Exhibit No. 120P

Staff – Exhibit 120P
Brooke Mastrogiannis
Rebuttal Testimony
File No. ER-2021-0312

Exhibit No.:	
Issue(s):	*Fuel Adjustment Clause*
Witness:	*Brooke Mastrogiannis*
Sponsoring Party:	*MoPSC Staff*
Type of Exhibit:	*Rebuttal Testimony*
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MISSOURI PUBLIC SERVICE COMMISSION

INDUSTRY ANALYSIS DIVISION

ENERGY RESOURCES DEPARTMENT

REBUTTAL TESTIMONY

OF

BROOKE MASTROGIANNIS

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

CASE NO. ER-2021-0312

Jefferson City, Missouri
December 2021

****** Denotes Confidential Information ******

TABLE OF CONTENTS OF

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BROOKE MASTROGIANNIS

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Q. Please state your name, employment position, and business address.

A. Brooke Mastrogiannis, Utility Regulatory Supervisor with the Missouri Public Service Commission ("Commission"), 200 Madison Street, Jefferson City, Missouri 65101.

Q. Are you the same Brooke Mastrogiannis who has previously provided testimony in this case?

A. Yes. I contributed to the *Staff Report – Cost of Service (Public and Confidential), with Appendices* ("COS Report") filed on October 29, 2021, and the *Staff Report - Class Cost of Service (Public and Confidential),* ("CCOS Report") filed on November 17, 2021 in this case.

EXECUTIVE SUMMARY

Q. What is the purpose of your rebuttal testimony?

A. The purpose of my rebuttal testimony is to address Empire witness Aaron Doll's Fuel Adjustment Clause ("FAC") direct testimony proposing:

1) including 100% of Southwest Power Pool ("SPP") and Mid-Continent Independent System Operator ("MISO") transmission costs and revenues in the FAC;

2) including SPP Schedules 1a and 12 into the Base Factor calculation and tariff language;

3) including a net wind revenue definition on tariff sheet 17n in conjunction with Empire's proposed market revenue calculation; and

4) adding a Time of Use ("ToU") On Peak and Off Peak Base Factor to tariff page 17o.

I will also address the Office of the Public Counsel ("OPC") witness Lena Mantle's direct testimony proposing:

1) including the same transmission percentage for revenues as for costs in the FAC;

2) including the benefits of Paygo and production tax credits ("PTCs") in Empire's rate case revenue requirement with tracking mechanisms to reconcile to actuals in Empire's next rate case instead of as a benefit in the FAC;

3) including language in the FAC tariff for the mitigation of the impact of extraordinary net fuel and purchased power costs,

4) to explicitly prohibit recovery of retirement and/or decommissioning costs related to the retirement of a generation plant; and

5) to explicitly prohibit recovery of fuel and purchased power costs for research and development.

Lastly, I will address OPC witness Mantle's Rate Design Direct Testimony regarding several wording changes to the FAC tariff sheets.

<u>FAC TRANSMISSION EXPENSES AND REVENUES</u>

Q. Please explain why Staff is opposed to the Company's proposal to include 100% of both SPP and MISO transmission expenses and revenues in the FAC.

A. Staff's position is that changing the percentage of transmission costs and revenues Empire includes in its FAC is inconsistent with prior Commission rulings and is inconsistent with the transmission percentage used by other Missouri investor-owned electric utilities with FACs.

The Commission stated in its *Report and Order*, filed on June 24, 2015, in File No. ER-2014-0351, on page 29:

> Based on the Commission interpretation of § 386.266, its discretion under the Commission's rules to determine what rates will be recovered in an FAC, and the facts presented, the Commission finds it appropriate to exclude those transmission expenses that do not fall within the two categories described above.
>
> Empire's transmission costs to be included in the FAC are:
>
> 1) costs to transmit electric power it did not generate to its own load (true purchased power); and,
>
> 2) costs to transmit excess electric power it is selling to third parties to locations outside of SPP (off-system sales).

Further, the Commission stated in its Amended Report and Order, filed on July 23, 2020, in File No. ER-2019-0374, on page 72:

> Regarding transmission costs, the Commission is not changing the costs that flow through the FAC. The percentage of transmission costs included in the FAC will remain the same as they are now, which is 34 percent of SPP costs, 50 percent for MISO transmission costs, and no allowance for transmission revenues. This is consistent with Missouri law and prior Commission rulings, which allow only transportation costs related to purchased power to flow through the FAC.

It is Staff's position that only transmission costs that the Commission approved in the orders quoted from above should be in the FAC.

Q. Has the Company provided any new method or calculation in support of its proposed percentage?

A. No. The Company has not provided a new method or calculation in support of its proposed percentage. Instead, it has simply stated in testimony that the percentage to be included should be 100% of both transmission costs and revenues. In Staff's opinion, the Company has not provided sufficient evidence to warrant changing the percentage or explained why the Commission should approve a proposal that would be inconsistent with prior Commission rulings.

Q. Why does the Company believe that 100% of both transmission costs and revenues should be included in the FAC?

A. Empire witness Aaron Doll states on page 24 of his Direct Testimony:

> It is the Company's opinion that language from Missouri statute 386.266 allows transmission costs associated with purchased-power costs to be included for recovery in the FAC. In ER-2014-0258, the Commission interpreted the statute as one that "…limits the costs that can be flowed through the FAC for recovery between rate cases. It allows for recovery of transportation costs, which has been determined to include transmission costs, but such transmission costs are limited to those connected to purchased power costs." Not unlike what Ameren represented in that docket, Empire sells all of its generation to SPP and separately purchases energy needed to serve native load. Empire's FAC tariff defines SPP costs and revenues as both purchased power and off-system sales revenue. The Commission went on to surmise what scenarios the drafters of the FAC envisioned when crafting that particular statute. In the Commission's decision, it was stated that "the statute was meant to insulate the utility from unexpected and uncontrollable fluctuations in transportation costs of purchased power. At the time the statute was drafted, and even in our more complex present-day system, the costs of transporting energy in addition to the energy generated by the utility or energy in excess of what the utility needs to serve its load are the costs that are unexpected and out of the utility's control to such an extent that traditional rate making is justified." This language suggests that only the purchased power above what a utility generates are the costs that are unexpected and out of the ability for the utility to control. The reality is that service native load, irrespective of its source, requires transmission service, and transmission service comes with costs that are unexpected, outside of the utility's ability to control, or both.

Q. Has any other Commission-regulated utility company also argued to the Commission that 100% of SPP and MISO transportation costs and revenues should be included in the FAC? If so, how did the Commission rule?

Q. Yes. Evergy Missouri Metro, formerly known as Kansas City Power and Light Company ("KCPL"), argued this in Case No. ER-2014-0370. KCPL requested that transmission costs associated with the charges and revenues from SPP billings, and transmission costs to buy and sell energy, be recovered in rates through the FAC mechanism.[1] In this same docket KCPL stated that transmission costs were rising, and projections showed that these expenses would continue to increase at a significant rate from 2014 through 2019.[2]

The Commission stated in its Report and Order in that case,

> KCPL argues that all of its SPP transmission fees should be included in the FAC because those fees are mandatory, increasing in amount, and volatile. In addition, KCPL states that since all of its power generation is sold into the SPP market and purchased from that market, all SPP expenses and revenues related to those individual sales and purchases of transmission service must be included in the FAC.[3]

The Commission further stated:

> The Commission has addressed this issue in recent rate cases. In the Report and Order issued in File No. ER-2014-0258 for Ameren Missouri, the Commission stated:
>
> The evidence demonstrated that for purposes of operation of the MISO tariff, Ameren Missouri sells all the power it generates into the MISO market and buys back whatever power its needs to serve its native load. From that fact, Ameren Missouri leaps to its conclusion that since it sells all the power to MISO and buys all that power back, all such transactions are off-system sales and purchased power within the meaning of the FAC statute. **The Commission does not accept this point of view**.
>
> The drafters of the FAC statute likely did not envision a situation where a utility would consider all of its generation purchased power or off-system sales. In fact, the policy underlying the FAC statute is clear on its face. The statute is meant to insulate the utility from unexpected and uncontrollable fluctuations in transportation costs of purchased power. At the time the statute was drafted, and even in our more complex present-day system, the costs of transporting energy in addition to the energy generated by the utility or energy in excess of what the utility needs to serve it load are the costs that are unexpected and out of the utility's control to such an extent that a deviation from traditional rate making is justified.
>
> Therefore, of the three reasons Ameren Missouri incurs transmission costs cited earlier, the costs that should be included in the FAC are 1) costs to transmit electric power it did not generate to its own load (true purchased

[1] *In the Matter of Kansas City Power & Light Company's Request for Authority to Implement a General Rate Increase for Electric Service*, Case No. ER-2014-0370, Hearing Ex. No. 134, EFIS No. 344, Direct Testimony of Tim M. Rush, pgs. 17, 22.
[2] *Id*. at 20.
[3] *Report and Order*, ER-2014-0370, Pg. 34 (Sept., 2, 2015).

> power) and 2) costs to transmit excess electric power it is selling to third parties to locations out of MISO (off-system sales). **Any other interpretation would expand the reach of the FAC beyond its intent**.[4]

Lastly, the Commission summarized its decision:

> The evidence shows in this case that on a daily basis, KCPL sells all of the power it generates into the SPP market and purchases from SPP 100% of the electricity it sells to its retail customers. However, based on the Commission's analysis in the two cases cited above, it would not be lawful for KCPL to recover all of its SPP transmission fees through the FAC. In addition, while KCPL's transmission costs are increasing, those costs are known, measurable, and not unpredictable, so the costs are not volatile. The Commission concludes that the appropriate transmission costs to be included in the FAC are 1) costs to transmit electric power it did not generate to its own load (true purchased power); and 2) costs to transmit excess electric power it is selling to third parties to locations outside of SPP (off-system sales).[5]

In this rate case, Empire makes the same argument that KCPL raised in ER-2014-0370. Therefore, Staff's position is to continue including in the FAC only transmission costs that the Commission approved in ER-2014-0370 and in other orders quoted above.

Q. When the Commission has ordered transmission costs be included in the FAC, has it ever approved also including transmission revenues?

A. No. The Commission has approved including only transmission costs – and no transportation revenues – in the FACs of Empire, Evergy Missouri West, and Evergy Missouri Metro.[6] Therefore, Staff opposes both Empire's proposal to include 100% of transmission revenues and the OPC's proposal to include the same percentage of transmission revenues as costs in the FAC.

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[4] *Id*. (emphasis added) (quoting *Report and Order*, ER-2014-0258 (Apr. 29, 2015)).
[5] *Report and Order*, ER-2014-0370, Pg. 35 (Sept. 2, 2015).
[6] In the Ameren 2016, 2019, and 2021 rate cases a small percentage of transmission revenues was included as part of settlement agreements.

Q. Does Empire's position to include 100% of transmission revenues result in an offset to its proposal to include 100% of transmission costs?

A. No. The Company's total for transmission expense and revenue, if the Commission approves 100% transmission expense and revenue to be included in the FAC, is an overall net expense of ** $[redacted] **. Staff's total, if the Commission approves the 19.39%[7] transmission expense and no transmission revenues to be included in the FAC, is only ** $[redacted] **. Thus, Empire's proposal to include 100% of both transmission revenues and expenses results in a higher amount of costs included in the FAC than Staff's proposal to include only transmission expense, and does not offset, or balance the two items, as Empire implies.

Q. In his Direct Testimony on page 27, Empire witness Doll gives an example of a known transmission expense increase of $7.2 million per year, starting October 2022. Does this example support an increase of the percentage to 100%?

A. No. The FAC base factor is based on actual test year and updated period expenses and revenues, therefore it is not appropriate to include this known increase as a reason to increase the percentage to 100% since it will not begin until October 2022.

Q. Please explain why Staff is opposed to the Company's proposed inclusion of SPP Schedules 1A and 12 in the base factor calculation and tariff revisions.

A. Staff's position is that the costs in SPP Schedule 1A-1, 1A-2, 1A-3 and 1A-4 (Tariff Administration Service) and SPP Schedule 12 (FERC Assessment) are not fluctuating fuel and purchased power costs, but instead are administrative costs, and should not flow through the FAC.

[7] The 19.39% is derived from a calculation in the production cost model of the total number of purchased power MWhs over the total market load. This percentage has decreased from the current 34% because of the additional generation from the new Empire owned wind farms included in this rate case. A reduction in generation from the pre-existing wind PPAs (Elk River and Meridian Way) also contributed to the decrease.

This is consistent with the Commission's treatment of SPP Schedule 1A and Schedule 12 costs in past Empire rate cases, as well as in the Evergy Missouri West and Evergy Missouri Metro cases.

<u>FAC COMPONENTS RELATED TO WIND MARKET REVENUES</u>

Q. Company witness Doll states on page 16 of his Direct Testimony that Empire proposes to include the following additional sources of revenue and expense received in the "market revenue calculation": Paygo, tax equity distributions, PTCs, and RECs. Does Staff agree?

A. Attached in Staff's COS Report, in Appendix 3 Schedule BM-d1, Staff included subaccounts for Paygo, tax equity distributions, PTCs, and RECs in the FAC. Staff determined that it is appropriate to include these since all of these components are tied to Empire's new wind generation.

Q. Does OPC witness Mantle provide alternatives for some of these components?

A. Yes. Although Ms. Mantle states in her direct testimony, on page 25, lines 20 – 21, that SPP IM revenues and REC revenues should be included in Empire's FAC with tracking mechanisms to reconcile to actuals in Empire's next rate case, she also states in her direct testimony, on page 25, lines 17 -19, that estimated benefits of Paygo and PTCs should be included in Empire's rate case revenue requirement with tracking mechanisms to reconcile to actuals in Empire's next rate case.

Q. What is Staff's opinion of Ms. Mantle's proposal?

A. Although Staff's opinion is that the Paygo, tax equity distributions, PTCs, and RECs should be included in the FAC because they are related to the new wind generation and the revenues will be refunded to customers more quickly, if the Commission finds OPC's proposal appropriate, Staff agrees that is another option for customers to receive those benefits. If the Commission accepts OPC's position, Staff recommends the net wind revenue definition in the

Company's FAC tariff sheets detail the inclusion or exclusion of the above mentioned components, along with an update to the list of subaccounts to be included and excluded in the FAC. Additionally, the FAC base factor would need to be updated accordingly.

<u>FAC TOU ON-PEAK AND OFF-PEAK BASE FACTOR</u>

Q. What is the Company's position on a ToU On-Peak and Off-Peak Base Factor?

A. Aaron Doll states on page 30 of his Direct Testimony,

> The current FAC tariff calculates a single Net Base Energy Cost ("NBEC") by multiplying the Net System Input ("NSI") by the Base Factor ("BF"). The Company's proposal in the TOU tariff is to establish an On-Peak BF and an Off-Peak BF. To accommodate this structure into the FAC, an adjustment needs to be made to the NBEC to reflect the different BF for TOU customers.

Additionally, Empire witness Tillman states on page 15 of his Direct Testimony,

> The calculation of the Net Base Energy Cost ("NBEC") in the FAC does not accommodate the difference in fuel revenue for TOU customers. Empire is proposing to include a TOU NBEC adjustment to account for those differences.

Q. Has Empire provided additional information about its TOU NBEC proposal?

A. Yes. Staff requested additional information from Empire relating to its ToU NBEC proposal, and it stated in response to Staff Data Request No. 0171:

- The Company currently has no TOU customers with the single exception of its Transmission Service rate customer, which is served under a time-differentiated rate.
- In the initial year, the Company has proposed a limited enrollment in the TOU rates of 500 for the residential class, 200 for the CB/SH class(es), and three LP class customers.
- The Company has not developed any actual estimates for the TOU customer consumption changes.
- Impact from the proposed customers is dependent on the actual response to the TOU rates- which has not been estimated by the Company.

In addition to this Data Request response, Empire provided a worksheet showing an example of its system base fuel time differentiated rate. This example demonstrates an adjustment to the FAC if a customer shifts their load 10% of on-peak consumption from the on-peak to off-peak period, or an equivalent amount of kWh into the on-peak period from the off-peak period.

Empire's example is based on its direct-filed ToU design, which is different from the ToU structures and designs Staff recommended for generally applicable rates. It should further be noted that the Company currently has no ToU customers, therefore its example is based on estimates and not actuals.

Q. Does Staff recommended inclusion of the Empire TOU NBEC feature in Empire's FAC tariff?

A. No. [8] At this time the ToU NBEC feature is not necessary under either Empire or Staff's ToU design. However, if the ToU NBEC is incorporated into the Empire FAC, it would need to be adjusted to correspond to the ToU structure and design that is used. Further discussion of this issue is included in Staff witness Sarah Lange's rebuttal on pages 14 through 17. Staff recommends the Company retain information and calculate on an ongoing basis outside of the operable FAC its proposed FAC modifications. This will enable refinement of the ToU NEBC's design and approach for future implementation, if and when it is appropriate to do so.

OPC FAC CHANGES

Q. What other proposals did OPC witness Mantle recommend for the FAC in her Direct Testimony?

[8] Concerning use of ToU On-Peak and Off-Peak Base Factor for use with the ToU designs recommended by Staff in Staff's Direct CCOS Report on page 26, "The designs of the ToU rate structures recommended by Staff in this case are sized to better align cost-causation with revenue recovery, but are not designed to encourage changes in customer behaviors… Staff recommends the Company retain information and calculate on an ongoing basis outside of the operable FAC the modifications the Company has proposed to the FAC. This will enable refinement of the design and approach of this potential mechanism to align seasonal and diurnal variations in energy cost with revenue recovery for future implementation if and when it is appropriate to do so."

A. Ms. Mantle recommends on page 26 of her Direct Testimony that the Commission modify Empire's FAC to:

1) Include language that would allow the mitigation of the impact of extraordinary net fuel and purchased power costs;

2) Explicitly prohibit recovery of retirement and/or decommissioning costs related to the retirement of a generation plant; and

3) Explicitly prohibit recovery of fuel and purchased power costs for research and development.

Ms. Mantle attaches Schedule lmm-d-4 to her Rate Design Direct Testimony, which is a red-lined version of the FAC tariff to further show these modifications.

Q. Does Staff agree with Ms. Mantle's proposals?

A. Yes. With the exception of her proposed language added to the FAC tariff sheets regarding the extraordinary net fuel and purchased power costs. Staff recommends that another sentence be added onto Ms. Mantle's proposed language that would state, "However, this language does not preclude Empire or any other party from requesting in a case before the Commission different treatment for deferring extraordinary costs in a liability account for future recovery."

Q. What other proposals did OPC witness Mantle recommend for the FAC in her Rate Design Direct Testimony?

A. To clarify the definition, she recommends on page 3 to add Net System Input ("NSI") to the definition of S_{AP} because S_{AP} includes NSI. She also recommended on page 3 to move the placement of the words "kWh sales" in the S_{RP} definition.

Also, on page 4, she recommends the paragraph in section 4 of the purchased power definition currently on tariff sheet 17l be moved above the description of hedging costs currently on tariff sheet 17n. She also recommends deleting the last sentence in the paragraph that states, "The list of sub-accounts included will be provided in the FAC Monthly Reports." Her reason for this is because that paragraph is only included in the definition of purchased power, and it should be moved to follow the definitions of factors fuel costs, purchased power, emissions and off-system sales. Also, the sub-accounts where the costs and revenues are recorded should be listed in Empire's FAC tariff sheets, since the tariff is a public document, and not in the monthly FAC reports because those are not public documents.

In addition, on page 5 she recommends that subparagraphs A through F in section 4 on tariff sheets 17l and 17m be removed completely from Empire's FAC tariff sheets. Her reason for this is because the Commission's FAC rule, 20 CSR 4240-20.090, has been revised to include this process in Section (8)(D). Therefore, this language no longer serves any purpose in Empire's FAC tariff sheets. However, if Empire believes these subparagraphs still need to be included in the FAC tariff sheets, then she suggests that they be moved out of the definition of purchased power and into a new section titled "Accounting for Costs and Revenues" below the hedging costs section on tariff sheet 17n.

In addition, on page 6 she recommends the term "VAF" be defined by putting the words "the voltage adjustment factors ("VAF") of" in front of the actual numeric voltage factors in the first paragraph after the heading "Fuel Adjustment Rate" currently on tariff sheet 17o.

Lastly, starting on page 6 and continued into page 7, she states there is a problem with the current FAC rate calculation tariff sheet in the jurisdictional allocation factor J. To fix this, she recommends on the current tariff sheet 17q that the footnotes be removed; line 4, Missouri Energy Ration (J) be removed; the remaining lines in the table be renumbered; the new line 4 be relabeled as “Sum of Monthly (TEC – B) * J”; and the new line 6 be relabeled as “Sum of Monthly (TEC – B) * J * .95”.

Q. Does Staff find Ms. Mantle’s recommended FAC tariff sheet changes described above, and attached as her Schedule lmm-d-4, reasonable?

A. Yes.

Q. Does this conclude your rebuttal testimony?

A. Yes, it does.

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

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

AFFIDAVIT OF BROOKE MASTROGIANNIS

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

COMES NOW BROOKE MASTROGIANNIS, and on her oath declares that she is of sound mind and lawful age; that she contributed to the foregoing *Rebuttal Testimony of Brooke Mastrogiannis;* and that the same is true and correct according to her best knowledge and belief.

Further the Affiant sayeth not.

Brooke Mastrogiannis
BROOKE MASTROGIANNIS

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 15th day of December, 2021.

DIANNA L. VAUGHT
Notary Public - Notary Seal
State of Missouri
Commissioned for Cole County
My Commission Expires: July 18, 2023
Commission Number: 15207377

Dianna L. Vaught
Notary Public