

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

In the Matter of the Petition of The Empire District)
Electric Company d/b/a Liberty to Obtain a)
Financing Order that Authorizes the Issuance of) Case No. EO-2022-0040
Securitized Utility Tariff Bonds for)
Qualified Extraordinary Costs)

In the Matter of the Petition of The Empire District)
Electric Company d/b/a Liberty to Obtain a)
Financing Order that Authorizes the Issuance of) Case No. EO-2022-0193
Securitized Utility Tariff Bonds for Energy)
Transition Costs Related to the Asbury Plant)

LIBERTY’S STATEMENT OF POSITIONS

COMES NOW The Empire District Electric Company d/b/a Liberty (“Liberty” or the “Company”) and, using the List of Issues filed herein on June 2, 2022, presents this Statement of Positions. The List of Issues was filed by Liberty, on behalf of all parties. As noted therein, in order to prevent the need for filing multiple lists of issues, the parties attempted to obtain consensus on the descriptions of the issues and agreed to include all suggested issues whether or not agreed to by opposing parties. All parties do not agree that the issues listed therein are actually issues in this case.

For its Statement of Positions, Liberty respectfully states as follows to the Missouri Public Service Commission (“Commission”):

1) What amounts should the Commission authorize Liberty to finance using securitized utility tariff bonds?

RSMo. §393.1700 was signed into law in 2021, providing Missouri regulated electric utilities with the option to seek the use of the financing mechanism of securitization in certain situations (the “Securitization Statute”). The issuance of a financing order meeting the requirements of the Securitization Statute allows a utility to recover costs by issuing bonds, with lower financing costs as compared with conventional utility financing methods, thereby saving

customers money. Missouri’s Securitization Statute authorizes securitization of two types of costs: qualified extraordinary costs and energy transition costs.

Liberty filed the first of its kind petition in Missouri under RSMo. §393.1700.2(2) for the Company’s qualified extraordinary costs for Winter Storm Uri, and under RSMo. §393.1700.2(1) to finance Liberty’s energy transition costs regarding the retirement of the Asbury generating plant. In these now consolidated securitization proceedings, Liberty’s Petitions, Direct Testimony, and Surrebuttal Testimony demonstrate that a single Financing Order, consistent with the forms attached to Liberty’s Petitions,¹ should be issued by the Commission to authorize Liberty to finance \$362,419,908 of qualified extraordinary costs and energy transition costs using securitized utility tariff bonds.

RSMo. §393.1700;

Direct Testimonies of Matthew DeCoursey (adopted by Charlotte Emery), Aaron Doll, Karen Hall (adopted by Charlotte Emery), Katrina Niehaus, and John Olsen in Case No. EO-2022-0040;

Direct Testimonies of Drew Landoll, Aaron Doll, Shaen Rooney, Frank Graves, Charlotte Emery, and Katrina Niehaus in Case No. EO-2022-0193; and

Surrebuttal Testimonies of Charlotte Emery, Aaron Doll, Drew Landoll, Shaen Rooney, Michael Mosindy, Brian Mushimba, Frank Graves, John Reed, and Katrina Niehaus.

A) What amounts of qualified extraordinary costs should the Commission authorize Liberty to finance for Winter Storm Uri?

The Commission should issue a financing order approving the Company’s request to securitize \$221,645,532 in qualified extraordinary costs for Winter Storm Uri, as all costs sought to be securitized by Liberty related to Storm Uri comply with the statutory definition of “qualified extraordinary costs” and Liberty has otherwise fulfilled the requirements of the Securitization Statute.

RSMo. §393.1700;

¹ Liberty will submit, for the Commission’s consideration, a single financing order form addressing both Storm Uri and Asbury.

Direct Testimonies of Matthew DeCoursey (adopted by Charlotte Emery), Aaron Doll, Karen Hall (adopted by Charlotte Emery), Katrina Niehaus, and John Olsen in Case No. EO-2022-0040; and

Surrebuttal Testimonies of Charlotte Emery, Aaron Doll, Drew Landoll, Shaen Rooney, Michael Mosindy, Brian Mushimba, Frank Graves, John Reed, and Katrina Niehaus.

- B) What amounts of energy transition costs should the Commission authorize Liberty to finance for Asbury?

The Commission should issue a financing order approving the Company's request to securitize \$140,774,376 in energy transition costs for Asbury, as all costs sought to be securitized by Liberty related to the retirement of Asbury comply with the definition of "energy transition costs," and Liberty has otherwise fulfilled the requirements of the Securitization Statute.

RSMo. §393.1700;

Direct Testimonies of Drew Landoll, Aaron Doll, Shaen Rooney, Frank Graves, Charlotte Emery, and Katrina Niehaus in Case No. EO-2022-0193; and

Surrebuttal Testimonies of Charlotte Emery, Aaron Doll, Drew Landoll, Shaen Rooney, Michael Mosindy, Brian Mushimba, Frank Graves, John Reed, and Katrina Niehaus.

2) Storm Uri

- A) What amount of costs, if any, that Liberty is seeking to securitize would Liberty recover through customary ratemaking?

Liberty's Verified Petition for Financing Order for authorization of the issuance of securitized utility tariff bonds regarding the extraordinary costs incurred during the anomalous weather event of February 2021 (Storm Uri) must be considered by this Commission under RSMo. §393.1700, and, pursuant to this detailed and prescriptive statute, this listed issue is irrelevant and should not be addressed by the Commission in this proceeding. The presentation of Issue 2A suggests that the Commission should conduct a traditional cost of service ratemaking analysis of all of the costs that are proposed to be securitized and then compare this hypothetical outcome with the cost of securitization. If the Commission were to rely on such an analysis, it would commit reversible error. As explained in response to Issue 2C below, the Securitization Statute requires a comparison of "the costs to customers that are estimated to result from the issuance of securitized

utility tariff bonds” and “the costs that would result from the application of the customary method of financing.” RSMo. 393.1700.2(2)(e) (emphasis added).

B) What is the appropriate method of customary ratemaking absent securitization?

RSMo. §393.1700.1(13) defines “qualified extraordinary costs” as those of “an extraordinary nature which would cause extreme customer rate impacts if reflected in retail customer rates recovered through customary ratemaking, such as but not limited to those related to purchases of fuel or power, inclusive of carrying charges, during anomalous weather events.” Under this statutory definition, and for the purposes of determining if the costs Liberty seeks to securitize under RSMo. §393.1700.2(2) constitute “qualified extraordinary costs,” deferral to a regulatory asset and general rate case cost recovery must legally be deemed the “customary ratemaking.”

As a matter of law, the “customary ratemaking” regarding recovery of extraordinary storm costs cannot be through Liberty’s fuel adjustment clause (“FAC”) for two reasons. First, RSMo. §386.266 and the Commission’s FAC Rule limit recovery through the FAC to fuel and purchased power costs, while the Securitization Statute specifically provides that “qualified extraordinary costs” are not limited to those related to purchases of fuel or power. Second, Commission Rule 20 CSR 4240-20.090(8)(A)2AXI authorizes the exclusion of extraordinary fuel and purchased power costs from the FAC, and the Commission has, in fact, excluded Liberty’s extraordinary Storm Uri fuel and purchased power costs from flowing through Liberty’s FAC. In other words, a mechanism that excludes recovery of extraordinary costs cannot lawfully be the method of customary ratemaking for costs of an extraordinary nature.

Thus, the appropriate method of customary ratemaking absent securitization, for the purpose of determining if the Storm Uri costs Liberty seeks to securitize under RSMo. §393.1700.2(2) constitute “qualified extraordinary costs,” would be for Liberty to defer all of the

extraordinary costs it incurred during Storm Uri in a regulatory asset until its next rate case and to apply carrying charges at the Company's weighted average cost of capital ("WACC") during the deferral. Customarily, with the conclusion of that general rate case, the Commission would issue an order authorizing Liberty to recover its extraordinary Storm Uri costs, specifying the period over which the Company would do so, and approve the application of carrying charges at Liberty's authorized WACC.

RSMo. §386.266;
RSMo. §393.1700;
Emery Surreb., p. 22; and
Commission Rule 20 CSR 4240-20.090.

C) Under RSMo. 393.1700.2(2)(e), what is the "customary method of financing"? What are the costs that would result "from the application of the customary method of financing and reflecting the qualified extraordinary costs in retail customer rates"?

In order for the Commission to issue a financing order for Storm Uri costs, Liberty must present a "comparison between the net present value of the costs to customers that are estimated to result from the issuance of securitized utility tariff bonds and the costs that would result from the application of the **customary method of financing** and reflecting the qualified extraordinary costs in retail customer rates" and demonstrate "that the issuance of securitized utility tariff bonds and the imposition of securitized utility tariff charges are expected to provide quantifiable net present value benefits to retail customers." RSMo. 393.1700.2(2)(e) (emphasis added). For this benefit comparison required by the Securitization Statute, the "customary method of financing" means the utility carrying the costs on its own books and amortizing them over time, with the balance being assessed a carrying charge at Liberty's authorized WACC. Securitization is a financing alternative to this customary approach.

Pursuant to Liberty's Petition, Direct Testimony, and Surrebuttal Testimony, a "comparison between the net present value of the costs to customers that are estimated to result

from the issuance of securitized utility tariff bonds and the costs that would result from the application of the customary method of financing and reflecting the qualified extraordinary costs in retail customer rates” demonstrates “that the issuance of securitized utility tariff bonds and the imposition of securitized utility tariff charges are expected to provide quantifiable net present value benefits to retail customers.” Using Liberty’s values and calculations, \$42,276,691 is the net present value of the estimated benefits resulting from the comparison required by the Securitization Statute. Please see Liberty’s response to Issue 5 below, for additional discussion of the net present value (“NPV”) calculation.

RSMo. 393.1700;
DeCoursey Dir., pp. 4-9;
Hall Dir., pp. 8-11;
Emery Surreb., pp. 8-10, Schedule CTE-3 (Storm Uri).

D) Should Liberty’s recovery include more than 95% of fuel and purchased power costs?

Yes, the Commission should issue a financing order approving the Company’s request to securitize \$221,645,532 in qualified extraordinary costs for Winter Storm Uri, including \$193,402,198 in fuel and purchased power costs, representing 100% of the extraordinary fuel and purchased power costs prudently incurred by Liberty on behalf of its customers.

Doll Dir. (Storm Uri);
Doll Surreb., pp. 2-4 and 8-19;
Olsen Dir. (Storm Uri);
Reed Surreb., pp. 4-20;
Emery Surreb., pp. 21-23.

E) Should Liberty’s recovery reflect an offset based on certain higher than normal customer revenues received by Liberty during Winter Storm Uri?

No, the Commission should issue a financing order approving the Company’s request to securitize \$221,645,532 in qualified extraordinary costs for Winter Storm Uri. There should be no

offset for what Staff deems “excess” or “extraordinary” revenues, as any such offset is not authorized by the Missouri Securitization Statute or other law.

Emery Surreb., pp. 23-24.

F) Should Liberty’s recovery reflect an offset based on revenues that Liberty’s Riverton 11 unit would have generated during Winter Storm Uri, and if so how much?

No, the Commission should issue a financing order approving the Company’s request to securitize \$221,645,532 in qualified extraordinary costs for Winter Storm Uri. There should be no deduction related to Riverton 11, as there is no competent evidence of imprudence on the part of Liberty.

Mushimba Surreb., pp. 2-9;

Reed Surreb., pp. 4-20.

G) Should Liberty’s recovery reflect a disallowance based on Liberty’s resource planning?

No, the Commission should issue a financing order approving the Company’s request to securitize \$221,645,532 in qualified extraordinary costs for Winter Storm Uri. There should be no deduction related to Liberty’s resource planning, as there is no competent evidence of imprudence on the part of Liberty. In fact, the evidence demonstrates that Liberty complied with the Commission’s resource planning rule and that Liberty prudently executed upon its resource plans.

Doll Surreb., pp. 2-4 and 8-19;

Reed Surreb., pp. 4-20.

H) Should Liberty’s recovery reflect a disallowance for income tax deductions for Winter Storm Uri costs?

No, the Commission should issue a financing order approving the Company’s request to securitize \$221,645,532 in qualified extraordinary costs for Winter Storm Uri. There should be no deduction related to income tax deductions, as there is no competent evidence justifying any such disallowance.

Emery Surreb., pp. 38-39.

I) What are the appropriate carrying costs for Winter Storm Uri?

RSMo. §393.1700.1(13) defines “qualified extraordinary costs” as those of an extraordinary nature “such as but not limited to those related to purchases of fuel or power, inclusive of carrying charges, during anomalous weather events.” The fair return standard established by the United States Supreme Court in the *Hope* and *Bluefield* cases and routinely relied upon by regulatory commissions when establishing a utility’s authorized cost of capital (or rate of return) is the appropriate regulatory standard for determining the carrying costs for Winter Storm Uri. Application of Liberty’s pre-tax WACC results in carrying costs in the amount of \$24,168,807 for Winter Storm Uri.

Emery Surreb., pp. 10, 15-16, and 19-20;
Reed Surreb., pp. 4-6 and 20-24.

J) What is the appropriate discount rate to use to calculate the net present value of Winter Storm Uri costs that would be recovered through customary ratemaking?

When performing the benefits comparison required by the Securitization Statute, 2.47 percent was used by Liberty in calculating the costs to customers that are estimated to result from the issuance of securitized utility tariff bonds for Winter Storm Uri, while Liberty’s authorized WACC of 6.77% is the appropriate rate for determining the costs that would result from the application of the customary method of financing. As noted above, RSMo. §393.1700.2(2)(e) requires calculation of the net present values and a benefit determination of securitization in comparison to the “customary method of financing” – not “customary ratemaking,” as is implied by the wording of the issue. Please see Liberty’s response to Issue 5 below, for additional discussion of the NPV calculation.

RSMo. §393.1700;
Hall Dir., pp. 6 and 9; and
Niehaus Surreb., pp. 2-3.

3) Asbury

A) How much of the amounts, if any, that Liberty is seeking to securitize for Asbury would Liberty recover through traditional ratemaking?

Liberty's Verified Petition for Financing Order for authorization of the issuance of securitized utility tariff bonds regarding the energy transition costs associated with the retirement of Asbury must be considered by this Commission under RSMo. §393.1700, and, pursuant to this detailed and prescriptive statute, this listed issue is irrelevant and should not be addressed by the Commission in this proceeding. The presentation of Issue 3A suggests that the Commission should conduct a traditional cost of service ratemaking analysis of all of the costs that are proposed to be securitized and then compare this hypothetical outcome with the cost of securitization. If the Commission were to rely on such an analysis, it would commit reversible error. As explained in response to Issue 3C below, the Securitization Statute requires a comparison of "the net present value of the costs to customers that are estimated to result from the issuance of securitized utility tariff bonds and the costs that would result from the application of the traditional method of financing. . . ." RSMo. 393.1700.2(1)(f).

B) What is the appropriate method of customary ratemaking absent securitization?

The specific wording of this question is inappropriate as to "energy transition costs." The only statutory references to "customary" ratemaking in the Securitization Statute are in regard to "qualified extraordinary costs." *See* Section 393.1700.1(13), .2(2)(a), and .2(2)(e).

However, Liberty believes that in a general rate case proceeding, the Company traditionally would include the various AAO components related to the Asbury retirement costs as regulatory asset and liability balances in its respective rate base total. Furthermore, the Company would include the associated amortization expense of those components, and associated carrying costs,

in the Company's proposed revenue requirement. Thus, the "traditional method of financing" and recovery is represented by application of the Company's WACC.

RSMo. §393.1700;
Emery Dir. (EO-2022-0193), p. 7.

C) Under RSMo. 393.1700.2(1)(f), what is the "traditional method of financing"? What are the costs that would result "from the application of the traditional method of financing and recovering the undepreciated investment of facilities that may become securitized utility tariff costs from customers"?

In order for the Commission to issue a financing order for the Asbury costs, Liberty must present a "comparison between the net present value of the costs to customers that are estimated to result from the issuance of securitized utility tariff bonds and the costs that would result from the application of the traditional method of financing and recovering the undepreciated investment of facilities that may become securitized utility tariff costs from customers" and demonstrate "that the issuance of securitized utility tariff bonds and the imposition of securitized utility tariff charges are expected to provide quantifiable net present value benefits to customers." RSMo. 393.1700.2(1)(f). For this benefit comparison required by the Securitization Statute, the "traditional method of financing" means the utility carrying the costs on its own books and amortizing them over time, with the balance being assessed a carrying charge at Liberty's authorized WACC. Securitization is a financing alternative to this customary approach.

As demonstrated by Liberty's Petition, Direct Testimony, and Surrebuttal Testimony, \$106,412,968 is the net present value of the costs to customers that are estimated to result from the issuance of securitized utility tariff bonds, and \$137,509,415 is the net present value of the costs that would result from the application of the traditional method of financing and reflecting the energy transition costs in retail customer rates, demonstrating that the issuance of securitized utility tariff bonds and the imposition of securitized utility tariff charges are expected to provide

quantifiable net present value benefits to retail customers in the amount of \$31,096,447. Please see Liberty's response to Issue 5 below, for additional discussion of the NPV calculation.

RSMo. 393.1700;
DeCoursey Dir., pp. 4-9;
Hall Dir., pp. 8-11;
Emery Surreb., pp. 8-10, Schedule CTE-3 (Asbury).

D) What is the net book value of the retired Asbury plant?

The net book value of the retired Asbury plant is \$159,414,474, as calculated through May 2022.

Emery Surreb., p. 26, 34, Sched. CTE-2 (Asbury).

E) Was it reasonable and prudent for Liberty to retire Asbury?

Yes. It was reasonable and prudent for Liberty to retire Asbury on March 1, 2020. In addressing this issue, the question for the Commission may be described as follows:

...the company's conduct should be judged by asking whether the conduct was reasonable at the time, under all the circumstances, considering that the company had to solve its problem prospectively rather than in reliance on hindsight. In effect, our responsibility is to determine how reasonable people would have performed the tasks that confronted the company.²

Liberty's past major capital investments at Asbury were prudently chosen to save costs for Liberty's customers and comply with environmental regulations, based on what was known at the time those decisions were made. The Commission matters surrounding these decisions support a finding of prudence.

Moreover, the retirement of Asbury was reasonable in light of changes in the industry outlook of key market fundamentals and resulting benefits for Liberty's customers. The plant had

² Reed Surreb., p. 10, quoting *In the Matter of the Determination of In-Service Criteria for the Union Electric Company's Callaway Nuclear Plant and Callaway Rate Base and Related Issues. In the Matter of Union Electric Company of St. Louis, Missouri, for Authority to File Tariffs Increasing Rates for Electric Service Provided to Customers in the Missouri Service Area of the Company*, 27 Mo. P.S.C. (N.S.) 183, 192-193 (1985).

become economically obsolete and based on studies the decision to retire Asbury is expected to reduce customers' costs in nearly every individual year of the next two decades. In fact, there is no competent or persuasive evidence that based on what was known at the time decisions were made, it was not prudent to retire Asbury.

Doll Dir. (EO-2022-0193), all;
Doll Surreb., pp. 2-7;
Graves Dir. (EO-2-22-0193), all.
Graves Surreb., all;
Landoll Surreb., pp. 2-4;
Reed Surreb., all;
Rooney Dir. (EO-2022-0193), all.

F) What is the value of the Asbury environmental regulatory assets?

The Company incurred environmental costs that were settled and paid out by the Company for the removal of asbestos and retirement of the coal ash ponds at the Asbury plant. These environmental costs were identified as part of the legal obligations associated with the retirement of Asbury, and, with the Amended Report and Order in ER-2019-0374, Liberty was authorized to recover the same in a future proceeding.

Accordingly, the amounts associated with these costs – \$1,643,357 – should be recovered through the securitized bonds.

Emery Surreb., Sched. CTE-2 (Asbury), pp. 27-28.

G) What is the value of the Asbury fuel inventories?

The amount of \$1,532,832 represents the Missouri jurisdictional fuel inventory. This is Missouri's portion of the \$1,925,886 ordered to be deferred to a regulatory asset in Case No. ER-2020-0311. This matter is discussed further under Issue 3Q below (concerning "Basemat coal").

Emery Surreb., pp. 30-31, Sched. CTE-2 (Asbury).

H) What are the values of the Accumulated Deferred Income Tax (ADIT) and Excess ADIT?

The amount for the Asbury ADIT (NPV value utilizing 13 years) is (\$4,728,671). Liberty's calculation is made in accordance with the Securitization Statute (393.1700.2(3)(c)m).

The amount for the Asbury excess ADIT is (\$12,173,189). Liberty's excess ADIT amount contemplates all amounts that have been refunded to customers.

Emery Surreb., pp. 13-15, 31-33, Sched. CTE-2 (Asbury).

I) What is the value of the Asbury AAO regulatory liability?

The value of the Asbury AAO regulatory liability is \$43,475,988.

Emery Surreb., p. 33-38, Sched. CTE-2 (Asbury).

J) What are the likely Asbury decommissioning costs?

Liberty expects additional Asbury decommissioning costs in the Missouri jurisdictional amounts of \$3,541,054 (Phase 2) and \$5,665,687 (Phase 3).

In regard to potential salvage amounts associated with the Phase 3 demolition costs, it should be noted that using the estimated salvage costs as an offset to demolition costs in this securitization proceeding may actually work to the detriment of Liberty's customers. It may be more beneficial for customers to not include an offset for salvage value in the securitization bond amount, as those amounts could be more valuable to customers in reducing rate base, and the associated return, in a future rate case.

Landoll Dir. (EO-2022-0193), all;
Landoll Surreb., pp. 5-9;
Emery Surreb., Sched. CTE-2 (Asbury).

K) What are the likely Asbury retirement obligations?

Liberty expects additional Asbury asset retirement obligation costs in the Missouri jurisdictional amounts of \$2,837,588 (Asbestos) and \$18,445,096 (Combustion Residuals Rule (CCR) Impoundment).

Liberty will have certain asset retirement obligations (“ARO”) and demolition balances related to Asbury. The AROs will be incurred by Liberty and recovering them through securitization would decrease the costs otherwise paid by customers. Moreover, the Company proposes to track any difference between the securitized amount and actual ARO costs incurred so that any difference may be addressed in a future rate case.

Emery Surreb., pp. 11-13, 28-29, 33;
Landoll Surreb., all;
Landoll Dir. (EO-2022-0193), all;
Emery Surreb., Sched. CTE-2 Asbury.

L) What is the appropriate amount for Cash Working Capital?

In Case No. ER-2019-0374, the Commission issued an Amended Report and Order on July 23, 2020, requiring the Company to establish an Accounting Authority Order (“AAO”) with regard to the retirement of Asbury. This order required the Company to include cash working capital (“CWC”) amounts associated with Asbury.

Since the Company did not have an authorized CWC amount specific to Asbury, the Company made a reasonable estimate by calculating its Asbury CWC balance by taking the respective Asbury baseline revenue requirement amounts and determining what percentage it was of the total base rate revenue requirement amount authorized in that case. The Company then applied that percentage to the total amount of CWC approved in Case No. ER-2019-0374 to determine the amount of CWC in base rates associated with the Asbury generating plant. The appropriate amount for cash working capital is the (\$128,938) used by Liberty.

Emery Dir. (EO-2022-0193), pp. 6-7;
Emery Surreb., pp. 29-30.

M) Should Liberty’s recovery reflect a disallowance of the remaining cost of the Air Quality Control System (AQCS), and if so how much?

No. In 2014, Asbury was retrofit with an Air Quality Control Systems (“AQCS”) in order to continue operating in compliance with the Mercury Air Toxic Standards and the Cross State Air Pollution Rule. This retrofit included the addition of a circulating dry scrubber to reduce sulfur dioxide emissions, a pulsejet fabric filter to reduce particulate emissions, powder activated carbon injection to control mercury emissions, conversion from forced draft to balanced draft, a new stack, and the upgrade of the steam turbine to increase efficiency.

These investments were discussed in previous rate cases and resource planning proceedings and provided the intended results while they were in service. The decisions were “. . .reasonable at the time, under all the circumstances, considering that the company had to solve its problem prospectively rather than in reliance on hindsight.”³ Accordingly, no disallowance is appropriate in this case.

Landoll Dir., (EO-2022-0193), pp. 4-5;
Reed Surreb., all.

N) Should Liberty’s recovery reflect a disallowance for income tax deductions for Asbury abandonment?

No. OPC added \$16.5M to the AAO liability calculation, which is described by OPC as a tax benefit resulting from a Liberty write off of Asbury in 2020. However, this tax deduction is a normal timing item that is treated the same as any other ADIT item in rates. Specifically, OPC is not taking into account that a regulatory asset was also established for the net book value of Asbury. This regulatory asset has deferred taxes associated with it, as evidenced in this securitization filing. As this regulatory asset gets amortized, the amortization expense is added

³ Reed Surreb., p. 10, quoting *In the Matter of the Determination of In-Service Criteria for the Union Electric Company's Callaway Nuclear Plant and Callaway Rate Base and Related Issues. In the Matter of Union Electric Company of St. Louis, Missouri, for Authority to File Tariffs Increasing Rates for Electric Service Provided to Customers in the Missouri Service Area of the Company*, 27 Mo. P.S.C. (N.S.) 183, 192-193 (1985).

back for taxable income purposes – with no corresponding tax deduction because Asbury already qualified as an abandonment for tax purposes. OPC’s approach double counts the tax benefit.

Emery Surreb., p. 37.

O) Should Liberty’s recovery reflect a disallowance for labor at Asbury?

No. The Company’s AAO liability calculation did not include a balance for the labor of the Asbury employees because the labor was incurred without regard to the retirement of Asbury. All Asbury employees were retained and were either transferred to other departments within the Company or they stayed at Asbury to work on the decommissioning. Therefore, the labor expense was still incurred by Liberty in the act of providing service to Missouri customers.

Emery Surreb., p. 36.

P) Should Liberty’s recovery include amounts for abandoned environmental capital projects?

Yes. There are incurred costs in the amount of \$1,673,601 included in both CWIP and RWIP related to Asbury environmental capital projects undertaken to comply with upcoming regulations. Completion of these projects would have been required had the plant not been retired.

Emery Surreb., p. 26.

Q) Should Liberty’s recovery include basemat coal at Asbury?

Yes. A balance of \$1,532,832 represents the unrecoverable coal located at the bottom of the Asbury generating facility’s coal piles, which over time blends with the coal mat upon which all recoverable coal sits. This mat protects the recoverable coal from degradation that can occur when the coal has extended contact with the ground. The coal mat is necessary to reliably operate the plant.

Emery Surreb., p. 31.

R) Should Liberty recovery include non-labor Asbury retirement costs?

Yes. The Amended Report and Order in Case No. ER-2019-0374 ordered Liberty to track in the Asbury AAO liability any costs associated with the retirement of the Asbury plant, including dismantlement and decommissioning – Non-Empire labor excluded. The Company included \$3,959,602 related to incurred decommissioning costs and costs related to obsolete inventory through May 2022.

Emery Surreb., p. 36.

S) What is the amount of depreciation expense?

The appropriate amount of depreciation expense to be included in the Asbury regulatory liability is (\$23,480,289), which is computed based on the balances embedded in the current rates customers have been paying since Asbury's retirement.

Emery Surreb., pp. 36.

T) What are the appropriate carrying costs for Asbury?

Liberty should be allowed carrying costs related to its committed capital associated with Asbury's undepreciated asset balances. The pre-tax weighted average cost of capital ("WACC") should be used to calculate carrying costs as the Company will pay taxes on the proceeds from the issuance of the securitization bonds.

Emery Surreb., pp. 15-21;

Reed Surreb., pp. 20-24.

U) What is the appropriate rate(s) of return that should be used to calculate the amount of recovery?

The Company's most recently allowed rate of return is the appropriate carrying cost. In this case, that is the 6.77% WACC utilized in Liberty's last general rate case.

Emery Surreb., pp. 15-21;

Reed Surreb., pp. 20-24.

V) What is the appropriate discount rate to use to calculate the net present value of Asbury costs that would be recovered through traditional ratemaking?

Net present value, or NPV, is a calculation to quantify the total value of a series of cash flows at a specific point in time. Summarized at a high level, the NPV calculation sums future cash inflows and outflows associated with an investment, discounts the total at an appropriate rate to reflect the fact that the value of a payment depends, in part, on when the payment is made or received, and then adds the discounted net cash flows together.

The appropriate discount rate to use to calculate NPV of securitized utility tariff costs is the weighted average cost of capital of 6.77%, the basis that would be used by Liberty, if it amortized the costs itself. Please see Liberty's response to Issue 5 below, for additional discussion of the NPV calculation.

Emery Dir. (EO-2022-0193), pp. 13, 20;
Emery Surreb., p. 14.

4) What are the estimated upfront and ongoing financing costs associated with securitizing qualified extraordinary costs associated with Winter Storm Uri and the energy transition costs associated with Asbury?

As of the filing of testimony, the estimated upfront financing cost associated with securitizing the Winter Storm Uri costs is \$3,655,297, with ongoing financing costs estimated to be \$410,850 per year (or \$34,237 per month); and the estimated upfront financing cost associated with securitizing the Asbury costs is \$3,264,961, with the ongoing financing costs estimated to be \$343,039 per year (or \$28,587 per month).

Emery Dir. (EO-2022-0193), pp. 15-16;
Emery Surreb., Sched. CTE-1 and 3 (Asbury), Sched. CTE-1 and 3 (Storm Uri);
Niehaus Dir. (EO-2022-0193), pp. 6-7, 13, 16-17;
Niehaus Dir. (EO-2022-0040), pp. 6-7, 13, 16-17.

5) Would issuance of securitized utility tariff bonds and imposition of securitized utility tariff charges provide quantifiable net present value benefits to customers as compared to recovery of the securitized utility tariff costs that would be incurred absent the issuance of bonds?

Yes. It should be noted, however, that the wording of this issue does not utilize the statutory language and that the Securitization Statute does not require a showing of a particular amount or magnitude of benefits in order for the Commission to issue a financing order authorizing the issuance of securitized utility tariff bonds for Asbury and Storm Uri. Instead, the Securitization Statute requires Liberty only to “demonstrate that the issuance of securitized utility tariff bonds and the imposition of securitized utility tariff charges are expected to provide quantifiable net present value benefits to customers.” RSMo. §393.1700.2(1)(f) and (2)(e).

The parties who have expressed a view on this subject agree that issuance of securitized utility tariff bonds and imposition of securitized utility tariff charges would provide quantifiable net present value benefits to Liberty’s customers. Although Liberty and Staff use different inputs to their calculations, thus yielding somewhat different results, both show that the NPV of the benefits to customers from securitization is positive. In fact, both testify that the NPV of those benefits is expected to be quite large. As such, the requirement described in §393.1700.2(1)(f) and (2)(e) of the securitization statute is clearly met.

In its discussion of this subject, OPC conflates the determination of whether securitization creates net present value benefits with other, separate topics. Specifically, in its testimony, OPC describes various combinations of what balances Liberty should be allowed to securitize and what it would or would not be allowed to recover absent the issuance of bonds. Various inputs and approaches to calculating the NPV of customer benefits are postulated, including for example, a discount rate based on Liberty’s cost of debt, a discount rate based on the WACC of Liberty’s parent company, and a discount rate based on the estimated yield of 20-year utility bonds in the

market, each of which are paired with different balances that could be securitized, over different periods. At no point does OPC indicate what it believes the NPV benefits to customers would be, absent other qualifications. As such, OPC's testimony on this topic is actually testimony on other topics, such as what amount Liberty should be authorized to securitize or whether the recovery of carrying costs should be authorized and, if so, at what rate.

Liberty, therefore, does not believe this is a disputed issue that merits further consideration. Quantifying the specific NPV of the benefits from securitization serves no purpose other than determining whether the statutory requirement described in §393.1700.2(1)(f) and (2)(e) is met. Put another way, quantifying the specific amount of benefits to customers informs only whether Liberty should be allowed to issue bonds to recover its costs, not how much it should be allowed to recover. Since the parties that have offered a view agree on the only pertinent result of the benefits calculation - that the NPV of the benefits is positive- additional consideration of the relative merits of the parties' inputs to and results from their calculations is irrelevant and should not be undertaken by the Commission in this proceeding.

Simply for reference, and using Liberty's values and calculations, the quantifiable net present value of benefits to customers from securitization of the Asbury costs is \$31,096,447, and the quantifiable net present value of benefits to customers from securitization of the Winter Storm Uri costs is \$42,276,691.

Niehaus Surreb., pp. 2-3;
Emery Surreb., pp. 7-10, Sched. CTE-3 (Asbury), Sched. CTE-3 (Storm Uri).
Murray Rebuttal, pp. 3;

- A) What is the appropriate discount rate to use to calculate net present value of securitized utility tariff costs that would be recovered for Winter Storm Uri and Asbury through securitization?

See above.

6) Regarding any designated staff representatives, who may be advised by a financial advisor or advisors, what provisions or procedures should the Commission order to implement the requirements of Section 393.1700.2(3)(h)?

The Commission should issue a financing order consistent with the specimen financing orders attached to Liberty's Storm Uri and Asbury Petitions, including the "Designated Representative" section. The Securitization Statute prescribes a specific post-financing order review process. The Missouri General Assembly adopted the process prescribed in the Securitization Statute to create an appropriate level of Commission oversight in order to achieve the objectives of the statute, namely customer savings. Accordingly, there should not be additional protocols or procedures added to those proposed by Liberty in its specimen financing orders, as that could lead to delays in completing the transaction and thus increased customer costs.

Niehaus Dir. (Storm Uri), Sch. KN-4;
Niehaus Dir. (Asbury), Sch. KN-4;
Mosindy Surreb., pp. 3-9;
Niehaus Surreb., pp. 3-8.

7) What other conditions, if any, are appropriate and not inconsistent with Section 393.1700, RSMo (Supp. 2021), to be included in the financing order?

No such conditions have been recommended by the parties in Direct, Rebuttal, or Surrebuttal Testimony, and Liberty is not aware of any conditions that should be imposed at this time.

WHEREFORE, The Empire District Electric Company d/b/a Liberty respectfully submits this Statement of Positions and requests the issuance of a Financing Order authorizing Liberty to finance \$362,419,908 using securitized utility tariff bonds.

Respectfully submitted,

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

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CERTIFICATE OF SERVICE

I hereby certify that the above document was filed in EFIS on this 6th day of June, 2022,
and sent by electronic transmission to all counsel of record.

/s/ Diana C. Carter