BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of The Empire District Electric Company's Request for Authority to File Tariffs Increasing Rates for Electric Service Provided To Customers in its Missouri Service Area	))))))	**Case No. ER-2019-0374**

STAFF RESPONSES TO COMMISSION QUESTIONS

(Commission Questions are blue/ Staff's answers are red)

1. Rate of Return—Return on Equity, Capital Structure, and Cost of Debt

a. Return on Common Equity – what return on common equity should be used for determining rate of return?
b. Capital structure – what capital structure should be used for determining rate of return?
c. Cost of debt – what cost of debt should be used for determining rate of return?

1. Staff – LUCo provides shared corporate support functions and services to all of its various affiliates, both regulated and unregulated, on a centralized basis. In evaluating whether the use of Empire's Capital Structure is more "economical" than LUCo's, why is it appropriate to remove the debt associated with LUCo's unregulated affiliates from its capital structure, but not make a companion adjustment to reduce a portion of equity that is used to serve unregulated affiliates?

   Staff did not adjust LUCo's capital structure for either the debt or the equity components.[1]

2. Staff - What percentage of LUCo's total debt is attributable to unregulated affiliate debt? What percentage of LUCo's equity is attributable to equity in unregulated affiliates? What would be LUCo's capital structure if an equivalent percentage of LUCo's debt to and equity in unregulated utilities were removed?

   Staff did not attempt to separate LUCo's capital structure into unregulated and regulated sections. It is not Staff's standard practice to try to separate capital structure into regulated or unregulated portions.[2]

[1] Ex. 157: Chari Supplemental Testimony, P. 1.
[2] *Id.* at 2.

3. Rate Design, Other Tariff and Data Issues

a. Should the GP and TEB rate schedules be fully consolidated?
b. Should the CB and SH rate schedules be partially consolidated?
c. Should "grandfathered" multifamily customers taking service through a single meter be given the option of being served on the CB/SH rate schedule?
d. How should Empire's revenue requirement be allocated amongst Empire's customer rate classes (Class revenues responsibilities)?
e. How should the rates for each customer class be designed?
f. What should be the amount of the residential customer charge?
g. Should Empire continue its Low-Income Pilot Program as is, or modify it?
h. Should Empire be ordered to consolidate the PFM rate schedules into the GP/TEB rate schedule in a future proceeding?
i. Should Empire be ordered to incorporate shoulder months into the Special Contract / Praxair rate structures in the next rate proceeding?
j. Should Empire be ordered to work to incorporate shoulder months into the rate structures of all non-lighting rate schedules?
k. Should Empire be ordered to retain each of the following: Primary costs by voltage; Secondary costs by voltage; Primary service drops; Line extension by rate schedule and voltage; Meter costs by voltage and rate schedule?
l. Should Empire be ordered to use of AMIs for near 100% sample load research as soon as is practical, but no more than 12 months after 90% of AMI are installed?
m. Should Empire be ordered to retain individual hourly data for future bill comparisons?
n. Should Empire be ordered to retain coincident peak determinants for use in future rate proceedings?
o. How should the amount collected from customers related to the SBEDR charge be billed, and should there be a separate line item on customers' bills?
p. By when should Empire move customers served on CB/SH that exceed the demand limits of those schedules to the appropriate rate schedule.
q. What, if any, revenue neutral interclass shifts are supported by the class cost of service study?
r. How should any revenue requirement increase or decrease be allocated to each rate class?
s. How should any residential revenue requirement increase or decrease be apportioned to the energy (kWh) rates?
t. What, if any, changes to the CB, SH, GP and TEB customer charge are supported by the class cost of service study?
u. What, if any, changes to the CB, SH, GP and TEB customer charge should be made in designing rates resulting from this rate case?

v. How should any CB and SH revenue requirement increase or decrease be apportioned to the energy (kWh) rates?

w. How should any GP and TEB revenue requirement increase or decrease be apportioned to the demand (kW) and energy (kWh) rates?

x. How should any LP revenue requirement increase or decrease be apportioned to the demand (kW) and energy (kWh) rates?

y. What, if any, changes to the current SC-P energy (kWh) rates should be made to align with Market Prices?

z. How should production-related costs be allocated to each rate class?

aa. How should plant accounts 364, 366 and 368 be classified?

bb. How should primary and secondary distribution plant facility costs be allocated to each rate class?

cc. How should General plant facility costs be allocated to each rate class?

4. Jurisdictional Allocation Factors

a. What is the appropriate jurisdictional allocation factors to be used in the cost of service?

3. Staff - In the Final Reconciliation Staff indicated that the test year allocation difference was ($11,044,496). Please provide a work paper detailing how the amount was determined.

   The work paper that details the amount for the test year allocation difference of ($11,044,496) is attached as Schedule KKB-1 in the Supplemental testimony of Kimberly K. Bolin.

4. Staff - Has Staff considered the differences in the Empire and Staff true-up jurisdictional allocation factors? Please quantified the difference?

   The final reconciliation reflects jurisdictional allocations that have been trued-up. However, if the Commission is looking for the impact the jurisdictional allocations factors have when applied to the individual trued-up adjusted numbers, Staff did not separatey calculate this. The impact of the trued-up jurisdictional allocation factors for each adjustment is reflected within the total issue difference.[3]

5. Staff and Empire, please identify what accounts were not true-up through the end of January 2020 when you performed your calculations, but instead the amounts were based on the September 2019 update period. (if easier, please identify the account's that were revised up through the true-up period.)

   Staff did not perform its true-up by account. Instead Staff's true-up is based upon issues.[4]

[3] Ex. 156: Bolin Supplemental testimony, pp. 2-3.

[4] *Id.* at 3.

4. WNR and SRLE Adjustment Mechanisms

a. *Should the Commission approve, reject, or approve with modifications Empire's proposed Weather Normalization Rider?*

b. *Is it lawful for the Commission authorize Empire to implement a Sales Reconciliation to Levelized Expectations ("SRLE") mechanism, such as those Staff and Empire are proposing in this case?*

c. *Should the Commission adopt Staff's Sales Reconciliation to Levelized Expectations Proposal ("SRLE") or approve the SRLE with modifications as suggested by the Company?*

8. Staff - Statute 386.266(3) references "impact on utility revenue of increases or decreases in residential and commercial customer usage due to variations in either weather, conservation, or both." Based on this Statute, Empire initially proposed a WNR, which Staff had several issues with its structure (based on billed amount instead of rate based), application (individual customer instead of customer group), practicality (monthly vs annual) and potential legal implications, as outlined in Michael Stahlman's rebuttal testimony.

   a. In response Staff proposed the SRLE as an alternative to Empire's WNR. What are the pros and cons of the SRLE and the WNR?
   b. What revenue impacts has Empire experience due to weather and/or conservation that would justify the need for the SRLE or WNR, and how did Staff determine those revenue impacts were due to weather or conservation?

   In regards to part (a), the WNR, as proposed, is unworkable, and has no advantages over the SRLE.[5] Staff did consider a mechanism more similar to the Liberty/Spire WNAR, but did not further develop the mechanism for a number of reasons, including:

   (1) The weather normalization process used for electric utilities is much more complex than the weather normalization process for natural gas. The usage for electricity includes both heating degree days and cooling degree days, whereas natural gas has not had a significant usage with cooling degree days. The electric weather normalization models also include variables for shoulder months, days of the week (e.g. weekends), and holidays that has not been included in natural gas regression models. For example, the months of March – May and September – November often include both heating and cooling degree days.[6]

   (2) Experience with the WNARs of natural gas utilities has shown that the mechanisms are complex, data intensive and dependent upon billing cycle stability.

[5] Ex. 118: Rebuttal of Michael Stahlman, P. 2: 1-2 "Finally, Empire's proposed WNR is unnecessarily complex and impossible to implement."

[6] Ex. 101: Staff Direct Report, P. 42:30 – 43:3.

(3) The WNARs of natural gas utilities also rely on data from third parties. While this has the advantage of being tied to a neutral party, issues can arise if there are any changes to the availability or method of providing that data that are beyond the company's control. For example, a weather station may experience equipment failure.

(4) Not only does the Company's WNR not attempt to explicitly adjust for conservation, its design would actually result in a customer who engaged in conservation efforts to repay the company for that customer's reductions in usage from year to year, as adjusted for the number of heating and cooling degree days.[7] With the SRLE the revenue impact of conservation is spread to all customers within the indicated classes. Under the WNR, a customer who reduces consumption would be rebilled for that reduction in consumption, for at least the first 12 months after the reduction occurs.[8]

(5) The WNR and WNAR concepts are incompatible with MEEIA. The existing throughput disincentive ("TD") approach will not work with either the WNAR or WNR.

(6) The SRLE is able to include conservation impacts, which in turn facilitates the elimination of the Throughput Disincentive mechanism for the subject classes in the event the Commission authorizes a MEEIA program.[9] The accuracy of the MEEIA TD design is contingent on the accuracy of the underlying data and assumptions, which are then aggregated for class level Residential impact, and remaining total company impact. At a minimum, the following information or assumptions are necessary for a properly designed TD:

- An estimation of the timing of when each measure was actually used or installed. For example, were 12 lightbulbs simultaneously installed on the date of purchase?
- The impact of each energy efficiency measure in an average or series of typical installations. For example, it is fairly easy to determine the level of kWh savings per hour of operation of Lightbulb A versus Lightbulb B. It is less easy to determine a representative average kWh savings of Air Handler A versus Air Handler B. The HVAC professional may know with relative certainty that B is 20% more efficient than A, but the TD analyst must know what number to take 20% off of.
- It is not easy to determine the number of hours a particular customer operates a particular device, or the circumstances associated with its operation that could lead to changes in its usage. Even if we know lightbulb A consumes 100 kWh less than lightbulb B if operated for a month of 720 consecutive hours, we do not know how many hours the lightbulbs under the program will be on, or when they are installed, or what type of lightbulb it is replacing, if any. Another example, an old dryer was being limped along and functioned relatively poorly, but upon purchase of the new dryer, the customer begins washing towels and sheets more frequently.

[7] Ex. 118: Rebuttal of Michael Stahlman, P. 4:1-5.
[8] As discussed in Ex. 136: Sarah K.L. Lange Surrebuttal, P.5.
[9] Ex. 104: Staff CCoS Report, P.12.

- The rate impact of applicable changes in usage as it relates to non-flat rate designs may be skewed. Even within a class, the avoided sale of a kWh for customer A may come at a different price than the avoided sale of a kWh for customer B. To accomplish TD calculations in a timely manner and with consistency, these rates are locked down – which may lead to absurd results or obvious but incurable inaccuracies.
- The outputs of the above 4 assumptions must then be summed up over all energy efficiency measures installed within the time period of the MEEIA Cycle which magnifies the errors and inaccuracies of each assumption. If the assumptions were right, then the result would be that the dollar value of the change to the utilities' revenues would allow the utilities to be in the same position – revenue wise –as though MEEIA savings never happened. This end point of the TD is the starting point of the SRLE.
- A laborious and contentious process of rate case annualizations and rebasing is necessary during the compliance phase of each rate case to back out these impacts. The SRLE avoids all of the above. At the time the TD was recommended in other utilities' MEEIA Cycle 2 cases, the SRLE was not legislatively authorized. If the SRLE had been legislatively authorized, it is reasonable that Staff would have recommended the SRLE instead of the TD.

(7) The SRLE has fewer rate changes and filings than Empire's proposals.[10] Frequent rate changes dampen the price signals the Commission has been interested in establishing.[11] The SRLE would smooth the signals sent by changes in FAC rates.[12]

(8) The SRLE is easily compatible with Time-of-Use rate structures. The Empire proposals are not compatible.[13]

(9) The SRLE mechanism assumes a broad interpretation of "conservation"; one that includes the adoption of energy efficiency measures whether funded by ratepayers or not, as well as any other factor inducing changes to the cost of energy sold. This broad interpretation of "conservation" includes customer decisions and actions that reduce the consumption of energy, and also addresses the impact of what might be referred to as "negative conservation," or customer decisions and actions that increase the consumption of energy. This is consistent with the design and interpretation of "conservation" relied upon in the recently-approved, non-appealed Ameren Missouri VIRN for its gas utility business.

(10) The SRLE removes the disincentive Empire faces to promote energy efficiency, even if Empire does not pursue, or is not approved for, real-time program cost recovery or compensation for avoided capital investment opportunities that are available under MEEIA.

In regards to part (b), the value of Staff's weather normalization adjustment in this case is a reduction in revenue of approximately $4,550,884. Staff's normal

[10] Ex. 104: Staff's CCoS Report, P.12.
[11] Ex. 104: Staff's CCoS Report, P.13.
[12] Ex. 104: Staff's CCoS Report, P.13 and Ex. 136: Sarah L.K. Lange Surrebuttal Testimony, P.7.
[13] Ex. 136: Sarah L.K. Lange Surrebuttal Testimony, P.7.

weather and weather normalization procedures are provided on Pages 40 through 45 of Staff's Cost of Service Report. Staff did not attempt to calculate revenue impacts related to conservation. It is near to impossible to provide a revenue impact that includes all changes in kWh that are considered conservation that does not include arbitrary assumptions regarding customer behavior. [14]

9. Staff - In the Ameren gas rate case (GR-2019-0077) Staff tested the Volumentric Indifference Reconciliation to Normal (VIRN) using various rate structures and considering various factors. The results indicated that certain types of rate structure work better than others. What are the differences between the VIRN and the SRLE? How does the SRLE work with the residential rate structure (proposed by Staff in it CCOS), which with both inclining and declining designs for the summer and winter seasons respectively.

   The rate structure comparisons in Ameren's gas case were very time intensive to prepare, and relied on reflecting a debt-equity relationship in rate design that was not included in the final settled VIRN and class rate design. The SRLE was premised on the settled–upon VIRN. The VIRN and the SRLE "work" identically, the tariff attached as an appendix to the Global Stipulation filed in this case includes only minimal edits, generally to address the use of an FAC and tax rider in lieu of a PGA/ACA. Given the very small revenue requirement changes contemplated in the CCoS, the residential rate design changes described in the CCOS would be minimal from the existing rates and Global Stipulation design. The SRLE would work equally with the existing rates, or with a rate increase or decrease implementing the rate design as recommended in Staff's CCoS Report for a mild summer incline and a slight reduction to the winter decline.

10. Staff - Empire's proposed tariff sheet No. 25, states that the WNR "adjusts each customer's bill for the difference in electric usage caused by the variation between actual Heating Degree Days (HDDs) and normal HDDs during the Heating billing period, and the variation between actual Cooling Degree Days (CDDs) and normal CDDs during the Cooling billing period." Hence the WNR was designed to adjust for weather. Why did Staff recommend the SRLE, which adjusts for both weather and conservation?

   As addressed in the entirety of the rebuttal testimony of Michael Stahlman, Empire's proposed WNR tariff is flawed and unworkable. Whereas, the SRLE is workable, and it is beneficial to adjust for weather and conservation when possible because (1) weather and conservation are interrelated, and (2) the SRLE is an easier-to-apply mechanism, and (3) the SRLE will take the place of the TD portion of a MEEIA Cycle proposal, or remove any disincentive for Empire to promote energy efficiency outside of MEEIA.

11. Staff - Robin Kliethermes in her rebuttal testimony (pages 2 through 4) present information on Empire's estimated bills and the impact of estimated data on the WNR. Subsequently in her surrebuttal, she stated that one of the latent benefits of

[14] Changes in usage due to energy efficiency programs are deemed for purposes of MEEIA and are evaluated through after the fact EM&V.

the SRLE is that it "would effectively true-up the over or under estimation of normalized residential billing determinants used to set rates in this case."

a. Has the SRLE been tested with Empire's data over the Empire's test period and Staff's test period?
b. Has staff performed any analysis on the quantity of Empire's estimated bills that are over and under estimated; the degree of the over or under estimation and the net impact of the total over and under estimations?

In regards to part (a), Staff did not specifically calculate the impact the SRLE would have had, had it been in place during Staff's test period or Empire's test period. However, the billing determinants used to establish the SRLE are Staff's billing determinants for Staff's test period (which is a similar period as Empire's test period), so any test would not have resulted in a meaningful representation of the outcome of the SRLE. In regards to part (b), Staff does not have the data to perform such an analysis and understands that the data does not exist to perform such an analysis.[15]

12. Staff - Robin Kliethermes' surrebuttal states "Given the expected uptick in residential energy consumption due to the response to COVID-19, the SRLE would have the latent benefit of returning, to residential customers, a portion of the anticipated increase in residential revenues associated with more time being spent at home."

a. Please explain how changes in usage consumption due COVID-19 restrictions would fall under variations in weather and/or conservation.
b. If the SRLE was implemented during a period similar to COVID-19, what would be the impact on commercial customers?

In regards to part (a), the SRLE mechanism assumes a broad interpretation of "conservation"; one that includes the adoption of energy efficiency measures whether funded by ratepayers or not, as well as any other factor inducing changes to the cost of energy sold. This broad interpretation of "conservation" includes customer decisions and actions that reduce the consumption of energy, and also addresses the impact of what might be referred to as "negative conservation," or customer decisions and actions that increase the consumption of energy. In regards to part (b), the SRLE will capture the net changes in usage in the CB/SH customer class, as adjusted for the following aspects detailed in the agreed-upon tariff:

- the actual usage for Commercial Service and Small Heating Service customers shall be adjusted to include usage associated with customers who switch the rate schedule on which that customer takes service after the submittal date of the tariff referenced in part 6 of this section; and
- the normalized annual energy usage for Commercial Service and Small Heating Service customers shall be revised to address rate switching in tariff revisions submitted by the Company no later than January 1, 2021.

Staff is reviewing the impact of these adjustments and at this time cannot confirm their expected interaction with any COVID-related changes in usage.

[15] Company response to Staff DR. 246.

13. Staff - What mechanisms and provisions have been incorporated in the implementation of SRLE to deal with changes in usage that are not caused by weather or conservation?

The exclusion of block 1a for the Residential class which is usage below 400 kWh and block 1 for CB and SH, and the adjustments for customer growth and rate switching are mechanisms to deal with other causes of changes in usage. As previously explained, the SRLE mechanism assumes a broad interpretation of "conservation"; one that includes the adoption of energy efficiency measures whether funded by ratepayers or not, as well as any other factor inducing changes to the cost of energy sold. This is consistent with the design and interpretation of conservation relied upon in the recently-approved Ameren Missouri VIRN for its gas utility business.

14. Staff - Lena Mantle's testimony has referenced that Empire's rate of equity from the 1st quarter of 2018 through the 3rd quarter of 2019 has been above the Company's approved ROE, therefore questioning the need for any mechanism under Statute 386.266(3).

Is it Staff's position that Empire has a need for this type of mechanism?
If so, what is the basis for/evidence if that need relied upon by Staff?

As provided above and in the supplemental testimony of Robin Kliethermes, Staff calculated a reduction in revenue of $4,550,884 due to weather normalization. This reduction in revenue is the type of change in usage that is contemplated by the statute as a "need" for the mechanism. Also, as mentioned in response to Question 15 below, the Company intends to file a MEEIA application later this year. As discussed in more detail above and in the supplemental testimony of Robin Kliethermes, the SRLE is needed because it will serve as the TD portion of the MEEIA mechanism and removes the disincentive Empire faces to promote energy efficiency, even if Empire does not pursue, or is not approved for, real-time program cost recovery or compensation for avoided capital investment opportunities that are available under MEEIA. Staff did not take into account Empire's recent reported ROE results in taking its position on the WNR/SLRE issues in this case, or in agreeing to the SLRE provisions contained within the Global Stipulation.

15. Staff - In the Staff's position paper, there was a reference to Empire considering the implementation of the Missouri Energy Efficiency Investment Act (MEEIA). What is Staff's understanding of the projected timing of this implementation?

In the *Direct Testimony of Nathaniel W. Hackney*, filed in this case on August 14, 2019, Mr. Hackney expressed Empires intention to file a MEEIA application prior to the completion of this rate case. In the *Surrebuttal Testimony of Nathaniel W. Hackney*, filed in this case on March 27, 2020, Mr. Hackney broadened his statement by indicating that the Company still intends to file a MEEIA application in 2020. Staff is not aware of the specific projected timing of a MEEIA filing. However, it is still Staff's understanding that Empire's intentions are to file a MEEIA application in 2020.

16. Staff - Under MEEIA, a utility is already made whole for conservation resulting from implemented programs, the throughput disincentive. Why would it be preferable to do it through a SRLE verses the traditional MEEIA process

As described more fully in response to Question 8, the MEEIA throughput disincentive (“TD”) recovery mechanism is imprecise at best. The TD was a better replacement for the net shared benefits mechanism used in previous MEEIA Cycles for other electric utilities, and the SRLE captures actual changes in usage better than the TD. The SRLE removes the incentive the TD creates to push programs with high projected savings and low actual savings, which may not be adequately captured and addressed through after the fact evaluation, measurement and verification or EM&V. The MEEIA TD-like mechanism continues to evolve as parties gain experience with MEEIA, and as subsequent statutory changes allow other mechanisms to be considered.

5. FAC

a. What is the appropriate incentive mechanism in Empire’s FAC for sharing between Empire and its retail customers the difference between its actual and base net fuel costs?

b. What FAC-related reporting requirements should the Commission impose?

c. What is the appropriate base factor?

d. What costs and revenues should flow through Empire’s FAC, including, but not necessarily limited to, the following?

i. What is the appropriate percentage of transmission costs for the FAC?

ii. What, if any, portion of the MJMEUC contract should be included or excluded from the FAC? Should the Company provide any additional reporting requirements within its FAC monthly reporting in regards to MJMEUC?

iii. Should any wind project costs or revenues flow through the FAC before the wind projects revenue requirements are included in base rates?

iv. Should any short-term capacity costs flow through the FAC from the effective date of this rate case?

e. When should Empire be required to provide its quarterly FAC surveillance reports?

3. All parties - What is the appropriate base factor for the FAC and what evidence supports it?

If the Commission approves the Global Stipulation and Agreement, Staff supports the agreement that the base factor will remain the same from what was approved in the last general rate case, which is $0.02415/kWh.
Staff supports no change to the base factor as it was approved by the Commission in the last general rate case, ER-2016-0023. The base factor from the last general rate case still has the same general components of Staff’s recommendation

proposed in this rate case, i.e. only variable fuel and purchased power costs, inclusion of the pass-through SPP transmission cost percentage, etc. These components would not include fixed, labor, or administrative costs. Specific components of Staff's base factor calculation in this rate case are addressed in *Staff's Direct Report- Class Cost of Service*, pages 38 and 39.

As part of its settlement consideration, Staff also reviewed the last seven Fuel Adjustment Rate ("FAR") filings to compare actual costs to the net base. The reason why the last seven FARs are the only filings included in this Schedule is because Staff particularly wanted to focus on the outcome of the actual versus the net base energy costs for the base factor that has been in effect since the last general rate case. In this review, Staff has identified that four Accumulation Periods ("AP") were under-recovered and three were over-recovered. Staff is aware these over/under recoveries are all affected by the actual total energy costs, and following this rate case that will be the same scenario. This appears to reflect a balanced base factor as the AP filings do not reflect consistent over-recover or under-recovery. For the reasons stated Staff supports no change to the current base factor as part of the global settlement.

6. **Credit Card Fees**
   a. *Should Empire's credit card fees be included in Empire's revenue requirement?*
   b. *If so, what level of fees should be included?*

7. **Rate case Expense**
   a. *How much of Empire's rate case expenses should be included in Empire's revenue requirement?*
   b. *Should Empire's prudent rate case expenses be normalized or amortized, and over what period of time?*
   c. *Should Empire's prudent rate case expenses be shared between Empire's shareholder and Empire's retail customers? If so, how?*

1. Staff - The adjustment to A/C 928, Regulatory Commission Expense, includes more than just a normalization adjustment to rate case expense. Please breakout the expense components included in Staff's true-up A/C 928 total of $1,126,078.

A breakout of the expense components included in Staff's true-up A/C 928 can be found in the Supplemental testimony of Kimberly K. Bolin.[16]

8. **Management expense**
   a. *Should any of Empire's management expenses not be included in Empire's revenue requirement?*

7. Staff - Why did staff take no position with this issue?

[16] Ex. 156: Bolin Supplemental testimony, P.4.

Staff did not oppose this adjustment because there is possibly some merit to the rationale for the adjustment. However, Staff did not support this adjustment because of certain assumptions used by the Office of the Public Counsel to quantify this issue.[17]

9. Allowance for Funds Used During Construction

a. *What metric should be used for Empire's carrying cost rate for funds it uses during construction that are capitalized?*

10. Cash Working Capital

a. *What is the appropriate expense lag days for measuring Empire's income tax lag for purposes of cash working capital?*
b. *What is the appropriate expense lag days for cash vouchers?*
c. *Should bad debt expense be a component of cash working capital? If so, what is the appropriate lag days?*
d. *What is the appropriate expense lag days for employee vacation?*

11. Accumulated Deferred Income Tax

a. *Should Empire's booked accumulated federal income tax include a reduction for net operating loss?*
b. *Should FAS 123 deferred tax asset for stock-based compensation be included in ADIT balances for rate base?*

12. Tax Cut and Jobs Act of 2017 federal income tax rate reduction from 35% to 21% impact for the period January 1 to August 30, 2018

a. *How should the Commission treat the 2017 TCJA regulatory liability the Commission established in Case No. ER-2018-0366 when setting rates for Empire in this case?*

13. Asbury

a. *Is it lawful to require Empire's customers to pay for Asbury costs through new rates?*
b. *Is it reasonable to require Empire's customers to pay for Asbury costs through new rates?*
c. *If it is unlawful and/or unreasonable to include the costs of the retired Asbury plant in rates, what amount should be removed from Empire's cost of service?*

2. Staff - On Page 6 lines 15-22 of Aaron Doll's rebuttal testimony, he outlines that Empire is considering a combination of several options for what to do with Asbury. This includes (i) decommissioning pieces that will be scrapped for salvage; (ii) decommissioning equipment that will be sold; (iii) repurposing; and (iv) reused. Please explain how the

[17] *Id.*

AAO reporting requirements contemplate all of these options occurring and the relative timing of each of them to each other and the Asbury shut down date.

The options for handling Asbury retired assets included in the question will have different financial impacts on Empire, all of which can be and will be captured within the recommended AAO mechanism. For the first two activities listed, which involve decommissioning items that will be either scrapped for salvage or sold, the decommissioning costs will be treated as "cost of removal" and booked against Empire's accumulated depreciation reserve (increase in rate base). The salvage and sales proceeds from the decommissioned Asbury assets would be booked to the accumulated depreciation reserve (decrease in rate base). Both of these impacts would be netted against the other and captured in the deferral. The last two listed items (repurposing and reusing assets) represent actions to place back in service Asbury assets that had previously been retired. Under these options, once the assets are placed back in service, the impact of their previous retirement can be reversed and removed from the deferral on an ongoing basis. This course of events is specifically contemplated in footnote 3 within the Global Stipulation and Agreement.

Staff is not certain of the expected timing of these actions, but expects many of the listed activities to take place between the current date and the effective date of rates in Empire's next general rate case.

14. Fuel Inventories

a. What is the appropriate number of burn days to use for Asbury fuel inventory?

15. Energy Efficiency

a. Should Empire's cost of service include an amount for promoting energy efficiency and demand-side management?

b. If an amount remains in Empire's cost of service for energy efficiency, should EM&V be performed as was agreed to in Empire's last general rate case?

16. Operation and Maintenance Normalization

a. What is the appropriate level of operation and maintenance expense to be included in the cost of service?

b. Should inflation factors be used to calculate operation and maintenance expense?

a. What is the appropriate normalized average of years to be used for the Riverton, State Line Combined Cycle Unit, the Common Unit and State Line 1 Unit?

17. Pension and OPEB (FAS 87 and FAS 106)

a. Should "regulatory accounting" or "acquisition accounting" be used in setting rates for pensions and OPEBs?

b. Should FERC account 426 be included in test year pensions and OPEBs expense? What is the appropriate amount of Prepaid Pension that should be included in Empire's cost of service?

c. Should the "payment basis" or the "expense basis" be used to calculate SERP? In addition, what allocation percentage is appropriate?

d. What should the appropriate rate base and tracker amortization balances be for accounts 182353 and 254101?

e. What is the appropriate balance of prepaid pension?

3. Staff - Staff indicates that it is waiting on additional information before it can state its position. What discovery responses are still outstanding related to this issue and when are the responses due?

Staff Data Request Number 344 to Empire is still outstanding. The response was due April 8, 2020.

4. Staff - Is it Staff's opinion that the Commission must follow this accounting rule? If no, please explain why.

No. The Commission is not bound by Generally Accepted Accounting Principles when determining what is allowed for recovery in rates.[18]

18. Affiliate Transactions

a. Are Empire's transactions with its affiliates imprudent?

b. Do Empire's transactions with its affiliates comply with Commission Rule 20 CSR 4240-20.015 (Affiliate Transactions)?

c. What amount should be included in Empire's revenue requirement for its transactions with its affiliates?

10. Staff - Has Staff reviewed Empire's affiliate transactions report submitted on March 16, 2020 or did it rely on the 2019 submission when reviewing affiliate transactions in this rate case?

While Staff has since reviewed the 2020 Empire affiliated transactions report submission, that report was not yet available during the period covering Staff's audit and the times in which Staff filed testimony concerning affiliated transactions.

11. Staff - Referring to Staff's Cost of Service Report page 29, lines 20-25 and page 32, lines 13-17, please quantify the adjustments to reduce affiliate transactions related to the inappropriate allocation of costs to Empire's non-regulated affiliates and executive incentives.

Staff's adjustments removing the impact of certain non-regulated transactions in its true-up filing is discussed as stated on page 2, lines 12-16 of Keith D. Foster's Surrebuttal/True-Up Direct testimony. The total amount of the adjustments to reduce allocated APUC executive incentive compensation expenses was $1,373,501.

[18] Ex. 156: Bolin Supplemental testimony, P. 4.

12. Staff - Referring to Oligschlaeger rebuttal testimony page 6, lines 16-17, how does Staff know that all the Algonquin upstream affiliate charges are calculated at cost? Please provide the source of this information as an exhibit in this case.

    Please see the Algonquin Power & Utilities Corp. Cost Allocation Manual, and in particular Appendix 9 to that document, filed in Case No. AO-2017-0360 on June 30, 2017 for a general discussion of upstream affiliate costing and cost allocation procedures. These documents can be found in the record to this case as OPC Exhibit No. 221. In addition, please refer to the description of the costing and allocation procedures applicable to charges to Empire from all Algonquin upstream affiliates in recent Affiliated Transaction Annual Report submissions. For each upstream affiliate, it is specified within the filings that all allocations to Empire and other regulated affiiates are to be calculated using fully distributed cost, with no mark-up of any kind included in the allocated costs. This information can be found at page 7 of the 2018 report (filed in March 2019) and at page 8 of the 2019 annual report (filed in March 2020).

13. Staff - Referring to Staff's Cost of Service Report, page 28, lines 14-17, what were Staff's specific affiliate transactions concerns in Liberty Utilities' Midstates Natural Gas rate case no., GR-2018-0013?

    These concerns are discussed in the Cost of Service Report at pages 26 - 49 in Case No. GR-2018-0013, and in the rebuttal and surrebuttal testimonies filed by Staff witness James R. Dittmer in that proceeding. These concerns included:

    1) A failure by certain APUC executives to maintain accurate timesheets reporting their daily activities;
    2) Possible inclusion of costs associated with Algonquin's ongoing merger and acquisition activities in costs allocated to Missouri regulated affiliates;
    3) Inclusion of costs associated with Algonquin executive incentive compensation that had not shown to be beneficial to utility customers;
    4) Inclusion of budgeted amounts in Liberty Utilities Midstates Natural Gas request for recovery of upstream affiliate charges; and
    5) A more general concern regarding the ability of Algonquin to provide to Staff affiliated transaction/corporate allocation reporting in sufficient detail and on a timely basis.

14. Staff - Has Staff performed an analysis to compare the terms of Empire's last direct debt transaction to the terms for the $90 million promissory note from LUCo? If so, what is the NPV of the two debt term including all applicable fees?

    No such analysis was performed.

15. Staff - What is Staff's position on the "make whole" provision of the promissory note from LUCo whereby if Empire repays the loan early they would still be responsible for repaying all outstanding interest? Would this be considered a fair market provision?

Staff does not have a position on the "make whole" provision.

16. Staff - In Kimberly Bolin's surrebuttal testimony, she indicated that Staff proposed a 2.15% rate, for the cost of debt calculation for the Empire's long-term promissory note from LUCo, based on an average of the average cost of the LUCo short term debt for the period of 12 months ending January 31, 2020. In this analysis, how did Staff analyzed the fair market price of applying a short-term debt coupon rate to long-term debt? Were other alternative options considered by Staff?

Staff did not conduct such an analysis. LUCo is actually incurring a short-term rate of debt to finance this borrowing. Therefore, Staff used the short-term debt rate that LUCo applies to Empire.[19]

17. Staff - On Page 11 Lines 14 and 15 of Peter Chari's surrebuttal testimony, he states that with Empire's current credit rating it can obtain debt at a "coupon rate of 3.40%." Is this for long-term or short-term debt and if for long-term how do the terms compare to Empire's $90 million promissory note from LUCo?

The coupon rate of 3.40% cited in Peter Chari's surrebuttal testimony is for long-term debt. This rate is lower than the 4.53% LUCo is charging Empire for the $90 million promissory note transaction.[20]

19. Riverton 12 O&M Tracker

a. *Should the Riverton 12 O&M Tracker continue?*
b. *What is the updated balance of the Riverton 12 O&M tracker regulatory asset and the related amortization that should be included in Empire's cost of service?*
c. *What level of O&M expense should be included in the cost of service for Riverton 12?*

20. Software Maintenance Expense

a. What is the appropriate normalized level for software maintenance expense?

1. Staff - Why is it appropriate not to adjust all cost of service items to the 1-31-20 true-up date?

Many expenses do not materially change from the end of the update period to the end of the true-up period. Staff's true-up audit attempts to capture only material changes to cost of service. Also, due to time constraints with receiving the information from the Company, it would be impossible to update all cost of service items. After the end

[19] Ex. 156: Bolin Supplemental Testimony, P. 5.
[20] Ex. 129: Surrebuttal testimony of Kimberly K. Bolin, P.11:17-23.

of a month, the Company has to "close" it books. This process takes several weeks. Then after the books are "closed" the Company has to compile the information into a format to provide to Staff and other parties. In this case, all of the true-up information was provided by March 13, 2020. This gave Staff two weeks to review the data and write true-up testimony that was due on March 27, 2020. [21]

21. Advertising Expense

a. What is the appropriate amount of advertising expense to include?

22. Customer Service

a. Is Empire providing satisfactory customer service?

i. If not, what should the Commission order to ensure better customer service?

b. Is Empire providing reliable service?

i. If not, what should the Commission do?

23. Estimated Bills

a. Should Empire be ordered to incorporate data into its monthly reports to Commission Staff regarding the number of estimated meter readings, the number of estimated meter readings exceeding three consecutive estimates, the number of bills with a billing period outside of 26 to 35 days, and the Company and contract meter reader staffing levels?

b. Should Empire be ordered to evaluate the authorized meter reader staffing level and take action to maintain adequate meter reader staffing levels in order to minimize the number of estimated bills?

c. Should Empire be ordered to initiate action to more clearly communicate on customer's bills when they are based on estimated usage?

d. Should Empire be ordered to ensure that all customers who receive estimated bills for three consecutive months receive the required communication regarding estimated bills and their option to report usage?

e. Should Empire be ordered to ensure that all customers who receive an adjusted bill due to underestimated usage are offered the required amount of time to pay the amount due on past actual usage?

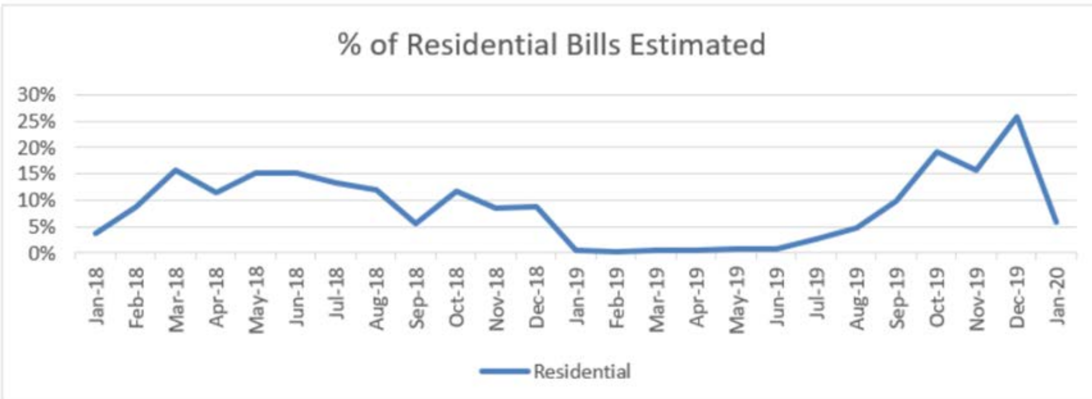
f. Should Empire be ordered to evaluate meter reading practices and take action to ensure that billing periods stay within the required 26 to 35 days, unless permitted by exceptions listed in the Commission's rule 20 CSR 4240-13.015.1(C)?

g. Should Empire be ordered to file notice within this case by September 1, 2020, containing an explanation of the actions it has taken to implement the above recommendations?

[21] Ex. 156: Bolin Supplemental Testimony, P. 6.

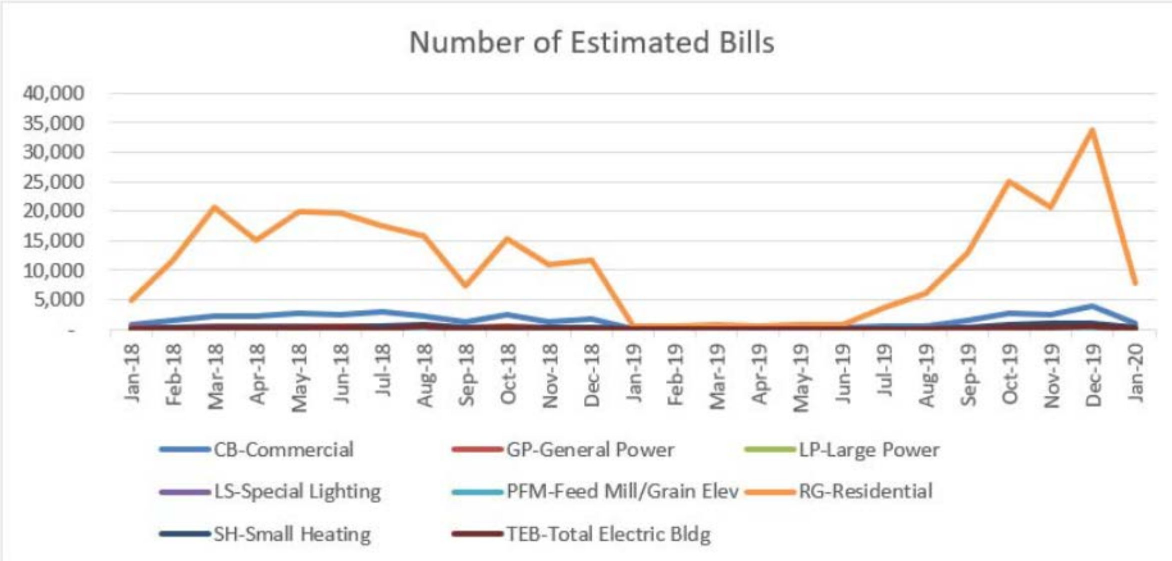
5. Staff- In R. Kliethermes' rebuttal she states that a large percentage of estimated usage causes errors in both staff and the company's weather normalization model. What do you consider a "large percentage" of estimated bills? What was Empire's average and peak estimated billing percentage during the test year period?

For the months of January through June of 2019, the Company reported that less than 1% of customer bills were estimated. Generally, in any given month there should be few if any bills being estimated. Since Empire can achieve estimating less than 1% of customer bill's for an extended period of time, any percentage greater than 1% is of concern. Please see the chart regarding the percentage of estimated bills for the Residential class within the test period:[22]



For purposes of weather normalization and normalized revenues, Staff used a test period of August 2018 through July 2019. Since Staff's test period did not include the beginning of 2018 and the end of 2019, Staff's test period contains a lower percent of estimated bills than the Company's direct-filed test period, as shown in the graph above.[23] The Residential class had the highest number of estimated bills. Below is a table showing the number of estimated bills that occurred from January 2018 through January 2020:[24]

[22] As discussed in Ex. 120: Rebuttal Testimony of Robin Kliethermes, P.2.
[23] As discussed in Ex. 120: Rebuttal Testimony of Robin Kliethermes, P.3.
[24] As discussed in Ex. 120: Rebuttal Testimony of Robin Kliethermes, P.2.



6. Staff- How can Empire's level of estimated bills impact the confidence in customer usage levels?

If a customer's bill is estimated then it does not reflect the actual usage of the customer. A customer's bill can be estimated up to three consecutive months.[25] Therefore, it may be three months before the accuracy of the estimation is known and the accuracy of the individual monthly estimation may never be known if a customer has an estimated bill for two or more consecutive months. Further customer usage levels also impact the results of weather normalization. As discussed in my rebuttal testimony filed on March 9, 2020, Staff's and the Company's weather normalization models are dependent upon the usage that is used to find the relationship between weather and electric usage. If that usage is not an accurate reflection of the level of usage a customer actually used, then the relationship calculated by each model is flawed. Although Staff's test period includes less estimated bills than the Company's test period, Staff's weather model uses two years of usage and weather data and is impacted by the large number of estimated bills in 2018. The Company's weather model is also impacted by the same number of estimated bills in 2018.

7. Staff - How does Empire's number and percentage of estimated bills compare to other Missouri investor owned utilities and what does staff to be considered the highest acceptable?

Staff receives only some estimated bill information from a few of the Missouri investor-owned utilities. However, based on information received from Evergy West and Missouri American Water, it appears that the number of estimated bills typically ranges between 1 and 2 percent. Consequently, in Staff's opinion, 2 percent would be at the high end of acceptability and anything more than that would warrant investigation. Staff previously reported that Empire

[25] Tariff Sheet No. 24.

appeared to see an increase of approximately 1,766% (one-thousand seven-hundred and sixty-six percent) for estimated bills from November 2017 to December 2018. (Exhibit 155– Supplemental Testimony of Gary Bangert, P. 4) Obviously, utilities that are farther along in implementing automated meter reading technologies would be expected to have much lower estimated reading percentages, so Empire should see an improvement in this metric once it completes implementation of its intended AMI program.

8. Staff - What were Empire's number of monthly estimated bills in the two year period prior to its acquisition?

Staff has not received periodic reporting from Empire on monthly estimated bills, historically. Staff became aware of the serious nature of estimated bills due to some informal complaints filed with the Commission and particularly from Empire customer testimony at the February 2020 local public hearings.(Exhibit 126 – Surrebuttal Testimony of Gary Bangert Pp. 1-2) Staff subsequently submitted data requests concerning the estimated bills that have occurred since January 2017, but has no monthly data for 2015 and 2016, prior to the October 2016 effective date of the Commission's order authorizing the Liberty acquisition. The number of monthly estimated bills ranged between 232 and 1,866 during the first 10 months of 2017. (Exhibit 126 – Surrebuttal Testimony of Gary Bangert, Pp. 2-3).

24. Material and Supplies

a. What is the appropriate balance for material and supplies to be included in the cost of service?

b. What is the appropriate balance to remove from inventory as it relates to Non- Electric items?

25. Asset Retirement Obligations

a. Should Asset Retirement Obligations be included in rate base as a regulatory asset and amortized?

26. LED Replacement Tracker

a. Should a tracker be established for the costs associated with replacement of mercury vapor light fixtures with LED light fixtures for private lighting customers?

b. Should a tracker be established for the costs associated with replacement of mercury vapor light fixtures with LED light fixtures for Municipal customers?

27. May 2011 Tornado Unamortized AAO Balance

a. Should the unamortized AAO Balance for the May 2011 Joplin Tornado be included in rate base?

28. Depreciation and Amortization Expense

a. *What is the appropriate level of depreciation and amortization expense of plant to include in the cost of service?*

b. *Should depreciation expense for transportation equipment that was charged through a clearing account be removed from depreciation expense?*

   i. *What are the authorized depreciation rates for accounts 371 & 373 to be used in the cost of service?*

29. Iatan/Plum Point Carrying Costs

a. *What is the appropriate level of unamortized Iatan/Plum Point Carrying Costs to include in rate base?*

b. *What is the appropriate level of Iatan/Plum Point Carrying amortization to include in amortization expense?*

30. Incentive Compensation

a. *What is the appropriate level of incentive compensation to be included in the cost of service?*

31. Customer Demand Program (DSM)

a. *What is the appropriate rate base amount for the customer demand program?*

b. *What is the appropriate amortization amount for the customer demand program?*

32. Bad Debt Expense

a. *What is the appropriate level of bad debt expense to be included in the cost of service?*

33. Retail Revenue

a. *What is the appropriate amount to remove from retail revenue for unbilled revenue, franchise tax revenue, and FAC revenue?*

b. *What is the level of billing determinants per rate schedule that should be used to calculate retail rate revenue in this case?*

c. *Should the billing adjustment and the retail revenues be trued up to January 31, 2020 in the cost of service?*

34. Other Revenue

a. *What is the appropriate normalized level of revenue for rent revenue, other electric revenue, and fly ash revenues?*

35. Tax Cut and Job Acts Revenue

a. *What is the appropriate amount of tax cut and job act revenue to remove from test year revenues?*

b. *Should revenues associated with the tax cut and job act stub period be removed from revenue?*

2. Staff - Does Staff see any reason to not return the stub period revenues collected from Empire customers over a time period to correspond with the estimated period of time until Empire's next rate case tariffs go into effect?

   Under ordinary circumstances, Staff would support return of such funds to customers in this case. However, due to the unprecedented nature of the current Covid-19 crisis, the signatory parties crafted a settlement framework that called for Empire to forego any increase to its rates at this time in return for, among other items, agreement to postpone flow back of stub period revenues to customers until Empire's next general rate case. Staff was willing to sign on to this stipulation and agreement as a whole, including the provisions regarding stub period revenues, due to its perception and belief that Empire was very likely to receive an overall rate increase from this case even under the scenario that stub period revenues would be ordered to flow back to customers in this case. Further, the terms of the Global Stipulation and Agreement ensure that, except for a *de minimus* amount, the entire amount of the stub period revenues will be available to use as a reduction to Empire's costs of service in the next rate case, so that customers can fully benefit from this Tax Cuts and Job Act impact.

36. Property Insurance

a. What is the appropriate test year amounts before comparing to the current premium amounts?

37. Injuries and Damages

a. What is appropriate amount of injuries and damages expense to include in the cost of service?

38. Payroll and Overtime

a. What is the appropriate test year amount of payroll expense?
b. What is the appropriate test year amount for overtime expense?

39. Retention Bonuses

a. Should proposed retention bonuses for lineman be included in the cost of service?

40. Employee Benefits

a. What is the appropriate level of employee benefits to include in the cost of service?

41. Property Taxes

a. What is the appropriate amount of property taxes to include in the cost of service?
b. What is the proper method to be used for calculating the property tax amount to be included in the cost of service?

42. Dues and Donations

a. *What is the appropriate amount of dues and donations that should be included in the cost of service?*

b. *Should Edison Electric Institute dues be included in the cost of service?*

43. Outside Services

a. *What is the appropriate amount of outside services to include in the cost of service?*

44. Common Property Removed from Plant and Accumulated Depreciation

a. *What is the appropriate method and amount for removal of common property from plant in service and accumulated depreciation?*

45. Retirement

a. *Should Empire be required to externally fund, through a Rabbi Trust, its SERP benefits obligation?*

b. *Should Empire be required to provide, to a designated EDRA contact, the following documents of The Empire District Electric Company in the years 2020-2026:*

   i. *IRS filings (specifically Form 5500 for each plan),*

   ii. *Actuarial valuation reports,*

   iii. *Financial disclosures,*

   iv. *Annual funding notice to pension plan participants,*

   v. *Annual health care premium and coverage letter to retirees,*

   vi. *FERC Form 1 and summary and full annual reports.*

c. *In addition, should the company be required to designate a contact person for EDRA to contact regarding these matters?*

46. Case No. EM-2016-0213 Commission-ordered conditions

a. *Has Empire complied with Condition A.4 the Commission imposed in Case No. EM-2016-0213?*

   i. *If not, what relief should the Commission grant?*

b. *Has Empire complied with Condition A.5 the Commission imposed in Case No. EM-2016-0213?*

   i. *If not, what relief should the Commission grant?*

c. *Has Empire complied with Condition A.6 the Commission imposed in Case No. EM-2016-0213?*

   i. *If not, what relief should the Commission grant?*

b. *Has Empire complied with Condition G.3 the Commission imposed in Case No. EM-2016-0213?*

   i. *If not, what relief should the Commission grant*

47. Questions Regarding the Global Stipulation and Agreement

3. Signatories – In Paragraph 23, what are the planned 2020 capital expenditures (specific projects and estimated costs) to be considered when considering customer impact?

   Staff did not have specific projects or estimated costs in mind in agreeing to this provision. The general concern underlying this part of the *Global Stipulation* is that a prolonged and/or serious economic downturn could cause a deterioration in Empire's cash flow and credit ratings, and thus possibly impede its ability to engage in construction activities to the extent assumed prior to the Covid-19 crisis. The intent of the required discussion with Empire is to determine whether Empire will cut back on construction activities in the short-term in light of Covid-19 and, if so, what discretionary projects will be postponed.

4. Signatories- In Paragraph 29, what is the currently approved weighted average cost of capital referenced at (2)? Where does this cost of capital appear in the stipulation or in the record? Approved by whom?

   The reference to the cost of capital at (2) in Paragraph 29 relates to review of a July 2019 *Willis Towers Watson* study which sought to compare the impact on ratepayers of the pay-as-you-go and external funding approaches to Empire SERP expense rate recovery. One of the assumptions necessary in making this comparison is selection of a discount rate, which in the 2019 Study is tied to Empire's overall cost of capital. Staff interprets the language referenced by the Commission in its Question as being intended only to instruct the involved parties (Staff, Empire, OPC) that the cost of capital assumption used in the July 2019 study should be updated if necessary in order to assess the relative economics of the SERP ratemaking alternatives in future discussions. The language within Paragraph 29 is not intended to state or imply that the Commission is expected to make a finding regarding Empire's current weighted cost of capital as part of any approval of the Global Stipulation.

5. All Parties - If the Commission does not approve the Global Stipulation and Agreement, do OPC and the Signatories still support approval of the terms of the agreement that OPC indicated in its Objection to Parts of the Global Stipulation and Agreement that it does not oppose? If not, please identify the terms of agreement that all parties do not oppose?

   If the Commission does not approve the *Global Stipulation and Agreement* as a full resolution of all of the issues in this matter, in Staff's opinion, the only issues that are not opposed are the matters of Energy Efficiency and the Low Income Pilot Program. Any other issue addressed on the Joint List of Issues filed April 8, 2020, would be considered live issues to be decided by the Commission.

6. Staff - What rate base items that were not already included in Staff's true-up accounting schedules are included in paragraph 4.b. of the Global Stipulation and Agreement? If none, would the phase in mechanism result in double counting of items included in rate base?

The items in Staff's rate base in the true-up accounting schedules are generally measured as of the end of the ordered true-up period, January 31, 2020. In contrast, the rates to be set in this case are assumed by the signatories to be based upon Empire's rate base measured as of the end of the ordered test year in this case, or March 31, 2019. Limitation of Empire's rate base in this manner, and inclusion of the phase in mechanism in the *Global Stipulation and Agreement* to allow for deferred recovery by Empire of growth in its rate base from April 2019 through January 2020 in its next rate case filing, was agreed to as part of an overall package to enable the provision that no change in base rates result from this case.

Part of the amounts included in Staff's true-up rate base are assumed to be reflected in rates resulting from this case (i.e., rate base values measured through March 31, 2019); while part of the rate base amounts will not be reflected in Empire's rates until its next rate case (i.e, change in rate base between April 1, 2019 and January 31, 2020.) Because these two calculations represent rate base values measured at different points in time, there is no double counting of items between those to be reflected in rates from this case and items that will not be recovered in rates at a later time.

7. Staff - Why is the phase in mechanism in paragraph 4 of the Global Stipulation and Agreement appropriate if your cost of service supports a rate reduction?

   Staff's true-up accounting schedules do support a rate reduction for Empire in the amount of approximately $6.1 million. However, as it must do in every rate case before the Commission, Staff assessed the likely outcome of the Empire rate case if it goes before the Commission for decision in litigated hearings in determining whether and under what terms it is reasonable to enter into a global or partial settlement. In this particular case, Staff (and presumably the other signatory parties) considered the likely outcome of full litigation of this case would be a rate increase for Empire. For that reason, Staff supported a settlement that would allow Empire to later recoup in rates an amount of revenues foregone in this case due to its agreement not to change its base rates currently. The vehicle agreed upon to enable this outcome was the phase in provisions included in the Global Stipulation and Agreement at paragraph 4.

8. All parties - Paragraph 9 of the Stipulation and Agreement lays out a detailed list of metrics Empire will need to report to Staff and OPC regarding estimated meter reading and billing. If Empire fails to meet these metrics what corrective actions should be taken

   Staff anticipates requesting a Commission order to open an investigatory docket or filing a Staff complaint if Empire in the future fails to meet the metrics included in the Stipulation and Agreement.

48. Questions Regarding Hedging (The answers to these questions may need to be considered highly confidential.)

1. Staff- What is Staff's opinion of Empire's changes to its hedging risk management plan? Please provide Staff's opinion on limiting hedges to physical hedges alone?

As further discussed in the *Supplemental Testimony of Brad* Fortson, filed in this case on May 6, 2020, Staff's opinion of Empire's changes to its hedging Risk Management Policy ("RMP") ** **. As explained in the *Rebuttal of Supplemental Testimony of Dana E. Eaves* ("Eaves Rebuttal"), filed on March 3, 2020, **

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As further discussed in the *Supplemental Testimony of Brad* Fortson, filed in this case on May 6, 2020, Staff's opinion on limiting hedges to physical hedges alone is that **

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2. Staff- Does Staff review Empire's physical natural gas hedges during an FAC prudence review? Please explain what Staff's natural gas hedging review during the FAC prudence review includes.

   Yes, Staff reviews Empire's physical natural gas hedges during an FAC prudence review. This is further discussed in the *Supplemental Testimony of Brad Fortson*, filed in this case on May 6, 2020.

   As explained in the *Supplemental Testimony of Brad Fortson*, filed in this case on May 6, 2020, Staff's natural gas hedging review routinely consists of reviewing the Company's risk management plans, including any "laddering" strategy used to purchase certain percentages of expected burn for future periods, the general ledger, historic and future fuel commodity pricing, energy market forecasts, US and global economic trends, Henry Hub Natural Gas Futures Contracts, technology changes, proposed environmental regulations, etc.

Respectfully submitted,

/s/ Whitney Payne
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic mail, or First Class United States Postal Mail, postage prepaid, on this 6th day of May, 2020, to all counsel of record.

/s/ Whitney Payne