Exhibit No.:	
Issues:	Revenue Requirement
Witness:	Greg Meyer
Type of Exhibit:	Direct Testimony
Sponsoring Party:	Midwest Energy Consumers Group
Case No.:	ER-2021-0312
Date Testimony Prepared:	October 29, 2021

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Request of the Empire District Electric Company d/b/a Liberty for Authority to File Tariffs Increasing Rates for Electric Service Provided to Customers in its Missouri Service Area.	**)))))))**	**Case No. ER-2021-0312**

Direct Testimony of

Greg R. Meyer

On behalf of

Midwest Energy Consumers Group

October 29, 2021

BRUBAKER & ASSOCIATES, INC.

Project 11186

BEFORE THE PUBLIC SERVICE COMMISSION
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STATE OF MISSOURI)
) **SS**
COUNTY OF ST. LOUIS)

Affidavit of Greg R. Meyer

Greg R. Meyer, being first duly sworn, on his oath states:

1. My name is Greg R. Meyer. I am a consultant with Brubaker & Associates, Inc., having its principal place of business at 16690 Swingley Ridge Road, Suite 140, Chesterfield, Missouri 63017. We have been retained by the Midwest Energy Consumers Group in this proceeding on their behalf.

2. Attached hereto and made a part hereof for all purposes is my direct testimony which was prepared in written form for introduction into evidence in Missouri Public Service Commission Case No. ER-2021-0312.

3. I hereby swear and affirm that the testimony is true and correct and that it shows the matters and things that it purports to show.

Greg R Meyer
Greg R. Meyer

Subscribed and sworn to before me this 29th day of October, 2021.

TAMMY S. KLOSSNER
Notary Public - Notary Seal
STATE OF MISSOURI
St. Charles County
My Commission Expires: Mar. 18, 2023
Commission # 15024862

Tammy S Klossner
Notary Public

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<u>Direct Testimony of Greg R. Meyer</u>

Q PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A Greg R. Meyer. My business address is 16690 Swingley Ridge Road, Suite 140, Chesterfield, MO 63017.

Q WHAT IS YOUR OCCUPATION?

A I am a consultant in the field of public utility regulation and a Principal of Brubaker & Associates, Inc. ("BAI"), energy, economic and regulatory consultants.

Q PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND EXPERIENCE.

A This information is included in Appendix A to this testimony.

Q ON WHOSE BEHALF ARE YOU APPEARING IN THIS PROCEEDING?

A This testimony is presented on behalf of the Midwest Energy Consumers Group ("MECG"). MECG is an incorporated association representing the interests of large commercial and industrial users of electricity in the Empire District Electric Company's ("Empire" or "Company") service territory.

Q WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A I will address the retirement of the Asbury plant and the carrying charges for the URI storm. To the extent I do not address a specific issue, this should not be considered an acceptance of the position proposed by Empire.

Q PLEASE SUMMARIZE MECG'S POSITIONS AS IT RELATES TO THE ASBURY RETIREMENT AND THE RECOVERY OF THE URI STORM COSTS.

A I have listed the different issues for the Asbury retirement and the URI storm recovery.

- Currently Empire's rates are well above the state and regional average. This is relevant to the rest of my testimony in that Empire's positions will further exacerbate the competitiveness of Empire's rates for the benefit of shareholder earnings.

- MECG does not oppose the recovery of the Asbury undepreciated investment through the creation of a regulatory <u>asset</u> to be recovered over 13 years. That said, however, MECG opposes Empire's proposal that the it should earn a return on the undepreciated Asbury investment.

- In Empire's 2019 rate case, the Commission ordered Empire to quantify the savings associated with the retirement of Asbury. As reflected in the Commission's Order, the quantification of savings included capital costs (return) as well as operation and maintenance ("O&M"), depreciation and taxes. In this case, MECG supports the creation of a regulatory <u>liability</u> for the savings associated with the retirement of Asbury for each of the items listed by the Commission in its 2019 rate decision. MECG recommends that this regulatory <u>liability</u> be recovered in rates over three years.

- The date for measuring the previously discussed regulatory asset/liability should begin on January 1, 2020.

- Empire incurred significant extraordinary costs during the February 2021 winter storm URI. In its filing in this case, Empire agreed that it would seek to securitize those costs if the securitization legislation became effective. I am informed that the legislation became effective on August 28. Empire has already filed a 60-day notice of an upcoming securitization docket for these URI costs. Absent securitization, MECG opposes Empire's proposal to earn a return on the URI costs. In the event that securitize does occur, then issues regarding the return on URI costs can be addressed in the securitization docket.

Competitiveness of Empire's Rates

Q DO YOU BELIEVE THAT EMPIRE'S ELECTRIC RATES ARE COMPETITIVE WITH OTHER UTILITIES?

A No. The Edison Electric Institute ("EEI"), of which Empire is a member, publishes a semi-annual report entitled the Typical Bills and Average Rates Report. The most recent publication which includes Empire's rates is the Summer 2020 publication which reflects the rates as of June 30, 2020. This publication shows that Empire's total retail average rate is 11.51¢/kWh. According to the publication, Empire's average rate is 24.7% higher than the Missouri average rate and is 22.2% above the average rate for the six states included in the region which includes Empire (West North Central region). It is important to recognize that the Commission has previously relied upon testimony which utilized the EEI reports to analyze the competitiveness of Empire's rates. (Case No. ER-2014-0351, Report and Order, page 17).

Asbury Retirement

Q PLEASE DESCRIBE THE ASBURY PLANT.

A The Asbury plant was an approximate 213 MW coal generating unit that mostly burned low-sulfur Wyoming coal. The plant was placed in service in 1970. The plant is located in Asbury, Missouri in Jasper County. Asbury last produced power in December 2019.

Q HAD ASBURY HAD ANY RECENT UPGRADES PERFORMED?

A Yes, the following upgrades were performed at the plant:

- In 2008, $33 million was spent for the installation of Selective Catalytic Reduction ("SCR") to remove nitrous oxides;

- In 2014, $142 million was spent for the installation of the Air Quality Control System (AQCS).[1] The total investment included a dry circulating fluidized bed scrubber for sulfur dioxide removal, powder activated carbon injection system for mercury removal, a pulse jet fabric filter baghouse for removal of particulate matter from the flue gas, and the conversion from a forced draft boiler to a balanced draft and a turbine upgrade.[2] The installation of the AQCS equipment was intended to extend the life of Asbury to 2035.

Q DO THESE RECENT UPGRADES COMPOSE A SIGNIFICANT PORTION OF THE NET PLANT INVESTMENT IN ASBURY?

A Yes. Empire estimated that the above investments in these upgrades compose approximately 73% of the Asbury net plant balance (undepreciated investment) at February 29, 2020. I have prepared Table 1 that shows the calculation of the Asbury net plant balance at February 29, 2020 by different components.

TABLE 1

Asbury Net Plant Balance @ February 2020

Description	Original Cost	Accumulated Depreciation	Net Book Value
Asbury SCR	$32,762,867	$9,430,342	$23,332,525
Asbury AQCS	$142,304,321	$19,843,667	$122,460,654
Other Asbury Inv.	$108,057,969	$55,180,986	$52,876,983
Total	$283,125,157	$84,454,995	$198,670,162
Percentage of Asbury New Inv. to Total	62%	35%	73%

Source: Table 1, Direct Testimony of Frank Graves, page 5, Total Company Values.

[1] $1.4 million of the project costs were spent in the 2015-2017 timeframe
[2] Direct testimony of Empire witness Frank Graves, page 5, lines 1-6.

As Table 1 shows, the new investments in Asbury since 2008, that were intended to extend the life of Asbury until 2035, are the major portion of the unrecovered investment in Asbury at February 2020. In fact, the AQCS investment that was completed in December 2014[3] alone constitutes 62% of the undepreciated Asbury investment and was supposed to operate for 20 years (2015-2035), but only operated for five years. If those additional investments had not been made at Asbury, the unrecovered investment would have been significantly reduced at February 2020. As Table 1 indicates, if the additional investments had not been made, Asbury would have had an unrecovered plant balance of approximately $53 million at February 2020 instead of the total $199 million. Those additional investments in 2008, and especially in 2014, added $146 million to the unrecovered investment in Asbury.

Q DID THE COMMISSION MAKE ANY DECISION REGARDING THE RETIREMENT OF ASBURY IN A PREVIOUS CASE?

A Yes. In Case No. ER-2019-0374 (Empire's last rate case), the Commission issued an Amended Report and Order on July 23, 2020. Given the recent retirement of the Asbury unit, the Commission decided to address its impact through the issuance of an AAO. Specifically, at pages 118-120, the Commission authorized an AAO requiring Empire "to record as regulatory assets and regulatory liabilities the revenues and expenses" associated with the retirement of Asbury for the following items:

- Rate of return on Asbury plant;
- Accumulated Depreciation;
- Accumulated and Excess Deferred Income Taxes;
- Fuel Inventories assigned to the Asbury plant;

[3]See Empire 10-K filed with the SEC on February 20, 2015 at page 24.

- All non-fuel/non-labor O&M expenses;
- Depreciation expense;
- All labor charges for maintaining and operating the Asbury plant;
- Property taxes assigned to the Asbury plant;
- Any costs associated with the retirement of the Asbury plant, including dismantlement and decommissioning-Non-Empire labor excluded;
- Cash working capital and income tax gross up associated with Asbury;
- Any fuel or SPP revenues or expenses associated with Asbury that do not flow through the Fuel Adjustment Clause ("FAC"); and
- Revenue from scrap value or value of items sold.

Q AT WHAT DATE WAS EMPIRE REQUIRED TO BEGIN MEASURING THESE DIFFERENT RATE COMPONENTS ASSOCIATED WITH THE ASBURY RETIREMENT THROUGH THE AAO?

A The Commission ordered that the recording of the different components in the AAO begin on January 1, 2020.

Q FOR PURPOSES OF ITS DIRECT FILING, DID EMPIRE COMPLY WITH THE COMMISSION ORDER RELATING TO THE AAO?

A Yes. Empire began recording the costs from the different ratemaking components at January 1, 2020 and prepared a schedule of those accumulated costs through June 30, 2021 which is included in Empire's witness Sanderson's direct testimony on page 17. I have recreated that schedule in Table 2.

TABLE 2

Empire's AAO Schedule for Asbury Retirement

Description	Amount ($000)
Regulatory Asset	
Plant In Service	$217,663
Remaining Plant	$2,278
Accumulated Depreciation	($62,619)
Remaining Plant Accum. Dep.	$91
Fuel Inventories	$2,415
Cash Working Capital	$129
ADIT	$63
Excess ADIT	($879)
Net Rate Base/Regulatory Asset	$159,141
Regulatory Liability	
Return on Asbury	($14,486)
Revenue from Scrap Value of Items Sold	($10)
Depreciation Expense	($13,914)
All Non-Revenue/Non-Labor Operating & Mtce. Expenses	($5,931)
Property Taxes	($2,860)
Non-Labor Asbury Retirement/Decommissioning Costs	$3,290
Asbury Regulatory Liability	($33,911)
Gross Revenue Conversion Table	1.3130
Total Regulatory Liability	($44,256)

Note: Missouri Jurisdictional totals.

Q DO YOU BELIEVE THAT THE QUANTIFICATION OF THE REGULATORY ASSET AND LIABILITY SHOULD STOP ON JUNE 30, 2021?

A No. Empire will continue to collect in rates the various costs associated with Asbury through the date that rates go into effect in this case. Given that the Commission suspended the proposed tariffs in this case until April 25, 2022, it is likely that Empire will collect current rates through that date. For this reason, any quantification of the regulatory asset and liability should continue through the date that new rates go into effect in order to properly credit ratepayers for the Asbury costs that they are currently paying. I don't believe that by only including costs through June 30, 2021 that Empire intended to ignore the costs being collected in rates after that date. Rather, Empire simply chose to utilize a known date proximate to the filing of its rate case.

In the following testimony, I will address several issues arising out of the Asbury retirement including: (1) the quantification and recovery of the regulatory asset; (2) the quantification and recovery of the regulatory liability; and (3) the applicability of the recently enacted securitization statute.

A. Regulatory Asset Recovery

Q YOU PREVIOUSLY INDICATED THAT THE COMMISSION ORDERED AN AAO TO CAPTURE CERTAIN ITEMS THAT WOULD BE INCLUDED IN A REGULATORY ASSET. DO YOU HAVE ANY PROBLEMS WITH EMPIRE'S QUANTIFICATION OF THE NET REGULATORY ASSET?

A No. As discussed in the following question, I believe that Empire has properly quantified the net regulatory asset.

Q PLEASE DESCRIBE WHAT YOU REFER TO WHEN YOU USE THE TERM NET REGULATORY ASSET.

A The net regulatory asset is comprised of not only the unrecovered investment in Asbury (the previously referenced $159.4 million), but also the Cash Working Capital effect and Accumulated Deferred Income Taxes ("ADIT") taxes, including Excess ADIT. I have prepared Table 3 that shows the calculation of the net regulatory asset.

TABLE 3

Asbury Net Regulatory Asset

Description	Amount ($000)
Asbury Unrecovered Investment	$159,414
Asbury Environmental Costs	$1,426
Cash Working Capital	($129)
Asbury ADIT	($32,338)
Asbury Excess ADIT	($16,056)
Net Regulatory Asbury Asset	$112,317

Source: Empire's workpaper EXP ADJ 9 - Asbury Amortization

As can be seen from Table 3, the net regulatory asset for the Asbury retirement is $112,317. Amortizing this regulatory asset amount over 26 years results in an annual amortization of approximately $4.3 million. Empire has included this $4.3 million in its cost of service as an amortization expense (EXP ADJ 9 - Asbury Amortization).

Q OVER WHAT PERIOD OF TIME DOES EMPIRE PROPOSE TO COLLECT THE REGULATORY <u>ASSET</u> IDENTIFIED IN TABLE 2?

A Empire has proposed to collect the regulatory asset ($112,317,000) over a 26-year period.

Q DOES MECG OPPOSE THE RECOVERY OF THE NET REGULATORY ASSET?

A There is a significant issue as to whether Empire should be allowed to recover the regulatory asset since it represents primarily Empire's unrecovered investment in the AQCS that was completed in December 2014 and, while expected to operate until 2035, was only in service for approximately five years. Therefore, Empire is effectively asking to recover its investment in an AQCS that only operated for 25% of its expected service life when it was retired. Given this, there exists an argument that recovery of that unrecovered investment should not be allowed. MECG is not requesting such treatment in this case, but wanted to recognize the legitimacy of such an argument and ultimately to demonstrate the reasonableness of its position set forth herein. Ultimately, MECG does not oppose the recovery of the net regulatory asset balance.

Q IS EMPIRE REQUESTING A CARRYING CHARGE BE APPLIED TO THE UNRECOVERED INVESTMENT IN ASBURY?

A Yes. In addition to seeking to recover the $159.1 million regulatory asset through a 26-year amortization, Empire has also included the unrecovered investment in rate base. Thus, Empire is effectively asking that it be allowed to earn a profit (return) on the regulatory asset at a carrying charge equal to the Weighted Average Cost of Capital ("WACC").

Q WHILE IT DOES NOT OPPOSE THE RECOVERY OF THE NET REGULATORY ASSET, DOES THE MECG OPPOSE EMPIRE'S REQUEST THAT THE REGULATORY ASSET BE INCLUDED IN RATE BASE AND PERMITTED TO EARN A RETURN?

A Yes. The MECG does not support a return for the $112 million net regulatory asset. First, it is well established that utilities should be permitted to earn a return on investment that is "used and useful." For instance, both the *Hope* and *Bluefield* cases discuss the ability of the utility to earn a return on value of the property "used and useful" in the provision of utility service. Certainly while the Asbury unit may have once been used and useful in providing utility service, the undepreciated investment certainly is no longer used and useful.

Second, there is an equity argument associated with allowing a utility to earn a return on undepreciated investment that is no longer providing service to customers as well as the replacement assets. As customers of the electric utility, customers are purchasing electricity. Through its proposal, Empire is effectively asking customers to pay for kWh from the replacement asset as well as the retired asset. It is inequitable to expect customers to pay for two generating units when only one of those units is actually generating electricity. In this case, the addition of 600 MWs of wind generation was proposed as a replacement for Asbury. Empire is not only asking that it be allowed to earn a return on the wind investment that is generating electricity, but also to earn a return on the retired investment. Only the wind investment is generating electricity. The previous generating units are retired. The policy implications of Empire's position, if adopted by the Commission, are potentially staggering. Utilities will be encouraged to retire units and replace them with new investments, thereby earning profits on two investments. This situation could potentially accelerate premature retirements in investments. If a return is not allowed on the retired investment, utilities will be required to more thoroughly examine all the retirements of its investments.

Q ARE YOU AWARE OF ANY JURISDICTIONS THAT HAVE NOT ALLOWED A RETURN FOR UNDEPRECIATED INVESTMENTS?

A Yes. In 2015, Evergy (then KCPL) had replaced a significant number of its AMR meters with AMI meters. Since the AMR meters had not been fully depreciated at the time of retirement, KCPL faced an unrecovered investment of approximately $11 million.[4] At that time, KCPL asked the Kansas Corporation Commission ("KCC") that it be allowed to not only amortize the unrecovered investment as a regulatory asset, but that it also be allowed to earn a return on that regulatory asset. KCPL argued that it should be allowed to earn a return on the undepreciated investment as return on a prudent investment decision should not be disallowed. In contrast, the Staff and other parties argued that KCPL should be allowed to amortize the regulatory asset, but that it should not be allowed to earn a return on the undepreciated investment since the retired meters "can no longer be considered used and useful."

Ultimately the KCC rejected KCPL's request to earn a return on the undepreciated investment in the retired meters.

> While the Commission accepts the decision to retire the AMR meters as prudent, it does not follow that KCP&L is entitled to a return *on* its investment when the investment is no longer used in the provision of public utility service. Since the AMR meters are no longer "used and required to be used," KCP&L is not entitled to a return *on* its investment. As a prudent business decision, KCP&L will receive a return *of* its investment, but not a return *on* its investment. . . . Accordingly, the Commission believes allowing KCP&L to amortize the retirement of its AMR meters over a ten-year period strikes a fair and reasonable

[4]See *Order on KCP&L's Application for Rate Change*, Docket No. 15-KCPE-116-RTS, issued September 10, 2015, at pages 20-23.

> balance between the investment expectations of KCP&L's shareholders and the cost concerns of KCP&L's customers.[5]

Q IF THE COMMISSION ADOPTS YOUR POSITION TO DENY A RETURN ON THE UNDEPRECIATED INVESTMENT, COULD THE AMORTIZATION PERIOD BE SHORTENED?

A Absolutely. My calculations show that the return applied to the net regulatory asset comprises about half of the projected costs to Empire's ratepayers over the 26-year period. Specifically, under MECG's position, Empire would only be permitted to recover the $112 million of net regulatory Asbury asset. Under Empire's proposal to be allowed to earn a return on the regulatory asset as well as the undepreciated investment, the impact is inflated to $244 million. Therefore, if the return is denied by the Commission, the amortization period could be significantly shortened to 13 years, or 2035, which is the original estimated retirement date of Asbury.

B. Regulatory Liability Recovery

Q DID EMPIRE PROPOSE ANY ADJUSTMENTS TO THE REGULATORY LIABILITY TOTALS INCLUDED IN TABLE 2?

A Yes. While it complied with the Commission's Order from the last case to quantify the amounts associated with the Asbury retirement (see Table 2), Empire does not agree that the Commission should actually include all of those items in the amount that is ultimately amortized into rates. Specifically, Empire proposed to not recognize the O&M and property taxes for the months of January and February 2020 in the regulatory liability. Empire argues Asbury was not retired until March 2020; and therefore, the

[5] *Id.* at page 22.

recognition of O&M and property taxes prior to March 2020 is improper for inclusion in the regulatory liability. Empire asserts that it should be permitted to earn a return on the Asbury investment throughout the entirety of the deferral period (January 2020 - June 2021).[6] By excluding these items, Empire has reduced the regulatory liability balance of $44.3 million as reflected in Table 2 to only $24.3 million. I have prepared Table 4 which shows a breakdown of the regulatory liability as proposed by Empire.

TABLE 4

Empire's Proposed Asbury Regulatory Liability

Description	Amount ($000)
Revenue from Scrap Value Sales	($10)
Depreciation Expense	($13,914)
Non-Fuel/Non-Labor O&M Expenses	($5,274)
Property Taxes	($2,561)
Non-Labor Retirement/Decommissioning Costs	$3,291
Total Asbury Regulatory Liability Before Gross Up	($18,469)
Revenue Gross Up Factor	1.3130
Total Empire Proposed Asbury Regulatory Liability	($24,250)

Source: RB ADJ 10 - Asbury AAO Liability

[6] Empire's request to earn a return throughout the entirety of the deferral period is in addition to its request to earn a return after the deferral period. Thus, Empire seeks to earn a return on the Asbury undepreciated investment for all time periods after its retirement.

Q DO YOU AGREE WITH EMPIRE'S QUANTIFICATION OF THE REGULATORY LIABILITY?

A No. I have two issues with the liability balance as proposed by Empire. First, as previously mentioned, the balance as proposed by Empire does not include the rate of return component from January 2020 through June 2021. I support the inclusion of the rate of return component in the regulatory liability as I do not support a return on a retired asset as previously discussed. By keeping the return component in the regulatory liability as originally ordered by the Commission, the regulatory liability would increase by approximately $14.5 million.

Second, I believe the regulatory liability should begin at the time Asbury stopped producing power. According to public information and the Commission's Order in the last Empire rate case (Case No. ER-2019-0374), Asbury's last month of power production occurred in December 2019. I support the regulatory liability beginning at power cessation, January 1, 2020. Therefore, I oppose Empire's adjustment to exclude O&M expenses for January and February 2020 from the regulatory liability.

Q IF THE COMMISSION ACCEPTED BOTH OF YOUR ARGUMENTS, WHAT WOULD BE THE NEW REGULATORY LIABILITY BALANCE?

A The regulatory liability balance should be $44.3 million.

Q WHAT PERIOD OF TIME DID EMPIRE PROPOSE TO AMORTIZE THE REGULATORY <u>LIABILITY</u>?

A Empire proposed to amortize the regulatory liability (Empire's calculation - $24.2 million; MECG's calculation - $44.3 million) over two years to reduce the rate request impact in this rate case.

Q WHAT AMORTIZATION PERIOD WOULD YOU RECOMMEND THE COMMISSION ORDER IF YOUR ADJUSTMENTS TO THE REGULATORY LIABILITY ARE ADOPTED BY THE COMMISSION?

A I would propose a three-year amortization of the regulatory liability ($44.3 million) if my adjustments are agreed to by the Commission. Three years would result in an amortization of approximately $14.8 million a year, which is an increase of approximately $2.7 million over the two-year amortization proposed by Empire.

Q IF THE COMMISSION REJECTED YOUR JANUARY 1, 2020 AAO START DATE, BUT ACCEPTED YOUR PROPOSAL TO DISALLOW A RETURN ON THE REGULATORY ASSET, WOULD YOU STILL BE IN SUPPORT OF A THREE-YEAR AMORTIZATION FOR THE REGULATORY LIABILITY?

A Yes.

C. Securitization

Q PUTTING ASIDE ISSUES ASSOCIATED WITH WHETHER EMPIRE SHOULD BE ALLOWED TO EARN A RETURN "ON" THE REGULATORY ASSET, IS THERE ANOTHER OPTION FOR THE RECOVERY "OF" THE UNDEPRECIATED ASSET BESIDES SIMPLY CREATING A REGULATORY ASSET AND AMORTIZING IT INTO RATES OVER 26 YEARS?

A Yes. As discussed in the testimony of Empire's witness Graves, many states have addressed the recovery of the undepreciated investment by securitizing the undepreciated investment.

Q PLEASE EXPLAIN HOW SECURITIZATION WORKS.

A Securitization is the process whereby a utility issues bonds to finance an asset's unrecovered balances. In this case, bonds would be issued to finance the unrecovered investment in Asbury and the proceeds would be used to retire the associated debt and equity securities. Ratepayers pay off the bonds through a specific non-bypassable surcharge included on the ratepayers' bills. The recovery of the bond proceeds from ratepayers are effectively guaranteed in that the bond costs would be recovered as a separate line item on Empire's customer bills and the Commission is legally precluded from affecting the recovery of those bonds. It is my understanding that state legislation is required to authorize the use of securitization.

Q WOULD SECURITIZATION BE BENEFICIAL TO EMPIRE?

A Yes. As mentioned, the bond proceeds are given to Empire and would be used to retire Asbury on its books. This is beneficial to Empire in that it can recover the undepreciated investment in a more expedited fashion than waiting 26 years to recover that undepreciated investment.

Q HAS THE GENERAL ASSEMBLY AUTHORIZED THE USE OF SECURITIZATION FOR THE RECOVERY OF THE UNDEPRECIATED INVESTMENT IN COAL UNITS LIKE ASBURY?

A Yes. In the 2021 Legislative Session, Senate Bill 202 was passed that allowed utilities to use securitization for the recovery of the undepreciated investment in coal units. Governor Parson signed into law Senate Bill 202 and it became effective August 28, 2021.

Q HAVE OTHER STATES USED SECURITIZATION?

A Yes. It is my understanding that almost half of the states authorize securitization for various purposes including the recovery of storm damage and the retirement of generating assets. For instance, Michigan authorizes securitization for the retirement of generating plants. New Mexico recently endorsed securitization for the retirement of the San Juan generating plant. In addition, Public Service Company of Colorado is currently securitizing the unrecovered investment in a generating plant.

Q DO YOU HAVE AN OPINION ON THE REASON THAT EMPIRE HAS REJECTED THE USE OF SECURITIZATION WITH REGARD TO THE RECOVERY OF THE UNDEPRECIATED INVESTMENT IN ASBURY?

A Yes. By rejecting securitization, Empire is hopeful the Commission will allow a return on the Asbury unrecovered investment. This would allow enhanced profits to be realized by Empire's shareholders. Since securitization proceeds would be delivered to the utility in an expedited fashion, the undepreciated investment would no longer exist. As such, the utility would no longer have a basis to seek a recovery on the undepreciated investment. Securitization effectively forecloses the request to earn a return on the undepreciated investment.

Q DO YOU BELIEVE THAT THE ADOPTION OF EMPIRE'S POSITION IN THIS CASE (I.E., BEING ALLOWED TO EARN A RETURN ON THE UNDEPRECIATED INVESTMENT) WOULD DAMPEN THE ATTRACTIVENESS OF SECURITIZATION BY MISSOURI UTILITIES?

A Absolutely. If the Commission grants a return on the undepreciated Asbury investment, there would be no incentive for Empire to pursue securitization. Empire would be recognizing enhanced profits for its shareholders and would not want to diminish these profits with securitization. This issue is not limited solely to Empire and is not limited solely to Asbury. For instance, in the future, Empire is facing issues with the potential retirement of State Line, Riverton and Iatan 1 generating units. Additionally, Every is facing the potential retirement of Iatan 1, Hawthorn, LaCygne, Jeffrey Energy Center and Wolf Creek units. Finally, Ameren is facing the potential retirement of Rush Island, Labadie and Callaway units. Certainly the retirement of some of these units are more imminent than other units, and the amount of undepreciated investment for each of these units at the time of retirement will be different, but it is unquestioned that Missouri utilities will forego the utilization of securitization if they, as Empire now proposes, are allowed to earn a return on the undepreciated investment. In each case, allowing utilities to earn a return on undepreciated investment in retired units will lead to unnecessary increases in customer rates.

Q WHAT IS MECG'S POSITION WITH REGARD TO THE USE OF SECURITIZATION IN THIS CASE?

A MECG supports the notion of securitization as a reasonable middle ground between the utility's and customers' positions. Specifically, at one end of the spectrum, the utility asks to be allowed to earn a return on and of the undepreciated investment. At the other end of the spectrum, however, there is a significant customer position that the utility should not only be allowed to earn a return on the undepreciated investment, but it also should not be allowed to earn a return of this undepreciated investment. Securitization represents a reasonable compromise position in that it does not allow a return on the undepreciated investment, but still gives the utility the return of the undepreciated investment. In fact, it can be argued that the securitization represents a better outcome for the utility than the position advanced in this testimony because it allows the utility immediate recovery of the undepreciated investment rather than waiting 13 years for that recovery as proposed in this testimony (or 26 years as proposed by Empire).

It is my understanding, however, that the Commission cannot mandate the use of securitization. That said, however, as I previously discussed, by allowing Empire to earn a return on the undepreciated Asbury investment, the Commission is effectively foreclosing the use of securitization by any of the Missouri utilities. Why would a utility securitize its undepreciated investment when the Commission is allowing those utilities to earn a return on the undepreciated investment? Therefore, while the Commission cannot mandate securitization, it can increase the attractiveness of that option by refusing to allow a return on the undepreciated investment and by requiring the utility to wait an extended period to receive a return of the undepreciated investment.

Q DO YOU HAVE ANY FURTHER COMMENTS ON SECURITIZATION?

A Yes. I will next be discussing Empire's securitization of the URI storm costs that occurred in February 2021. Empire has already proposed to utilize securitization for those storm costs. One possible solution would be to join the costs for those two events (URI storm and Asbury unrecovered investment) into one securitized cost.

URI Storm Recovery

Q DID EMPIRE INCLUDE RECOVERY OF ENERGY COSTS ASSOCIATED WITH THE URI STORM?

A Yes. In its direct testimony, Empire proposed to recover the URI storm costs ($169 million) over 13 years with a full WACC return on the storm balance. Absent the return component, Empire's proposal would lead to a $13 million increase over these 13 years. Empire's proposal to include a return component, however, results in a $29.9 million revenue requirement impact. That said, Empire noted that legislation enabling securitization had been passed and was waiting the final signature from Governor Parson. Since the legislation has been signed by Governor Parson, Empire is seeking to update its rate case filing by removing these costs from the rate case and instead securitizing the URI storm costs.

Q ABSENT SECURITIZATION, DO YOU HAVE CONCERNS WITH EMPIRE'S PROPOSAL?

A Yes. I am opposed to Empire's proposal to earn a return on these URI storm costs. By allowing a WACC, Empire's profits will be enhanced from an extraordinary event. The URI storm is the most costly natural disaster in the recorded history of the United States.[7] It would be unfair for Empire's shareholders to profit from this extraordinary and costly event.

Q DO YOU SUPPORT THE USE OF SECURITIZATION FOR THE RECOVERY OF THE URI STORM COSTS?

A Yes, I do.

[7]Wikipedia, February 13-17, 2021 North American Winter Storm.

Q DO YOU HAVE ANY ISSUES REGARDING THE RECOVERY OF THESE STORM COSTS IF THEY ARE SECURITIZED?

A Yes. In the event that these costs are securitized, then issues as to whether Empire should be allowed to earn a return on the storm cost balance can be addressed in the securitization docket.

Q DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

A Yes, it does.

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Qualifications of Greg R. Meyer

Q PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A Greg R. Meyer. My business address is 16690 Swingley Ridge Road, Suite 140, Chesterfield, MO 63017.

Q PLEASE STATE YOUR OCCUPATION.

A I am a consultant in the field of public utility regulation and a Principal with the firm of Brubaker & Associates, Inc. ("BAI"), energy, economic and regulatory consultants.

Q PLEASE SUMMARIZE YOUR EDUCATIONAL BACKGROUND AND EXPERIENCE.

A I graduated from the University of Missouri in 1979 with a Bachelor of Science Degree in Business Administration, with a major in Accounting. Subsequent to graduation I was employed by the Missouri Public Service Commission. I was employed with the Commission from July 1, 1979 until May 31, 2008.

I began my employment at the Missouri Public Service Commission as a Junior Auditor. During my employment at the Commission, I was promoted to higher auditing classifications. My final position at the Commission was an Auditor V, which I held for approximately ten years.

As an Auditor V, I conducted audits and examinations of the accounts, books, records and reports of jurisdictional utilities. I also aided in the planning of audits and investigations, including staffing decisions, and in the development of staff positions in which the Auditing Department was assigned. I served as Lead Auditor and/or Case Supervisor as assigned. I assisted in the technical training of other auditors, which included the preparation of auditors' workpapers, oral and written testimony.

During my career at the Missouri Public Service Commission, I presented testimony in numerous electric, gas, telephone and water and sewer rate cases. In addition, I was involved in cases regarding service territory transfers. In the context of those cases listed above, I presented testimony on all conventional ratemaking principles related to a utility's revenue requirement. During the last three years of my employment with the Commission, I was involved in developing transmission policy for the Southwest Power Pool as a member of the Cost Allocation Working Group.

In June of 2008, I joined the firm of Brubaker & Associates, Inc. as a Consultant. Since joining the firm, I have presented testimony and/or testified in the state jurisdictions of Florida, Idaho, Illinois, Indiana, Iowa, Maryland, Missouri, New Mexico, Utah, Washington, Wisconsin and Wyoming. I have also appeared and presented testimony in Alberta and Nova Scotia, Canada. In addition, I have filed testimony at the Federal Energy Regulatory Commission ("FERC"). These cases involved addressing conventional ratemaking principles focusing on the utility's revenue requirement. The firm Brubaker & Associates, Inc. provides consulting services in the field of energy procurement and public utility regulation to many clients including industrial and institutional customers, some utilities and, on occasion, state regulatory agencies.

More specifically, we provide analysis of energy procurement options based on consideration of prices and reliability as related to the needs of the client; prepare rate, feasibility, economic, and cost of service studies relating to energy and utility services; prepare depreciation and feasibility studies relating to utility service; assist in contract negotiations for utility services, and provide technical support to legislative activities.

In addition to our main office in St. Louis, the firm has branch offices in Phoenix, Arizona and Corpus Christi, Texas.