

Exhibit No. 212

OPC – Exhibit 212
Testimony of John S. Riley
Direct
File No. ER-2024-0261

Exhibit No.:

Issue(s): Deferred Tax Assets/Tax Return Items/
Neosho Ridge Revenues/Over-Refunded EADIT

Witness/Type of Exhibit: Riley/Direct

Sponsoring Party: Public Counsel

Case No.: ER-2024-0261

DIRECT TESTIMONY

OF

JOHN S. RILEY

Submitted on Behalf of the Office of the Public Counsel

**THE EMPIRE DISTRICT ELECTRIC COMPANY
D/B/A LIBERTY**

FILE NO. ER-2024-0261

July 2, 2025

TABLE OF CONTENTS

<u>Testimony</u>	<u>Page</u>
Deferred Tax Assets	2
Tax Deductions and/or Adjustments to Revenues	3
Neosho Ridge Wind Outage	4
Over-Refunded Unprotected EADIT	5

DIRECT TESTIMONY
OF
JOHN S. RILEY
THE EMPIRE DISTRICT ELECTRIC COMPANY
D/B/A LIBERTY
CASE NO. ER-2024-0261

Q. What is your name and what is your business address?

A. John S. Riley, PO Box 2230, Jefferson City, Missouri 65102.

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

A. I am employed by the Missouri Office of the Public Counsel (“OPC”) as a Utility Regulatory Supervisor.

Q. What is your educational background?

A. I earned a B.S. in Business Administration with a major in Accounting from Missouri State University.

Q. What is your professional work experience?

A. I was employed by the OPC from 1987 to 1990 as a Public Utility Accountant. In this capacity, I participated in rate cases and other regulatory proceedings before the Public Service Commission (“Commission”). From 1994 to 2000 I was employed as an auditor with the Missouri Department of Revenue. I was employed as an Accounting Specialist with the Office of the State Court Administrator until 2013. In 2013, I accepted a position as the Court Administrator for the 19th Judicial Circuit until April 2016 when I joined the OPC as a Public Utility Accountant III. I have also prepared income tax returns, at a local accounting firm, for individuals and small business from 2014 through 2017.

1 **Q. Are you a Certified Public Accountant (“CPA”) licensed in the State of Missouri?**

2 A. Yes, I have been a CPA since 1998. As a CPA, I am required to continue my professional
3 training by attending Missouri State Board of Accountancy qualified educational seminars
4 and classes. The State Board of Accountancy requires that I spend a minimum of 40 hours a
5 year in training that continues my education in the field of accountancy.

6 **Q. Have you previously filed testimony before the Missouri Public Service Commission?**

7 A. Yes, I have. A listing of my case filings is attached as JSR-D-1.

8 **Q. What is the purpose of your direct testimony?**

9 A. To adjust Empire’s Account 190 deferred tax assets and to apply tax deductions used in
10 Liberty Utilities (America) consolidated income tax returns to Empire’s taxable income
11 within the revenue requirement calculations. I will also mention revenues associated with the
12 Neosho Ridge outage and the amortization of unprotected excess accumulated deferred
13 income tax (“EADIT”).

14 **DEFERRED TAX ASSETS**

15 **Q. What are deferred tax assets?**

16 A. As the description spells out, *deferred* tax assets are timing differences that the company does
17 not have the opportunity to currently use in its tax return to reduce its income tax liability.
18 Since the differences can reduce the company’s future tax liability, it is an asset to the
19 company and is recorded as one on the company financial records. Deferred tax assets are
20 generally recorded in the 190 accounts in the USOA chart of accounts.

Q. What adjustments do you propose to the Company records in this account for purposes of Empire's rate base in this case?

A. I have reviewed Empire's workpapers from its last case, ER-2021-0312, and found that the Company excluded Net operating losses, contributions in aid of construction and tax assets related to FASB 109 from the rate base balance in that case. Those balances should be excluded in this case as well. I also noticed that a miscellaneous tax asset account does not have documentation to verify the total company balance so that allocated balance should be removed from rate base as well.

Q. What is your quantification of these adjustments to account 190?

Account 190124 Def Fd tax Asset – Misc.	\$18,818,399
Account 190230 Def Tx Net Operating Loss	\$22,509,688
Account 190310 Def Fd Inc Tx-Contrb-Aid Const	\$1,727,751
Account 190320 Def Inc Tx-Def Tx Asset Fas109	\$27,980,087

The total adjustments to the 190 accounts would be a reduction of \$71,035,925 to rate base.

TAX DEDUCTIONS AND/OR ADJUSTMENTS TO REVENUES

Q. Broadly, why are you proposing tax deduction and revenue adjustments to Empire's income tax calculations for purposes of this rate case?

A. For the most part, Staff only considers energy sales in its revenue calculation and only considers interest and depreciation in its deductions. There are other deductions and sales that the Company applies to its taxable income calculations in its tax returns that should be considered in the income tax calculations of a rate case.

Q. What did you review that led you to proposing these adjustments?

A. I reviewed the consolidated federal income tax returns of Empire's parent company Liberty Utilities (America) Company. I took note of the various asset sales and, depending on the cash received or the deduction applied from the transactions, I am proposing a write-off or additions to revenues to reflect the results.

Q. How many years of tax returns did you review?

A. I examined the most recent available three years of tax returns¹ and averaged my total findings. The Company took a loss on disposition/impairment of \$3,932,057 in 2021, \$3,750,997 in 2022 and \$2,807,221 in 2023 for a total of \$10,490,275. The three-year average is \$3,496,758. I am proposing that this amount be applied as a deduction in the calculation of Empire's taxable income to derive its current income tax liability used for setting rates in this case.

My adjustment to the Company's revenues come from sales that would not be considered energy sales to customers. These revenues would be salvage proceeds of \$654,258 in 2021, \$294,399 in 2022 and sales proceeds of \$3,420,005 in 2023. This total of \$4,368,662 divided by three would translate to an increase of \$1,456,221 in revenues for the test year.

NEOSHO RIDGE WIND OUTAGE

Q. Could you provide a brief description of the Neosho Ridge wind farm outage?

A. Shortly after Neosho Ridge began operating, a major transformer malfunctioned. It took some time to replace the transformer. During this downtime the wind farm was unproductive but still using power at the windmills.

¹ The last filed tax returns are calendar years 2021, 2022, 2023.

1 **Q. What are you proposing regarding revenues during the Neosho Ridge wind farm**
2 **outage?**

3 A. The revenues associated with the power consumed by this wind farm during this outage
4 should remain in the calculation of Empire's revenues for purposes of setting rates in this case.
5 This outage was not an extraordinary event like Storm Uri. The Company should be seeking
6 compensation from the vendors for this mishap and Empire's ratepayers should be absolved
7 of any harm from this outage. These revenues—Empire has quantified them to be
8 \$4,316,661²—should remain in the revenue stream.

9 **OVER-REFUNDED UNPROTECTED EADIT**

10 **Q. If Empire's rates caused more unprotected EADIT to flow to its retail customers—**
11 **Empire asserts the amount of \$20,886,328³—than what the Commission intended by the**
12 **regulatory liability and amortization period it used when it last set rates, then in your**
13 **opinion what should the Commission do?**

14 A. I'm not really sure what should be done. Just because a tracker has been established doesn't
15 necessarily mean an "overpayment" should be reintroduced to rate base. More than likely a
16 corrected amortization rate should be included in Empire's new rates. There are still positive
17 amounts of unprotected EADIT on Empire's books so I intend to pursue an explanation of the
18 situation from Empire and what it proposes for a correction. In my opinion, if there was an
19 "overpayment" it should not be added into rate base.

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

21 A. Yes.

² Empire witness Charlotte Emery direct testimony, page 35, lines 18-23

³ Emery Direct, page 26, line 8.

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

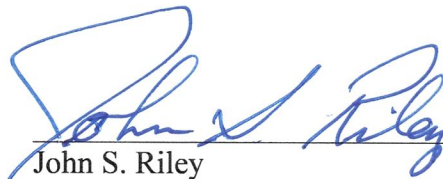
In the Matter of the Request of The	)	
Empire District Electric Company d/b/a	)	
Liberty for Authority to File Tariffs	)	<u>Case No. ER-2024-0261</u>
Increasing Rates for Electric Service	)	
Provided to Customers in Its Missouri	)	
Service Area	)	

AFFIDAVIT OF JOHN S. RILEY

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

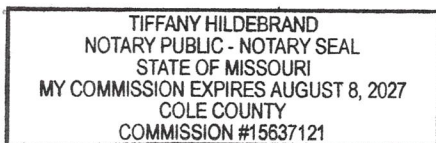
John S. Riley, of lawful age and being first duly sworn, deposes and states:

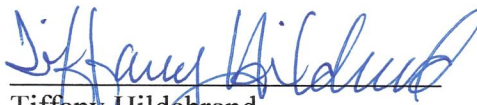
1. My name is John S. Riley. I am a Utility Regulatory Supervisor for the Office of the Public Counsel.
2. Attached hereto and made a part hereof for all purposes is my direct testimony.
3. I hereby swear and affirm that my statements contained in the attached testimony are true and correct to the best of my knowledge and belief.



John S. Riley
Utility Regulatory Supervisor

Subscribed and sworn to me this 1st day of July 2025.





Tiffany Hildebrand
Notary Public

My Commission expires August 8, 2027.