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Empire's Portfolio, Asbury
Compliance, Conservation

Witness: Blake A. Mertens

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Sponsoring Party: The Empire District
Electric Company

Case No. EO-2018-0092

Date : March 13, 2018

**Before the Public Service Commission
of the State of Missouri**

Surrebuttal Testimony

of

Blake A. Mertens

March 13, 2018



Liberty Utilities[®]
EMPIRE DISTRICT

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OF
BLAKE A. MERTENS
THE EMPIRE DISTRICT ELECTRIC COMPANY
BEFORE THE
MISSOURI PUBLIC SERVICE COMMISSION
CASE NO. EO-2018-0092

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SURREBUTTAL TESTIMONY
OF
BLAKE A. MERTENS
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I. INTRODUCTION

Q. PLEASE STATE YOUR NAME, BY WHOM YOU ARE EMPLOYED, AND YOUR BUSINESS ADDRESS.

A. My name is Blake A. Mertens and my address is 602 Joplin Street, Joplin, Missouri, 64801. I am employed by Liberty Utilities Service Corp. as the Vice President Operations – Electric, at The Empire District Electric Company ("Empire" or "Company").

Q. DID YOU PREVIOUSLY FILE DIRECT TESTIMONY IN THIS PROCEEDING?

A. Yes. My professional background and qualifications are contained in that prior testimony.

Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY IN THIS CASE?

A. The purpose of my surrebuttal testimony is to respond to Rebuttal Testimony filed by the intervening parties in this docket on February 7, 2018. Specifically, my testimony will respond to issues raised by Mr. Martin Hyman, witness for the Missouri Department of Economic Development, Division of Energy (“DE”), Mr. Greg Meyer, witness for the

1 Midwest Energy Consumers Group (“MECG”), and Ms. Lena Mantle and Dr. Geoff
2 Marke, witnesses for the Office of the Public Counsel (“OPC”). My Surrebuttal
3 Testimony is broken down into four issues: (i) a response to the suggestions made by DE
4 witness Hyman about the Asbury employees that will be offered new positions and
5 training after the retirement of the Asbury facility; (ii) a response to MECG witness
6 Meyer’s allegation that Empire should have considered tax equity financing in its 2010
7 and 2013 Integrated Resource Planning (“IRP”) filings; (iii) a response to OPC witness
8 Mantle’s claims regarding the diversity of Empire’s generation fleet and the impact on
9 reliability of the Customer Savings Plan, and; (iv) a response to OPC witness Marke’s
10 assertion that the \$20-30 million environmental compliance costs may be “tempered” by
11 recent proposed rules and his request that the Commission take into account conservation
12 impacts in its consideration of the Customer Savings Plan.

13
14 **II. ASBURY EMPLOYEES**

15
16 **Q. IN HIS REBUTTAL TESTIMONY (P. 11-13), DE WITNESS HYMAN**
17 **DISCUSSES EMPIRE’S EMPLOYEES THAT ARE WORKING AT THE**
18 **ASBURY FACILITY. HOW MANY JOBS HAVE THERE BEEN AT ASBURY?**

19 A. At the time this case was filed, there were approximately 57 employees working at the
20 Asbury power plant. Of these, approximately 42 were union positions.

21
22 **Q. IF EMPIRE RETIRES ASBURY AS PROPOSED IN THIS CASE, WHAT WILL**
23 **HAPPEN TO THOSE JOBS?**

1 A. Those jobs at Asbury will be eliminated.

2

3 **Q. DO THE PROPOSED WIND FARMS OFFER THE POTENTIAL FOR NEW JOB**
4 **OPPORTUNITIES IN THE REGION?**

5 A. Yes. We currently estimate that 800 megawatts of wind turbines will require
6 approximately 40 jobs for their ongoing operation and maintenance. The final number
7 will depend on the relative location of the various farms and the size of the turbines
8 installed.

9

10 **Q. WHAT IS EMPIRE PROPOSING TO DO FOR ITS EMPLOYEES AT THE**
11 **ASBURY PLANT THAT WILL BE AFFECTED BY ITS RETIREMENT?**

12 A. Empire has committed to offer affected employees other employment opportunities
13 within the Company if they have not been able to bid to another job within the Company
14 by the time the Asbury facility ceases operations. The Company will also provide
15 training opportunities to these employees so they can transition to new jobs within the
16 Company. Empire is further investigating opportunities for affected employees to
17 become wind farm technicians if employees wish to pursue such a job.

18

19 **Q. HAS EMPIRE DISCUSSED THIS APPROACH WITH THE UNION THAT**
20 **REPRESENTS THESE EMPLOYEES?**

21 A. Yes. The Company engaged union leadership on multiple occasions to discuss the
22 scenarios and opportunities concerning employee transition as it relates to the Asbury
23 facility closure starting early in the third quarter of 2017. These discussions resulted in a

1 supplemental agreement to the existing union contract dated November 8, 2017 detailing
2 the transition plan for union workers. This agreement and transition plan attempts to
3 balance the needs of the Company to continue safe and reliable operations of the Asbury
4 plant while affording and assuring current employees of other job opportunities within
5 the Company while providing them the training they may need to perform their new job.

6
7 **Q. WHAT SUGGESTIONS DID DE WITNESS HYMAN PROVIDE IN HIS**
8 **REBUTTAL TESTIMONY RELATED TO EMPLOYEES?**

9 A. Mr. Hyman indicated that he is concerned about the economic development impact of the
10 relocation and retraining of Empire's former Asbury employees in the local community
11 around the Asbury plant. To help address any negative impact on economic
12 development, Mr. Hyman made several suggestions, including: (1) having Empire pay for
13 employee relocation expenses; (2) ensuring that any employees placed in new jobs do not
14 experience any reduction in salaries, or, in the alternative, should offer retraining for
15 another career; (3) sponsoring retraining opportunities for plant employees that seek
16 employment outside of Empire or its affiliates, as well as to residents of the communities
17 affected by the Asbury plant closure; (4) providing a one-time contribution to local
18 school districts to both mitigate the effects of lost property tax revenues and allow these
19 districts to revise their budgets, and; (5) pursuing available federal funding opportunities
20 for assisting communities surrounding coal-fired power plants.

21
22 **Q. HOW DOES EMPIRE RESPOND TO DE WITNESS HYMAN'S SUGGESTIONS?**

1 A. **(1) Relocation expenses** - At this time it is unclear whether any employees will have to
2 relocate. Empire's intention is not to require such relocation; however, if an employee
3 needs to relocate, the Company will follow its typical practice in offering relocation
4 reimbursement. If an employee chooses to pursue an opportunity somewhere else within
5 the Company at their discretion, any relocation costs would be borne by that employee.

6 **(2) Reduction in salaries, etc.** - Empire has committed to retraining opportunities for
7 employees as needed. However, Empire also has an obligation to pay reasonable salaries
8 to its employees. The result of this suggestion would be to require Empire to pay higher
9 wages for a job than what might be supported by the job itself. This approach does not
10 seem to appropriately balance the interests of these employees with those of our
11 customers.

12 **(3) Sponsoring training for external placement and to area residents** - Empire has
13 committed to provide job opportunities to ALL current Asbury employees somewhere
14 within the Company and does not intend to provide training for external opportunities
15 given that we have made this commitment. I might add that, to date, no employees have
16 requested such opportunities likely due to the status of Empire being a preferred
17 employer within the region.

18 **(4) One time contribution to local schools to mitigate property tax impacts** - This is
19 likely unnecessary since there will be new property taxes from the new wind turbine
20 assets that will benefit local schools and communities. After reviewing the initial Request
21 for Proposal results, discussed in greater detail in Mr. Timothy Wilson's Surrebuttal
22 Testimony, I expect that we are likely to have Missouri located projects which would
23 provide a benefit to local communities.

1 **(5) Pursuing federal grants for communities impacted by coal-fired power plant**
2 **closures** - Empire is willing to support such endeavors by local communities; however,
3 based on my experience Empire is likely limited in its ability to directly file for such
4 grants due to our investor owned utility status. That said, the decision to invest capital at
5 Asbury to meet the environmentally mandated rules is nearly upon us so I expect it would
6 be difficult to secure those funds in advance of the April 2019 compliance deadline for
7 the coal combustion residual rule.

8
9 **III. CONSIDERATION OF TAX EQUITY FINANCING IN PREVIOUS IRPS**

10
11 **Q. MECG WITNESS MEYER ARGUES IN HIS REBUTTAL TESTIMONY (P. 25-**
12 **26) THAT EMPIRE SHOULD HAVE CONSIDERED TAX EQUITY FINANCING**
13 **IN ITS 2010 AND 2013 IRP FILINGS WHEN IT WAS CONSIDERING THE**
14 **RECENT ENVIRONMENTAL COMPLIANCE UPGRADES AT THE ASBURY**
15 **PLANT. WERE YOU AN EMPIRE EMPLOYEE AT THE TIME THE 2010 AND**
16 **2013 IRP FILINGS WERE PREPARED?**

17 A. Yes, I was.

18
19 **Q. IS IT FAIR TO CONCLUDE THAT EMPIRE SHOULD HAVE CONSIDERED**
20 **TAX EQUITY FINANCING IN THE 2010 AND 2013 IRP FILINGS?**

21 A. No. As I think all parties would agree, use of tax equity financing by utilities is a very
22 new concept that has been used in only a handful of circumstances, most of which have
23 been by Empire's new parent company, Algonquin Power & Utilities Corp.

1 (“Algonquin”) with its Californian electric distribution utility. Mr. Meyer effectively
2 imputes Algonquin’s knowledge of the use of tax equity in a regulated utility context to
3 Empire, years prior to Algonquin’s ownership of Empire. Instead of criticizing Empire
4 for not considering tax equity financing in prior IRPs, I believe that Empire should be
5 commended for its willingness to consider what many would consider a cutting-edge
6 approach to delivering savings to customers via a tax equity partnership.

7
8 **IV. DIVERSITY OF EMPIRE’S PORTFOLIO AND THE RELIABILITY OF ITS**
9 **SYSTEM**

10
11 **Q. ON PAGES 16-18 OF HER REBUTTAL TESTIMONY, OPC WITNESS MANTLE**
12 **ASSERTS THAT EMPIRE’S RESOURCE MIX WILL NOT BE DIVERSE**
13 **ENOUGH AND WILL BE OVERLY RELIANT ON WIND GENERATION IF**
14 **THE CUSTOMERS SAVINGS PLAN IS ADOPTED. DO YOU AGREE WITH**
15 **THIS ASSERTION?**

16 A. No, I do not. As Ms. Mantle acknowledges on page 18 of her Rebuttal Testimony, after
17 the CSP is completed, Empire will have approximately 75% of its capacity available
18 through highly efficient natural gas fired power plants with additional hydro and coal
19 powered plants. This resulting resource mix will provide multiple fuel sources for base
20 load operations, allows for flexible operations to follow load, and quick-start for peaks to
21 meet our customers’ needs.

1 **Q. MS. MANTLE FURTHER ALLEGES THAT CUSTOMERS WILL BE AT RISK**
2 **AS A RESULT OF THE CSP BECAUSE EMPIRE WILL BE RELYING ON THE**
3 **SPP INTEGRATED MARKETPLACE TO PROVIDE RELIABLE ENERGY TO**
4 **ITS CUSTOMERS. DO YOU AGREE WITH HER VIEW?**

5 A. While I agree that Empire will continue to rely on SPP and its Integrated Marketplace for
6 reliability purposes, I do not agree that this reliability will be compromised. From the
7 time Empire helped form SPP in 1941, one of the major obligations of SPP has always
8 been to increase reliability for customers. Empire relies, and has for many years, on SPP
9 as the Regional Transmission Operator to operate the transmission system to provide
10 reliability for the entire regional grid, including Empire's customers. Empire's
11 generation fleet, and all other large generators within SPP, connect to the transmission
12 system and are dispatched by SPP through the Integrated Marketplace for grid reliability.
13 There would be no difference in transmission operations, nor SPP reliance, as a result of
14 the CSP.

15
16 **Q. OPC WITNESS MANTLE ALSO RECOMMENDS (REB., P. 19) THAT EMPIRE**
17 **SHOULD NOT ACQUIRE WIND GENERATION BECAUSE OTHER UTILITIES**
18 **IN SPP ARE DOING THE SAME AND WILL IMPACT THE COST OF**
19 **MAINTAINING EMPIRE'S RELIABILITY IN THE FUTURE. WHAT IS YOUR**
20 **REACTION TO THIS APPROACH?**

21 A. First, I do not believe that Empire constructing wind, even in an environment where
22 others may also do so, will impact reliability for Empire. SPP, as the RTO, must
23 maintain and follow reliability standards from NERC and FERC to ensure the reliability

1 of the transmission system to all its participants. As I stated above, the addition of the
2 proposed wind generation would not change the nature of Empire's reliance on SPP for
3 transmission reliability. The approach suggested by Ms. Mantle would seem to suggest
4 that Empire's customers not be afforded the opportunity to pursue new cost saving
5 strategies, merely because other utilities and their customers are being afforded that
6 opportunity. This is not a reason to dismiss resources that will provide benefits for
7 many years.

8
9 **Q. ON PAGE 3 OF HIS REBUTTAL TESTIMONY, OPC WITNESS MARKE**
10 **STATES THAT THE CUSTOMER SAVINGS PLAN IS "A COMPLETE**
11 **DEPARTURE FROM HOW EMPIRE HAS OPERATED TO DATE – NAMELY,**
12 **TO PROVIDE SAFE AND ADEQUATE SERVICE TO MEET ITS NATIVE**
13 **LOAD." DO YOU AGREE WITH THIS DESCRIPTION?**

14 **A.** No, I do not. As the Vice President of Operations – Electric at Empire, I take very
15 seriously my responsibility to ensure safe and reliable service to our customers. I would
16 not support the Customer Savings Plan if I believed that it would result in anything less
17 than that for our customers. Empire has focused and will always continue to focus on
18 providing safe and reliable service to its customers, there is no change.

1 **V. ASBURY ENVIRONMENTAL COMPLIANCE COSTS, DISMANTLEMENT**
2 **COSTS AND INVESTMENT HISTORY**

3
4 **Q. DID OPC WITNESS MARKE ADDRESS POTENTIAL CHANGES IN**
5 **ENVIRONMENTAL COMPLIANCE REGULATIONS?**

6 A. Yes. In an effort to downplay the reality facing Asbury's need to comply with the
7 Environmental Protection Agency's ("EPA") coal combustion residual ("CCR") rule, Dr.
8 Marke suggests that this compliance obligation could be affected by a draft rule. (Marke
9 Reb., p. 6)

10
11 **Q. WHAT IS THE RECENT DRAFT RULE THAT DR. MARKE CITES TO IN**
12 **FOOTNOTE 4 OF HIS TESTIMONY?**

13 A. The draft rule cited is a recent proposed rule that would allow the State of Oklahoma to
14 begin a coal combustion residual state permitting program.

15
16 **Q. IS THERE ANYTHING ABOUT THIS PROPOSED RULE THAT EXTENDS**
17 **THE APRIL 2019 DEADLINE FOR COMPLIANCE WITH THE COAL**
18 **COMBUSTION RESIDUAL RULE?**

19 A. Absolutely not. While I am not an attorney, it is my understanding that as of today, there
20 have been neither delays nor extensions to the deadlines within the CCR Rule as
21 promulgated in 2015. EPA has decided to reconsider certain provisions of the rule in a
22 process that will likely last through 2019. Any proposed revisions to the CCR Rule will
23 go through the standard notice and comment period. It would be reasonable to assume

1 this rule revision process will not be completed before the Location Restrictions Report
2 October 2018 deadline.

3
4 **Q. DOES THIS PROPOSED RULE EVEN AFFECT THE STATE OF MISSOURI OR**
5 **ANY COAL-FIRED GENERATION FACILITY LOCATED IN THE STATE OF**
6 **MISSOURI?**

7 A. No. The basis for this proposed rule is the Water Infrastructure Improvements for the
8 Nation (WIIN) Act, which authorized states to create their own permitting programs for
9 CCR disposal. Some states, including Kansas and Oklahoma, have started the process to
10 get an approved plan from the EPA, Missouri has not. Thus, the Missouri Department of
11 Natural Resources (MDNR) does not currently have a program for permitting and
12 enforcement of the CCR Rules.

13
14 **Q. DOES THIS “RECENT DRAFT RULE” RELATED TO THE STATE OF**
15 **OKLAHOMA CHANGE ANY OF THE COMPLIANCE COSTS RELATED TO**
16 **THE ASBURY FACILITY?**

17 A. No, it does not. Asbury still faces a situation where \$20-30 million must be invested by
18 April 2019 to meet the requirements of the coal combustion rule.

19
20 **Q. DID OPC WITNESSES ROBINETT AND RILEY RAISE ANY OTHER ISSUES**
21 **RELATED TO ASBURY COSTS?**

22 A. Yes. Both witnesses claimed that dismantlement costs were not taken into consideration
23 as part of the Customer Savings Plan (“CSP”).

1 **Q. HOW WERE DISMANTLEMENT COSTS CAPTURED IN THE GFSA?**

2 A. Dismantlement costs represent sunk costs, meaning that these costs will have to be paid
3 by customers whether Asbury runs for another 2 years, 20 years or anything in between;
4 therefore, they are not included in the financial modeling analysis. However, we do not
5 expect these costs to be material in the greater Generation Fleet Savings Analysis in Mr.
6 McMahon's testimony.

7

8 **Q. TURNING TO ASBURY'S INVESTMENT HISTORY, MECG WITNESS**
9 **MEYER (REB., P. 25-26) CLAIMS THAT EMPIRE MAY HAVE BEEN**
10 **"AWARE" THAT ENVIRONMENTAL RETROFITS WOULD ONLY BE USED**
11 **FOR A SHORT PERIOD OF TIME. HOW DO YOU RESPOND?**

12 A. Mr. Meyer's statement is completely false. Empire has worked extremely diligently to
13 assess the different environmental regulations that have been promogulated over the past
14 decade to find the best solution for its customers. Environmental related investments
15 were contemplated as far back as the mid-2000's, a fact that OPC Witness Robinett also
16 refers to. The fact is that Empire has worked with various stakeholders through a number
17 of integrated resource planning dockets, rate cases and other regulatory filings to discuss
18 the need for these improvements and all parties agreed they were the right decisions at
19 the time.

20

21 **VI. CONSERVATION IMPACTS**

22

23 **Q. OPC WITNESS MARKE ASKS THAT THE COMMISSION TAKE INTO**
24 **ACCOUNT THE "CONSERVATION IMPACT" OF EMPIRE'S PROPOSED**

1 **ACQUISITION OF WIND GENERATION. (REB., P. 26) WHAT DOES HE**
2 **MEAN BY THIS?**

3 A. I believe he is suggesting that wind generation may have an impact on various species,
4 such as birds and bats.

5
6 **Q. SHOULD THE COMMISSION BE CONCERNED ABOUT THIS ISSUE?**

7 A. It certainly may want to be aware of the issue. However, any such impacts are fully
8 taken into account during the extensive environmental and biological studies that will be
9 completed before placement of turbines is finalized and construction is allowed to begin.
10 Empire intends to follow the U.S. Fish and Wildlife Service’s Land-Based Wind Energy
11 Guidelines and other siting guidelines as applicable. Work has already started on this
12 process for the Empire developed sites as well as the sites bid into Empire’s Request for
13 Proposals.

14
15 **Q. DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?**

16 A. Yes, it does.

AFFIDAVIT OF BLAKE A. MERTENS


STATE OF MISSOURI)
) ss
COUNTY OF JASPER)

On the 12th day of March, 2018, before me appeared Blake A. Mertens, to me personally known, who, being by me first duly sworn, states that he is Vice President – Electric Operations of Empire District – Liberties Utilities Central Region and acknowledges that he has read the above and foregoing document and believes that the statements therein are true and correct to the best of his information, knowledge and belief.



Blake A. Mertens

Subscribed and sworn to before me this 12th day of March, 2018.



Notary Public

My commission expires: Nov. 16, 2018

