Q. Would not this approximately \$1.3 million net increase in Empire’s fuel cost**
21 **also affect Empire’s total revenue requirement that the Commission uses for**
22 **setting retail rates in this case?**

23 A. Yes, and it is important that the same net fuel costs that are used for setting Empire’s
24 permanent rates are used in setting its FAC base rate.

²² These workpapers were provided eleven days after Empire prefiled Aaron Doll’s supplemental direct testimony without seeking or obtaining Commission authorization or even the OPC’s consent to file that supplemental testimony.

1 **Q. What would be the impact of removing Asbury costs and revenues in setting**
2 **the FAC base but not the total revenue requirement?**

3 A. If the costs used to set the FAC base are greater than the costs used to set revenue
4 requirement, the customers will be billed less than the actual FAC costs incurred.
5 A more detailed explanation with examples can be found in the whitepaper attached
6 to this testimony beginning on page 15.

7 **Q. What happens to Empire’s FAC charges after Empire retires Asbury on**
8 **March 1, 2020, if the FAC base and total revenue requirement include**
9 **normalized Asbury costs and revenues?**

10 A. After Asbury is shut down, Empire will neither incur fuel costs nor receive SPP
11 revenues for Asbury. Therefore, Empire’s first FAC rate change after its new rates
12 from this case go into effect will result in its customers’ having higher FAC charges
13 than they otherwise would have been if Empire’s normalized Asbury FAC costs
14 had not been included in setting its FAC base rate. Based on the current FAC
15 sharing of 95/5, Empire would bill its customers approximately \$1.23 million more
16 a year in FAC costs due to this mismatch (95 percent of the \$1.3 million increase
17 in FAC costs).²³

18 **Q. What happens to Empire’s FAC charges after Empire retires Asbury on**
19 **March 1, 2020, if the FAC base and total revenue requirement excludes**
20 **normalized Asbury costs and revenues?**

21 A. The increased FAC costs of not running Asbury is already included in the
22 permanent rates so, there is no impact on the FAC rate. However, the customers
23 would be billed the full \$1.3 million in permanent rates.

²³ If the Commission adopts OPC’s recommendation regarding a change in the sharing mechanism to 85/15, the increase in FAC costs would be approximately \$1.1 million.

1 **Q. If Empire’s customers will pay less than all of Empire’s actual FAC cost**
2 **increase due to this mismatch, why are you recommending that Empire’s FAC**
3 **base rate be determined without including Empire’s costs and revenues from**
4 **Asbury?**

5 A. Empire is retiring Asbury on March 1, 2020, well in advance of when the
6 Commission will approve new tariff sheets for Empire in this case with new retail
7 rates—likely in July of 2020. As a known and measurable event occurring well
8 before new rates in this case, the impacts of Asbury’s retirement should be
9 consistently included in Empire’s base rates and FAC for those prospective new
10 rates. I know of no practical reason why the parties and the Commission cannot
11 treat Asbury as retired for purposes of setting rates Empire’s retail rates in this case.
12 It seems to me that not including known costs in this case is more accurate than
13 tracking costs that were not incurred for potentially returning to the customers in
14 the next rate case.

15 While Empire’s customers would ultimately pay less due to the sharing
16 mechanism of the FAC, it is OPC’s position that the retirement of Asbury be
17 included in this case. My recommendation that no costs or revenues associated
18 with Asbury be included in setting Empire’s FAC base rate is consistent with the
19 OPC’s recommendation that no costs or revenues associated with Asbury be
20 included in Empire’s revenue requirement the Commission uses to set Empire’s
21 rates in this case.

22 **Q. So, are you recommending that Empire’s FAC costs for Asbury not be**
23 **included when setting the base rate in Empire’s FAC and that they also not be**
24 **included in Empire’s revenue requirement the Commission uses to set**
25 **Empire’s rates in this case?**

26 A. Yes. In addition to me, OPC witnesses Dr. Geoff Marke and John Robinett testify
27 to the OPC’s position to exclude costs and SPP revenues associated with Asbury

1 when the Commission determines Empire's FAC base rate and Empire's revenue
2 requirement.

3 **Q. What is your recommendation to the Commission if it includes Empire's costs**
4 **and revenues for Asbury when setting Empire's rates in this rate case?**

5 A. If the Commission sets Empire's rates based on Asbury being operational, the
6 Commission should not include as one of the retirement costs tracked any of the
7 costs of Asbury that Empire does not recover through its FAC. Empire is choosing
8 to include Asbury in its FAC costs knowing this cost will be wrong and Empire
9 will not be recovering 5 percent of the increased cost even before the new rates go
10 into effect.

11 **Q. Does this conclude your direct testimony?**

12 A. Yes.