

Exhibit No.:	
Issues:	Securitization
Witness:	James Owen
Sponsoring Party:	Renew Missouri Advocates
Type of Exhibit:	Surrebuttal Testimony
Case No.:	EO-2022-0193
Date Testimony Prepared:	May 27, 2022

MISSOURI PUBLIC SERVICE COMMISSION

FILE NO. EO-2022-0193

SURREBUTTAL TESTIMONY

OF

JAMES OWEN

ON

BEHALF OF

RENEW MISSOURI ADVOCATES

May 27, 2022

TABLE OF CONTENTS

Testimony	Page
Introduction	3
The Securitization Statute	6
Responding to the Arguments Raised by OPC	7
Previous Public Service Commission Decisions	14
Service of the Public Interest	17

1 **Introduction**

2 **Q: Please state your name, title, and business address.**

3 A: James Owen, Executive Director, Renew Missouri Advocates d/b/a Renew Missouri (“Renew
4 Missouri”), 409 Vandiver Dr. Building 5, Suite 205, Columbia, MO 65202.

5 **Q: Please describe your current position, your education, and background.**

6 A: Renew Missouri is an advocacy group based in Missouri that appears before regulatory agencies
7 such as the Missouri Public Service Commission (“PSC” or the “Commission”), the Kentucky
8 Public Service Commission (“KPSC”), and the Kansas Corporation Commission (“KCC”) in the
9 role as expert witnesses on clean energy policy. Our work involves engaging as intervenors on
10 utility rate cases, applications for certificates of convenience and necessity (“CCNs”), merger and
11 acquisition, Accounting Authority Orders (“AAOs”), and energy efficiency investment portfolios.
12 Renew Missouri routinely engages in workshops, providing comments and serving on panels before
13 Commissioners, regulators, and other stakeholders. Most recently, we engaged in dockets involving
14 co-generation rulemaking as well as utility responses to the COVID-19 crisis. I have provided
15 testimony before these agencies on general policy involving the generation, transmission, and
16 distribution of power. Attached as Schedule JO-1 is a list of my case participation. We have also
17 lent our expertise and knowledge on legislative matters between the two states that includes issues
18 ranging from energy efficiency investments to securitization of debt held by utility companies, as
19 well as community solar.

20 In regards to my background, I am an attorney by trade and was appointed as an Associate
21 Circuit Court Judge in Webster County, Missouri prior to my experience in utility ratemaking. As
22 far as my education goes, I obtained a law degree from the University of Kansas in Lawrence,
23 Kansas as well as a Bachelor of Arts in Business and Political Science from Drury University in
24 Springfield, Missouri. Before the PSC, I have provided general testimony on rate increases, rate

1 design, and energy efficiency portfolios as well as assisted intervening groups with comments on
2 utility-filed integrated resource plans. I have also assisted intervenors in Kansas on providing
3 comments on Evergy's IRP filed with the KCC.

4 **Q: What work does Renew Missouri conduct in the field of energy policy?**

5 A: In my role as Executive Director at Renew Missouri, I continue to provide information and
6 testimony on pieces of proposed legislation that may impact how utility regulators approach energy
7 efficiency and renewable energy. Most recently, Renew Missouri staff and myself have been
8 developing and offering educational programs on topics related to energy law and policy in
9 Missouri on topics including demand response aggregation, accounting authority orders, and our
10 year-end update covering state and federal rulemakings, PSC appeals, and energy
11 efficiency/renewable energy updates. We have provided nearly sixty hours of continuing legal
12 education credit over the past three years.

13 **Q: Please summarize your professional experience in the field of utility regulation.**

14 A: Before becoming Executive Director of Renew Missouri, I served as Missouri's Public Counsel, a
15 position charged with representing the public in all matters involving utility companies regulated
16 by the State of Missouri. While I was Public Counsel, I was involved in several rate cases, CCN
17 applications, mergers, and complaints as well as other filings. As Public Counsel, I was also
18 involved in answering legislators' inquiries regarding legislation impacting the regulation of public
19 utilities.

20 **Q: Have you been a member of, or participant in, any workgroups, committees, or other**
21 **groups that have addressed electric utility regulation and policy issues?**

22 A: In May 2016, I attended the National Association of Regulatory Utility Commissioners
23 ("NARUC") Utility Rate School. In the Fall of 2016, I attended Financial Research Institute's 2016
24 Public Utility Symposium on safety, affordability, and reliability. While I was Public Counsel, I

1 was also a member of the National Association of State Utility Consumer Advocates (“NASUCA”)
2 and, in November of 2017, the Consumer Council of Missouri named me the 2017 Consumer
3 Advocate of the Year.

4 **Q: What is the purpose of your testimony?**

5 A: On behalf of Renew Missouri, I wish to respond to the testimony provided by the Office of Public
6 Counsel (“OPC”) witnesses Dr. Geoff Marke and Lena Mantle, two professionals I worked with
7 in my role as Public Counsel. I respectfully disagree with their characterizations of certain
8 matters as portrayed in their rebuttal testimony. I will address the arguments made about the
9 prudence of The Empire District Electric Company d/b/a Liberty’s (“Liberty” or the “Company”)
10 decision to retire the Asbury Plant early and replace it with wind resources, the fairness of this
11 decision to customers, and how these decisions and the securitization of costs related to the
12 retirement of Asbury serve the public interest. I will conclude with my recommendation based on
13 the interests of Liberty customers and service of the public interest in Missouri.

14 **Q: How would you summarize your testimony?**

15 A: Simply put, I believe the position of the Office of Public Counsel seeks to scrutinize the Company’s
16 application by re-litigating decisions previously made by Liberty – and approved by the
17 Commission – to invest in the future of its customers by increasing its capacity of renewable energy
18 and by closing down the Asbury coal plant. There is a strong public interest served by the course
19 that the Company has pursued in this strategy that is completely overlooked by OPC’s witnesses.
20 Further, the Office of Public Counsel suggests in its arguments that the Missouri Legislature wasn’t
21 acutely aware of other mechanisms used for recouping costs that were already available to utilities
22 regulated by the PSC. The Legislature was aware of the other mechanisms available in this
23 regulatory toolbox and still achieved overwhelming bipartisan support for securitization as
24 something available to the PSC and the entities it regulates.

1 **The Securitization Statute**

2 **Q: What is your knowledge of the legislative process that resulted in the securitization law?**

3 A: Renew Missouri has an active role in the Missouri Legislature as registered lobbyists, and
4 advocated for the securitization legislation from 2019 until it was signed into law by Governor
5 Mike Parson in the summer of 2021. In that role, we were apprised of the various drafts and
6 amendments that inevitably led to a finalized bill that was truly agreed upon and passed by the
7 Legislature. I would note that all but one House member voted for the legislation in the lower
8 Chamber, and the legislation passed the State Senate with a 27-3 vote. In the end, the Missouri
9 Legislature determined that the concept of securitization was in the best interest of the public.

10 **Q: Why does Renew Missouri support this legislation and the concept of securitization?**

11 A: We have seen securitization successfully deployed in other states – such as Wisconsin¹ and
12 Michigan² – to successfully compensate utilities for closing coal plants earlier than planned. It is
13 our belief that coal plants are not only destructive to air quality and overall public health, but are
14 fundamentally more expensive than cleaner forms of energy generation. Renew Missouri takes
15 the position that any effort to shut down coal plants in return for a stronger reliance on renewable
16 energy such as wind is a positive benefit to ratepayers, both in terms of dollars spent and in other
17 indirect benefits. Tools like securitization that encourage utilities in this transition are positive for
18 the public interest.

19 **Q: How do you know that service of the public interest was the Legislature’s intention?**

¹ In PSC Docket 5-UR-109, the Wisconsin PSC approved a \$100 million plan to refinance the cost of shuttering Wisconsin Electric’s Pleasant Prairie coal-burning plant. In a statement, the consumer advocate for Wisconsin spoke favorably of securitization: "As Wisconsin utilities look to spend billions over the next decade swapping fossil fuel power plants for cleaner technology, we strongly support securitization and other innovative financing tools as a way to soften the impact to customers that comes from retiring these facilities years or even decades earlier than intended," Citizen's Utility Board Executive Director Tom Content said in a statement.

² In Michigan, Docket No. U-20165 approved Consumers Energy’s proposal to use \$688 million in securitized bonds to retire the D. E. Karn coal plant—a plan that will save customers [\\$124 million](#).

1 A: The language of the law says the PSC must issue a finding that any utility petition to utilize
2 securitization must include a finding that such a request is in the public interest.

3 **Q: What does the statute say specifically?**

4 A: Section 393.1700 RSMo authorizes Securitization in Missouri. The statute states the following:³

5 (c) A financing order issued by the commission, after a hearing, to an electrical
6 corporation shall include all of the following elements: a. The amount of
7 securitized utility tariff costs to be financed using securitized utility tariff bonds
8 and a finding that recovery of such costs is just and reasonable and in the public
9 interest. The commission shall describe and estimate the amount of financing costs
10 that may be recovered through securitized utility tariff charges and specify the
11 period over which securitized utility tariff costs and financing costs may be
12 recovered; b. A finding that the proposed issuance of securitized utility tariff
13 bonds and the imposition and collection of a securitized utility tariff charge are just
14 and reasonable and in the public interest and are expected to provide quantifiable
15 net present value benefits to customers as compared to recovery of the components
16 of securitized utility tariff costs that would have been incurred absent the issuance
17 of securitized utility tariff bonds. Notwithstanding any provisions of this section
18 to the contrary, in considering whether to find the proposed issuance of securitized
19 utility tariff bonds and the imposition and collection of a securitized utility tariff
20 charge are just and reasonable and in the public interest, the commission may
21 consider previous instances where it has issued financing orders to the petitioning
22 electrical corporation and such electrical corporation has previously issued
23 securitized utility tariff bonds....

24 As the statutory language illustrates, a finding that securitization serves the public
25 interest is integral to this decision.

26 **Q: Why do you believe it is necessary to bring this language to the forefront?**

27 A: It is my belief that no parties in rebuttal sufficiently addressed this. Specifically, OPC's argument
28 seems to assert that using securitization in the context proposed in this case is contrary to the
29 public interest, which Renew Missouri believes is necessary to specifically rebut.

30 **Responding to the Arguments Raised by OPC**

31 **Q: Will you please summarize the portions of OPC testimony that you wish to respond to?**

³ § 393.1700(c)(a)-(b) RSMo.

1 A: OPC argues that the Commission should reject Liberty’s proposal to include any costs related to
2 the Asbury coal plant in its securitization application. A substantial piece of OPC’s position rests
3 on the fact that Liberty installed a significant amount of ratepayer-funded environmental upgrades
4 in the Asbury plant in the last decade and now has shut the plant down altogether. OPC
5 historically has taken the stance that plants, including Asbury, should be used as long as they are
6 able to produce power and/or capacity. In regard to the securitization of Asbury, OPC believes
7 that shareholders should be responsible for the costs because other actions the PSC has approved
8 – approving the plant closure, approving the construction of the wind farms, approving the
9 prudence of wind farms for the purpose of rate base – were wrongly decided. OPC’s primary
10 concern is that shareholders have seen, and continue to enjoy, a windfall while ratepayers take the
11 risk. For example, OPC witness Dr. Marke opines:⁴

12 I have seen no evidence that APUC/Liberty/Empire intends to deal with the self-
13 imposed stranding of the Asbury power plant (fifteen-years before the end of its
14 planned life) in a manner that is fair and responsible to its customers. Instead,
15 APUC/Liberty/Empire continue to want to earn a profit and recover the remaining
16 balance on an asset that is no longer used or useful. Again, this action favors
17 investors and penalizes Empire’s captive customers.

18 **Q: What is your primary concern with this argument?**

19 A: OPC’s arguments fail to take into consideration the larger public interest that must be considered
20 in deciding this case and fail to see the value securitization offers to the public at large. Rather,
21 OPC’s reasoning rests on relitigating previously decided PSC decisions that are final and not
22 currently ripe for reconsideration.

23 Before addressing how securitization in this case serves the public interest, I feel that it is
24 necessary to discuss OPC’s challenges to the underlying decisions that have led up to this
25 application. As outlined in the Rebuttal Testimony of Staff witness J. Luebbert, Liberty first

⁴ EFIS File No. EO-2022-0193, Doc. No. 22.

1 proposed the retirement of Asbury and its replacement with wind resources in 2017 with its
2 application for approval of its Customer Savings Plan.⁵ Subsequently, Liberty filed applications
3 for CCNs for the acquisition of 600 MW of wind resources.⁶ Liberty’s decision to retire Asbury
4 was intertwined with its plan to acquire a large amount of wind resources, as the benefits to
5 customers seen through these actions would be largely attributed to reduced SPP expense because
6 of decreased fuel costs and increased off-system sales revenues.⁷ Liberty witness Aaron Doll
7 explained that modeling conducted in the Company’s 2019 IRP demonstrated that retiring Asbury
8 would result in significant customer savings.⁸ These cases have all been resolved and stand as
9 settled precedent.

10 **Q: Why does OPC raise these arguments again?**

11 A: OPC argues it was imprudent to retire Asbury early after investing substantial resources into
12 environmental upgrades, despite the fact the PSC has already decided otherwise. Further, putting
13 forward this unsuccessful argument again ignores the fact these environmental upgrades were
14 insufficient to satisfy federal regulations. Additionally, the Asbury plant, even with these
15 upgrades, remained detrimental to the health and well-being of the neighboring communities,
16 despite Dr. Marke’s assertion that Asbury was “the cleanest coal plant in the nation.”⁹ This
17 reminds me of other oxymorons like “jumbo shrimp” or “awfully good.”

18 **Q: Is there evidence that Asbury’s efforts were insufficient despite OPC’s protestations?**

19 A: Yes. In fact, the Company previously estimated that it would have had to invest another \$20
20 million in environmental upgrades to comply with the Environmental Protection Agency’s coal

⁵ EFIS File No. EO-2018-0092; EFIS File No. EO-2022-0193, Doc. No. 29.

⁶ EFIS File No. EA-2019-0010; EFIS File No. EA-2019-0118. (Consolidated into EFIS File No. EA-2019-0010).

⁷ EFIS File No. EO-2018-0092, Doc. No. 3.

⁸ EFIS File No. EO-2022-0193, Doc. No. 4.

⁹ EFIS File No. EO-2022-0193, Doc No. 22.

1 combustion residuals rule.¹⁰ This is significant, given the extensive environmental upgrades the
2 Asbury Plant already underwent. Company witness Drew Landoll testified that a selective
3 reduction system was installed in 2008 to reduce nitrogen oxide emissions and in 2014, the Plant
4 was retrofitted with an Air Quality Control System that included the addition of a circulating dry
5 scrubber to reduce sulfur dioxide emissions, a pulsejet fabric filter to reduce particulate
6 emissions, powder activated carbon injection to control mercury emissions, conversion from
7 forced draft to balanced draft, a new stack, and the upgrade of the steam turbine to increase
8 efficiency.¹¹ Despite efforts made to keep the plant compliant with environmental regulations,
9 these upgrades were not enough. Company witness Aaron Doll testified that the upgrades
10 necessary to render the Asbury Plant compliant with the coal combustion residuals rule would
11 have still been extensive.¹² Further, the Company noted that Asbury had significant non-fuel
12 operations and maintenance costs that overwhelmed the plant's energy margin.¹³ These factors,
13 coupled with the existence of lower-cost alternatives for meeting the needs of Liberty customers,
14 led the Company to conclude that Asbury was no longer a cost-effective resource for customers.¹⁴

15 **Q: Would you say the Company's decision to shut down Asbury reflects larger utility trends?**

16 A: Liberty's determination that continuing to operate Asbury would be uneconomic given these
17 factors is consistent with trends seen globally. In fact, experts at the Rocky Mountain Institute
18 have estimated 39% of global coal capacity is already uncompetitive relative to renewables with
19 storage, and this number will increase to 78% by 2025.¹⁵ The authors of this report argue that this

¹⁰ EFIS File No. EO-2018-0092, Doc. No. 228.

¹¹ EFIS File No. EO-2022-0193, Doc. No. 3.

¹² EFIS File No. EO-2022-0193, Doc. No. 4.

¹³ EFIS File No. EO-2019-0049, Doc. No. 22.

¹⁴ *Id.*

¹⁵ Paul Bodnar, Matthew Gray, Tamara Grbusic, Steve Herz, Amanda Lonsdale, Sam Mardell, Caroline Ott, Sriya Sundaresan, and Uday Varadarajan, "How to Retire Early: Making Accelerated Coal Phaseout Feasible and Just," Rocky Mountain Institute, 2020, <https://rmi.org/insight/how-to-retire-early>.

1 statistic would be far higher if the full environmental and social benefits of coal phaseout were
2 considered, and also that the climate benefits, avoided costs of sickness, premature deaths, lost
3 productivity from air pollution, losses in agricultural yields, and the degradation of natural
4 ecosystems and waterways are not reflected in the relative prices paid by customers in most
5 regions.¹⁶ This conclusion is reinforced by US Environmental Protection Agency estimates,
6 which conclude that the price of coal-powered electricity in the United States would rise by at
7 least 50% if public health costs were accounted for.¹⁷ Finally, a 2020 study found that when
8 public health and environmental impacts are considered, the economic benefits of phasing out
9 coal exceed costs almost everywhere.¹⁸ These facts are no different from the case of the Asbury
10 plant, where data shows that prior to its retirement, the Asbury plant was responsible for six
11 deaths, three heart attacks, sixty-seven asthma attacks, three hundred and eleven lost work days,
12 and four cases of acute bronchitis per year.¹⁹ The same data also demonstrates a poverty rate
13 almost double the state average within three miles of the Asbury Plant.²⁰ These statistics are
14 demonstrated in the graphics below:

¹⁶ *Id.*

¹⁷ *Id.* (Citing State and Local Energy and Environment Program, Public Health Benefits per kWh of Energy Efficiency and Renewable Energy in the United States: A Technical Report (Washington, D.C.: US Environmental Protection Agency, 2019), <https://www.epa.gov/sites/production/files/2019-07/documents/bpk-report-final-508.pdf>; and Lazard’s Levelized Cost of Energy Analysis—Version 13.0 (New York: Lazard, 2019), <https://www.lazard.com/media/451086/lazards-levelized-cost-of-energy-version-130-vf.pdf>.)

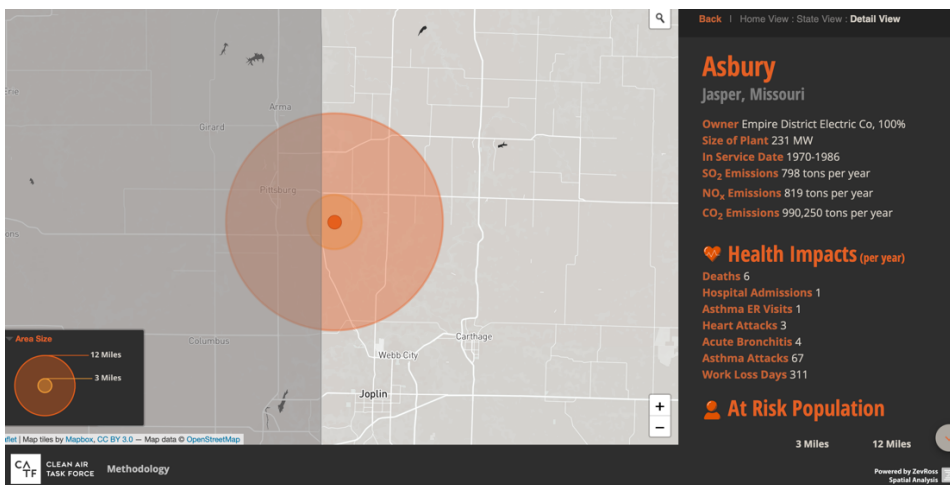
¹⁸ *Id.* (Citing Sebastian Rauner, Nico Bauer, Alois Dirnaichner, Rita Van Dingenen, Chris Mutel, and Gunnar Luderer, “Coal-Exit Health and Environmental Damage Reductions Outweigh Economic Impacts,” *Nature Climate Change* 10 (2020): 308–12, <https://www.nature.com/articles/s41558-020-0728-x>.)

¹⁹ The Toll From Coal Tool, Clean Air Task Force, accessed at [https://www.tollfromcoal.org/#/map/\(title:2076/detail:2076/map:2076/MO\)](https://www.tollfromcoal.org/#/map/(title:2076/detail:2076/map:2076/MO)).

²⁰ *Id.*

At Risk Population

	3 Miles	12 Miles
Population	2,324	38,294
Number of Children	652	10,663
Number of Schools	--	26
Hospitals	--	1
Nursing Homes	0	5
Places of Worship	--	5
People of Color vs State Average	11% vs. 18%	11% vs. 18%
Poverty Rate vs State Average	30% vs. 16%	22% vs. 16%



The Toll From Coal Tool, accessed at [https://www.tollfromcoal.org/#/map/\(title:2076//detail:2076//map:2076/MO\)](https://www.tollfromcoal.org/#/map/(title:2076//detail:2076//map:2076/MO)).

1 It is my belief that, while Dr. Marke accurately states that the Liberty service territory is
 2 disproportionately low-income, that other direct and indirect costs to these ratepayers must be
 3 considered by this Commission in making a decision about whether to issue incentives to Liberty
 4 for shutting down the Asbury plant.

5 **Q: Have you testified before about the actual cost savings of retiring the Asbury plant?**

1 A: Yes, in Liberty’s initial CCN for the construction of (then) 800MW of wind power generation²¹, I
 2 testified that retiring Asbury allows the company to save O&M costs and avoid spending
 3 millions of dollars to complete additional, required environmental compliance costs necessary to
 4 keep Asbury open. In response to Sierra Club Data Request 1-03 in that case, Liberty provided
 5 the estimated capital costs for compliance with the current CCR Rules shown in the table below.

<u>Budget</u>	<u>Scope</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
PA0034	Ash Landfill	5,783,000			
PA0035	Ash Conveyance System	13,018,000			
PA0038R	Ash Impoundment Closure (Retirement Dollars)	5,102,000			12,810,000

6
 7 As I noted then, Liberty was able to avoid the costs in lines PA0034 and PA0035 entirely
 8 with the early retirement of Asbury.²² Considered together, all of these factors eliminate the
 9 detriments to retiring the facility and support the benefit of additional cost savings to customers. I
 10 stand by this analysis to refute OPC’s assertion that the closing of Asbury was somehow contrary
 11 to the interests of ratepayers.

12 **Q: What does OPC witness Mantle allege in regard to the benefit that the Asbury plant**
 13 **provided to customers?**

14 A: Ms. Mantle argues that while the Asbury plant was uneconomic by the standards of monetary
 15 economics of the SPP market, that it was not uneconomic when factoring in the reduction of price
 16 variability and reliability risk that the plant provided.²³ In addition, Ms. Mantle states that the
 17 Asbury plant went from being a valuable asset to customers to a drain on their wallets.²⁴

18 **Q: How do you respond?**

²¹ See EFIS File No. EO-2018-0092.
²² Liberty Response to Sierra Club Data Request 1-03 in EFIS File No. EO-2018-0092.
²³ EFIS File No. EO-2022-0193, Doc. No. 20.
²⁴ *Id.*

1 A: Ms. Mantle’s argument that the Asbury plant still held great value to customers despite being
2 uneconomic by monetary standards is too narrow and does not factor in the substantial interests,
3 in addition to the monetary economics, that render the Asbury plant uneconomic and unable to
4 serve the interests of Liberty customers and the greater public. As addressed above, the health and
5 environmental impacts of operating a coal plant, if properly weighed in, substantially change this
6 analysis. In addition, it is important to consider the value of the Company’s decisions in
7 furthering the established public policy of the Commission as well as the state of Missouri, which
8 I will discuss in more depth below. I believe that Ms. Mantle’s conclusion is incorrect and
9 incomplete without factoring in these other considerations.

10 **Previous Public Service Commission Decisions**

11 **Q: How have previous PSC decisions addressed OPC’s concerns about the decision to retire**
12 **Asbury and replace it with wind resources?**

13 A: The decision to retire Asbury early and replace it with wind resources furthers what the
14 Commission has determined to be the state public interest. The PSC has consistently concluded
15 that “... customers and the general public have a strong interest in the development of economical
16 renewable energy sources to provide safe, reliable, and affordable service while improving the
17 environment and reducing the amount of carbon dioxide released into the atmosphere.”²⁵ Despite
18 OPC’s arguments that Liberty’s resource modeling was inadequate (or even manipulated)²⁶ and
19 that the 600 MW of wind resources were not needed, these issues are settled. In File No. EO-
20 2018-0092, the Commission found that, “Empire’s proposed acquisition of 600 MW of additional

²⁵ EFIS File No. EA-2016-0208, Doc. No. 126; EFIS File No. EA-2015-0256, Doc. No. 84.

²⁶ EFIS File No. EO-2022-0193, Doc. No. 20.

1 wind generation assets is clearly aligned with the public policy of the Commission and this
2 state.”²⁷ Further, the Commission stated the following:²⁸

3 Empire presented credible and persuasive evidence that the CSP, if implemented
4 as contemplated in the Joint Position, would generate customer savings in the
5 approximate amount of \$169 million over 20 years and \$295 million over 30 years,
6 relative to Empire’s current resource plan, and significantly reduce financial risk
7 for those customers.... While the Commission cannot make the legal conclusion
8 that Empire requests, the Commission finds that the millions of dollars in customer
9 savings and the addition of renewable wind energy resulting from the CSP and the
10 Joint Position could be of considerable benefit to Empire’s customers and the
11 entire state.

12 Later, in the Company’s CCN application to construct the contemplated wind projects,
13 the Commission stated that:²⁹

14 Even though Empire does not have an immediate need for more generation
15 capacity to meet its load, the evidence showed that the Wind Projects would
16 provide benefits to Empire’s customers.... The evidence shows that the benefits
17 of the Wind Projects, including the likely reduction in revenue requirement of
18 \$169 million over 20 years, diversifying Empire’s energy supply, replacing the
19 wind generation purchase agreements that will expire, and providing in-demand
20 renewable energy, outweigh the costs and risks of the projects. Therefore, the
21 Commission finds that there is a need for the Wind Projects.

22 Finally, the Commission explicitly rejected OPC’s argument that the investment in these
23 wind assets was too risky, citing Liberty’s comprehensive portfolio analysis using industry-
24 standard modeling software, detailed and wide-ranging scenarios to test risk, and a previous
25 Commission determination that the addition of wind generation to Liberty’s portfolio
26 significantly reduces financial risk to its ratepayers.³⁰ Simply put, OPC’s arguments against
27 allowing securitization of costs related to the retirement of Asbury are based on the same
28 arguments that the Commission has rejected in the past. Issuing a decision based on the

²⁷ EFIS File No. EO-2018-0092, Doc. No. 228.

²⁸ *Id.*

²⁹ EFIS File No. EA-2019-0010, Doc. No. 168.

³⁰ *Id.*

1 subversion of this precedent would be unsound public policy and would unsettle the consistency
2 that parties have and continue to rely on from previous decisions.

3 **Q: Are there other values that are presented by Liberty’s addition of 600 MW of wind resources?**

4 **A:** Yes. Increased employment opportunities associated with wind energy development is a significant
5 benefit and consistent with the findings in an American Wind Energy Association (“AWEA”)
6 report that the role of wind turbine technician is the fastest growing occupation in the country.³¹
7 Beyond adding jobs, developing wind generation will bring benefits to rural and low-income areas.
8 More than 99% of wind power capacity is located in rural areas, with 71% located in low-income
9 counties.³² This installed capacity is often associated with lease payments including more than \$245
10 million annually in landowner lease payments to local farmers and ranchers in areas of
11 development.³³ Additional local economic benefits include property tax payments, payments in lieu
12 of taxes, and increased local spending and economic development. These are economic benefits
13 that should be considered when looking at the overall value of these projects in evaluating benefits
14 to the Liberty service territory.

15 **Q: Do you have any other concerns with bases of OPC’s argument about the imprudence of**
16 **Liberty’s wind resources?**

17 **A:** Yes. Dr. Marke references a news article from April 11th of this year where a Neosho County
18 (Kansas) Commissioner was quoted that he, “heard that [Liberty-Empire’s] main transformer blew
19 up, shorted out, whatever, and then their backup one did, and that’s why they’re down, so now
20 they’re waiting on another transformer.” As this is a fact-based surrebuttal and not a legal brief, I

³¹ Report available at <http://awea.files.cms-plus.com/AWEA%20Economic%20Development%20Impacts%20of%20Wind%20Energy%20FINAL.pdf>; See also <https://www.bls.gov/ooh/fastest-growing.ht>

³² See U.S. Wind Industry 2016 Wind <http://awea.files.cms-plus.com/FileDownloads/pdfs/Economic%20Benefits.pdf>

³³ *Ibid*

1 will ignore the “hearsay within hearsay” nature of this testimony. Rather, I would note that it is
2 concerning that OPC is citing a clear foe of clean energy in their testimony. Commissioner
3 Westhoff voted against wind farms being built in Neosho County. He has traveled to other counties
4 in Kansas to testify against other wind farm projects.³⁴ This Commissioner has also espoused
5 publicly about unfounded conspiracies regarding how turbine flickering leads to health problems.³⁵
6 This elected official is an avowed anti-wind spokesperson and his opinion on Liberty’s wind
7 projects should be taken with enormous scrutiny. Above all, OPC has ample ability to confirm or
8 explore these concerns without invoking the statements of a Commissioner with a known history
9 of spreading misinformation.

10 **Q: What is your conclusion about OPC’s argument that the bases for Liberty’s securitization**
11 **proposal is imprudent?**

12 A: It is my opinion that the health and environmental outcomes associated with the plant only further
13 reinforce the Company’s decision to retire Asbury and replace it with cleaner sources of energy,
14 and that Liberty’s application should not be rejected based on the imprudence of these decisions
15 as OPC suggests.

16 **Service of the Public Interest**

17 **Q: How have Liberty’s actions leading up to this application served the public interest?**

18 A: In the past several years, Liberty has consistently demonstrated that it is committed to moving in
19 the direction supported by the public policy of the PSC and the state. The Company’s 2019 IRP
20 included a Preferred Plan that, “...meets customers’ growing demand and interest in renewable
21 energy, improved environmental performance, and distributed energy resources.”³⁶ The Company

³⁴<https://www.kansascounties.org/news/news-releases/2018ready-to-go-to-war2019-wind-power-grows-in-kansas-and-missouri-why-do-some-oppose-it>

³⁵Labette County Board of Commissioners Meeting Minutes, October 28th of 2019

³⁶ EFIS File No. EO-2019-0049, Doc. No. 22.

1 stated that this plan represented a low cost and low risk path to securing the energy to serve
2 customer needs while protecting system safety, reliability, and security.³⁷ The plan was modeled to
3 achieve these goals through the early retirement of Asbury, the addition of the previously approved
4 600 MW of wind resources, the addition of a substantial amount of utility-scale solar and battery
5 storage resources, distributed solar and storage resources, and the development of the Company's
6 first MEEIA portfolio.³⁸ Renew Missouri believed at the time of the 2019 IRP filing, and continues
7 to believe, that Liberty has shown a strong, necessary commitment to furthering the public interest
8 while serving the demands of its customers in a cost-effective and environmentally conscious
9 manner. It is important to consider this historical context in evaluating the intentions of the
10 Company in the present filing. OPC witness Marke opines that,³⁹

11 The combined orchestrated efforts by Empire over six proceedings (one
12 merger/acquisition case⁴⁰, two wind cases, two rate cases and now a securitization
13 docket) represents a windfall for investors and an onerous cost for its captive
14 consumers. Such a situation creates a moral hazard in which one agent (the utility)
15 decides how much risk to take, while another agent (consumers) bear the negative
16 consequences of risky choices.

17 Again, OPC's current argument rests on previously-submitted positions that have been
18 previously rejected or ignored by this Commission. Further, the OPC's position neglects to
19 acknowledge the substantial and tangible benefits that accompany Liberty's transition away from
20 fossil fuel resources and towards cleaner sources of energy. The Company's planning has
21 demonstrated that it is listening to customer demands and that it places value on environmental
22 responsibility; two elements that contribute to the basis of any finding that Liberty's actions are in
23 the public interest.

³⁷ *Id.*

³⁸ *Id.*

³⁹ EFIS File No. EO-2022-0193, Doc. No. 22.

⁴⁰ For which the Office of Public Counsel was a signatory on the Stipulation and Agreement that was the basis for the approval of the acquisition.

1 **Q: How does securitization of unrecovered costs related to retirement of the Asbury plant serve**
2 **the public interest?**

3 A: While statistics show that coal is increasingly uncompetitive with new renewable energy sources,
4 transition issues arise in determining how to manage unrecovered plant balances when assets are
5 retired prior to the end of their previously approved accounting service lives.⁴¹ Accelerating
6 recovery of a retired asset can impose rate burdens on customers, however cost recovery that is not
7 accelerated and continues beyond when the plant closes will leave customers paying depreciation
8 expenses, interest on debt, and an equity return for a plant that did not serve them.⁴² Securitization
9 mitigates these risks for customers, as well as for the utility and its shareholders. Importantly,
10 securitization offers a solution for customers who are paying more for electricity from expensive
11 coal when they can least afford to.⁴³ Studies show that with the tax benefits available for renewable
12 energy sources and storage, early retirement of fossil fuel intensive energy sources coupled with
13 securitization of the unrecovered costs and replacement with renewables saves customers money
14 in the short and long term.⁴⁴ Cases of securitization being used around the country have
15 demonstrated that this tool can reduce ratepayer costs, protect shareholders, and sometimes even
16 allow for transition assistance for dislocated workers and communities.⁴⁵

17 **Q: What are some examples of how securitization has accomplished this in other states?**

18 A: Examples of securitization at work can be seen in Florida, where Duke Energy Florida securitized
19 \$1.3 billion in unrecovered costs related to the early retirement of a nuclear plant, in Michigan,

⁴¹ “Utilizing Ratepayer-Backed Bond Securitization for Cost Recovery in Accelerated Asset Retirement: Feasibility Study for Minnesota Power- Phase 1,” Rocky Mountain Institute, page 4 (September 2020).

⁴² *Id.*

⁴³ Paul Bodnar, Matthew Gray, Tamara Grbusic, Steve Herz, Amanda Lonsdale, Sam Mardell, Caroline Ott, Sriya Sundaresan, and Uday Varadarajan, “How to Retire Early: Making Accelerated Coal Phaseout Feasible and Just,” Rocky Mountain Institute, 2020, <https://rmi.org/insight/how-to-retire-early>.

⁴⁴ *Id.*

⁴⁵ “Utilizing Ratepayer-Backed Bond Securitization for Cost Recovery in Accelerated Asset Retirement: Feasibility Study for Minnesota Power- Phase 1,” page 4.

1 where Consumers Energy securitized \$378 million in unrecovered costs related to the retirement
2 of a portfolio of coal and gas, and in New Mexico, where the Energy Transition Act authorized
3 PNM to securitize \$361 million in costs associated with the early retirement of a coal plant.⁴⁶
4 PNM’s securitization of these costs, coupled with its investment in nearly 1 GW of renewables and
5 storage, is estimated to save customers \$7/month by the time the transition is complete.⁴⁷ These
6 anticipated outcomes are consistent with the actions taken by Liberty in the lead up to this
7 securitization request, in which the uneconomic Asbury plant was retired early and replaced with
8 clean and economically sound wind energy resources.

9 **Q: How do you respond to OPC witness Marke’s concerns about how this will impact vulnerable**
10 **customers?**

11 A: I alluded to this earlier in my testimony while discussing the health impacts of the Asbury plant,
12 but I will go further by looking at direct costs. While Dr. Marke argues that the impacts of
13 securitization will negatively impact vulnerable households,⁴⁸ this argument is inconsistent with
14 the analyses of the Company, Staff, and outside experts. Experts at the Rocky Mountain Institute
15 (“RMI”) estimate that, utilizing the depreciation rates from OPC witness Robinett’s Schedule JAR-
16 R-6 and a 3.78% interest rate for securitization bonds, securitization of the Asbury Plant will result
17 in savings of roughly \$25 million for ratepayers.⁴⁹ Importantly, RMI experts found that even with
18 an updated interest rate to reflect the rising interest rate environment, ratepayers still achieve
19 substantial savings by utilizing securitization to recover the unrecovered costs associated with
20 Asbury.⁵⁰ This report discusses the ways in which securitization benefits low-income customers,

⁴⁶ *Id.* at 8.

⁴⁷ *Id.*

⁴⁸ EFIS File No. EO-2022-0193, Doc. No. 22.

⁴⁹ Fong, Christian, “Securitization in Action: US States Continue to Retire Coal and Reduce Electricity Rates,” American Council for an Energy-Efficient Economy (May 24, 2022).

⁵⁰ *Id.*

1 who are disproportionately burdened by shorter-term rate shocks that can occur as a result of
2 traditional utility financing of the early retirement of coal plants and their replacements with cleaner
3 energy sources.⁵¹ This is especially important, given that low-income households are also
4 disproportionately suffering from the economic impacts of the Covid-19 pandemic and high levels
5 of inflation.⁵² The author argues that securitization resolves this predicament by providing long and
6 short-term savings to ratepayers, while allowing utilities to retire uneconomic coal plants and
7 replace them with much cheaper clean energy sources.⁵³ This is precisely the purpose that
8 securitization of costs related to the retirement of Asbury serves for Liberty customers, who, as
9 characterized by Dr. Marke, are disproportionately low-income.

10 **Q: What is your overall opinion in regard to the Company's petition?**

11 A: I believe that securitizing the unrecovered costs related to the early retirement of the Asbury Plant
12 meets the intentions of the Missouri Legislature to carry out the interests of the public, and that the
13 Company's application should be approved despite the objections of the Office of Public Counsel.

14 **Q: Does this conclude your testimony?**

15 A: Yes it does.

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

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) File No. EO-2022-0193
the Issuance of Securitized Utility Tariff)
Bonds for Energy Transition Costs Related)
to the Asbury Plant)

AFFIDAVIT OF JAMES OWEN

STATE OF MISSOURI)
)
COUNTY OF Webster) ss

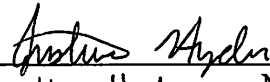
COMES NOW James Owen, and on his oath states that he is of sound mind and lawful age; that he prepared the attached rebuttal testimony; and that the same is true and correct to the best of his knowledge and belief.

Further the Affiant sayeth not.



James Owen

Subscribed and sworn before me this 26th day of May 2022.



Justina Hyder - Notary Public

My commission expires: 4/6/26

