

Exhibit No.:  
Issues: Stipulation and Agreement  
Witness: Martin Hyman  
Sponsoring Party: Missouri Department of Economic  
Development – Division of Energy  
Type of Exhibit: Surrebuttal Testimony  
Case Nos.: EM-2016-0213

**MISSOURI PUBLIC SERVICE COMMISSION**

**THE EMPIRE DISTRICT ELECTRIC COMPANY**

**LIBERTY UTILITIES (CENTRAL) CO.**

**LIBERTY SUB CORP.**

**CASE NO. EM-2016-0213**

**SURREBUTTAL TESTIMONY**

**OF**

**MARTIN R. HYMAN**

**ON**

**BEHALF OF**

**MISSOURI DEPARTMENT OF ECONOMIC DEVELOPMENT**

**DVISION OF ENERGY**

Jefferson City, Missouri

August 5, 2016

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


In The Matter of the Joint Application            )  
Of the Empire District Electric Company,        )  
Liberty Utilities (Central) Co., and            )        File No. EM-2016-0213  
Liberty Sub Corp. for Approval of an            )  
Agreement and Plan of Merger and            )  
For Other Related Relief                        )

**AFFIDAVIT OF MARTIN HYMAN**

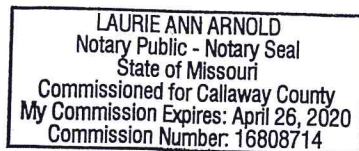
**STATE OF MISSOURI**                                )  
  )        **ss**  
**COUNTY OF COLE**                                )


Martin R. Hyman, of lawful age, being duly sworn on his oath, deposes and states:

1. My name is Martin R. Hyman. I work in the City of Jefferson, Missouri, and I am employed by the Missouri Department of Economic Development as a Planner III, Division of Energy.
2. Attached hereto and made a part hereof for all purposes is my Surrebuttal Testimony on behalf of the Missouri Department of Economic Development – Division of Energy.
3. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct to the best of my knowledge.

  
\_\_\_\_\_  
Martin R. Hyman

Subscribed and sworn to before me this 5<sup>th</sup> day of August, 2016.



  
\_\_\_\_\_  
Notary Public

My commission expires: 4/26/20

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1 **I. INTRODUCTION**

2 **Q. Please state your name and business address.**

3 A. My name is Martin R. Hyman. My business address is 301 West High Street, Suite 720,  
4 PO Box 1766, Jefferson City, Missouri 65102.

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

6 A. I am employed by the Missouri Department of Economic Development – Division of  
7 Energy (“DE”) as a Planner III.

8 **Q. Have you previously filed testimony in this case on behalf of DE or any other party?**

9 A. Yes. I submitted Rebuttal Testimony regarding DE’s recommendations for outcomes  
10 resulting from this merger with respect to energy efficiency, renewable energy, combined  
11 heat and power (“CHP”), and microgrids.

12 **II. PURPOSE AND SUMMARY OF TESTIMONY**

13 **Q. What is the purpose of your Surrebuttal Testimony in this proceeding?**

14 A. The purpose of my testimony before the Public Service Commission (“Commission”) is  
15 to respond to the Commission Staff’s (“Staff”) objection<sup>1</sup> to the stipulation and  
16 agreement (“Stipulation”) signed by the Joint Applicants in this case (“Applicants”), DE,  
17 and Earth Island Institute d/b/a Renew Missouri (“Renew Missouri”) (collectively  
18 referred to as the “Signatories”).<sup>2</sup> I provide reasons why the Commission should approve

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<sup>1</sup> Missouri Public Service Commission Case No. EM-2016-0213, *In The Matter of the Joint Application of the Empire District Electric Company, Liberty Utilities (Central) Co., and Liberty Sub Corp. Concerning an Agreement and Plan of Merger and Certain Related Transactions*, Staff’s Objection to Non-Unanimous Stipulation and Agreement, July 26, 2016.

<sup>2</sup> Missouri Public Service Commission Case No. EM-2016-0213, *In The Matter of the Joint Application of the Empire District Electric Company, Liberty Utilities (Central) Co., and Liberty Sub Corp. Concerning an Agreement and Plan of Merger and Certain Related Transactions*, Stipulation and Agreement as to Division of Energy and Renew Missouri, July 19, 2016.

1 the agreement despite Staff’s objections; Staff’s objections generally reflect  
2 misunderstandings about the stipulation and are vague.

3 **III. RELATION OF STIPULATION AND AGREEMENT TO DE’S ISSUES**

4 **Q. Why did DE sign the Stipulation with the Applicants and Renew Missouri?**

5 A. DE’s interest in this merger is to ensure that, at a minimum, it fulfills the “no detriment”  
6 standard at 4 CSR 240-3.115. As a result of negotiations, the signatories were able to  
7 reach agreement on a number of initiatives that DE believes result in a net benefit to  
8 customers.

9 In my Rebuttal Testimony, I described how DE’s goals for the merger involve  
10 commitments by the Applicants to:

- 11 1. Continue progress towards a larger, increasingly effective demand-side  
12 management (“DSM”) portfolio by The Empire District Electric Company  
13 (referred to herein collectively with The Empire District Gas Company, a wholly  
14 owned subsidiary of The Empire District Electric Company, as “Empire”);
- 15 2. Use Liberty Utilities Central parent company Algonquin Power & Utilities  
16 Corp.’s expertise and resources in considering the development of renewable  
17 energy resources for Empire; and,
- 18 3. Facilitate the deployment of CHP and microgrids in Empire’s service territory.<sup>3</sup>

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<sup>3</sup> Missouri Public Service Commission Case No. EM-2016-0213, *In The Matter of the Joint Application of the Empire District Electric Company, Liberty Utilities (Central) Co., and Liberty Sub Corp. Concerning an Agreement and Plan of Merger and Certain Related Transactions*, Rebuttal Testimony of Martin R. Hyman on Behalf of the Missouri Department of Economic Development – Division of Energy, July 20, 2016, pages 2-3.

1 **Q. Please explain DE’s position that these commitments would provide benefits to**  
2 **customers.**

3 A. As described in my Rebuttal Testimony, there are state policy goals valuing efficiency  
4 and renewable energy;<sup>4</sup> in addition to meeting these state policy goals, other benefits to  
5 customers from the types of initiatives in the Stipulation include economic development  
6 and environmental gains and increased reliability and resiliency.<sup>5</sup> DSM, CHP, and  
7 microgrids provide customers with greater control over their energy usage by  
8 encouraging energy efficiency and/or self-generation. Microgrids in particular improve  
9 resiliency and reliability for both utilities and individual customers. Renewable energy  
10 provides numerous benefits, such as cleaner air, reduced risks from future environmental  
11 compliance mandates, and the potential for customers to self-generate.

12 **Q. How does the Stipulation signed by DE address these issues?**

13 A. The Stipulation encourages more DSM on the part of Empire by stating that Empire will  
14 evaluate additional DSM programs and file for approval of an application under the  
15 Missouri Energy Efficiency Investment Act (“MEEIA”). The Stipulation also provides  
16 that Empire will encourage CHP implementation by completing an outreach survey  
17 report of potential CHP customers in The Empire District Gas Company’s service  
18 territory; this outreach survey report will involve DE and the Midwest CHP Technical  
19 Assistance Partnership (“CHP TAP”), resulting in limited costs to Empire and its  
20 customers. Empire also agreed to work with DE to consider microgrid interconnection  
21 best practices which were recommended by the Missouri University of Science and

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<sup>4</sup> *Ibid*, pages 4-5, lines 14-22 and 1-2, pages 8-9, lines 12-17 and 1-3, and page 11, lines 6-9.

<sup>5</sup> *Ibid*, pages 8-9, lines 14-17 and 1, page 11, lines 6-9, and page 13, lines 1-4.

1 Technology's Microgrid Industrial Consortium. Finally, Empire agreed to conduct a rate  
2 impact study of replacing its current hydroelectric power-based renewable energy credits  
3 ("RECs") under the Renewable Energy Standard ("RES") with additional renewable  
4 resources, as well as to consider proposing a community solar initiative.<sup>6</sup>

5 **Q. Why is the consideration of rate impacts necessary with respect to hydroelectric**  
6 **power?**

7 A. In response to recent RES compliance filings by investor-owned utilities, DE suggested  
8 that there may be a need to re-examine how hydroelectric power is treated for RES  
9 compliance purposes.<sup>7</sup> Determining the rate impacts of replacing hydroelectric power-  
10 based RECs with other RECs would greatly inform future consideration of hydroelectric  
11 power-related RES compliance issues.

12 **Q. Should the costs of the initiatives provided for in the Stipulation be recoverable**  
13 **from ratepayers?**

14 A. Yes. While DE expects the costs to Empire to be modest, ratepayers will benefit from  
15 additional DSM, renewables, CHP projects, and microgrids. Benefits from the initiatives  
16 include meeting state policy goals, economic development and environmental gains, and  
17 increased reliability and resiliency. Therefore, allowing rate recovery of the costs  
18 associated with the initiatives contemplated in the Stipulation is appropriate.

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<sup>6</sup> Stipulation, pages 1-3.

<sup>7</sup> Missouri Public Service Commission Case No. EO-2016-0279, *In the Matter of The Empire District Electric Company's Submission of its 2015 RES Compliance Report and 2016 RES Compliance Plan*, Missouri Division of Energy's Response to the Comments of Renew Missouri, June 13, 2016, pages 2-4.

1 **IV. RESPONSE TO COMMISSION STAFF’S OBJECTION**

2 **Q. Did Staff file Rebuttal Testimony in opposition to the Stipulation?**

3 A. No; the Stipulation was filed the day before Rebuttal Testimony was due, leaving little  
4 opportunity for rebuttal. While this constrains DE’s ability to fully respond to any  
5 concerns that Staff may have, I will attempt to respond to the concerns noted in Staff’s  
6 Objection.

7 **Q. To what aspects of the Stipulation does Staff object?**

8 A. Staff objects to the DSM-related provisions, the RES retail rate impact study, the CHP  
9 outreach survey report, and the deferral mechanism associated with the cost recovery of  
10 the initiatives in the stipulation.<sup>8</sup>

11 **A. DEMAND-SIDE MANAGEMENT**

12 **Q. What are Staff’s stated objections to the DSM-related provisions of the Stipulation?**

13 A. Staff’s objection states:

14 Staff has concerns with this condition as any MEEIA programs and Demand Side  
15 Investment Mechanism (“DSIM”) must comply with the MEEIA rules and  
16 statute, and must be part of the adopted preferred resource plan. (Chapter 22).  
17 Any portfolio of DSM programs and DSIM must be cost-effective and must  
18 provide benefits to all customers in the customer class in which the programs are  
19 proposed when considering all costs including the cost of throughput disincentive  
20 and earnings opportunity.<sup>9</sup>

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<sup>8</sup> Staff Objection, pages 1-2.

<sup>9</sup> *Ibid.*



1 **Q. Staff indicates that a MEEIA application must be part of an adopted preferred**  
2 **resource plan in Empire’s Chapter 22 integrated resource plan (“IRP”) filing. Did**  
3 **the Stipulation specify the circumstances under which Empire would file its MEEIA**  
4 **application?**

5 A. Yes. Under the Stipulation, the filing would occur as follows:

6 **Within one year of the Commission’s finding of substantial compliance of the**  
7 **Empire Integrated Resource Plan that follows Commission approval of a**  
8 **Statewide Technical Reference Manual (TRM), Empire will develop and**  
9 submit an application for approval of a portfolio of DSM programs under the  
10 Missouri Energy Efficiency Investment Act (MEEIA). (Emphasis added.)<sup>10</sup>

11 Empire would only file a MEEIA application once an IRP – presumably containing a  
12 similar suite of DSM programs – is found by the Commission to be compliant with the  
13 Chapter 22 rules, and only if such a finding occurs following the Commission’s approval  
14 of a TRM. This provision is not a requirement to file a MEEIA application on a particular  
15 calendar date, but it is a commitment to file such an application as soon as it is feasible  
16 and in a manner consistent with established requirements. The agreement by Empire to  
17 file a MEEIA application demonstrates the company’s willingness to achieve meaningful  
18 demand-side savings, based on a timeline which acknowledges the regulatory and  
19 economic barriers to making such a filing (e.g., developing a TRM).

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<sup>10</sup> Stipulation, pages 1-2.

1 **Q. Does anything in the Stipulation state that the DSM programs contemplated therein**  
2 **will not be cost-effective or provide benefits to all customers in the customer class in**  
3 **which the programs are proposed?**

4 A. No. Staff seems to imply that the MEEIA application contemplated in the Stipulation  
5 could be non-compliant; such an outcome was never contemplated, and objections to a  
6 set of programs which have yet to be filed are premature. Staff is free to object to the  
7 MEEIA proposal at the time of filing based upon specific concerns over any actual  
8 recommendations which are made by Empire. Nothing in this Stipulation binds any party  
9 to support or approve of Empire's future MEEIA filing.

10 **Q. Is DE working with Staff and Signatories to the Stipulation to address Staff's**  
11 **concerns about the DSM provision?**

12 A. Yes.

13 **B. RENEWABLE ENERGY STANDARD RETAIL RATE IMPACT CALCULATION**

14 **Q. What is Staff's objection to the retail rate impact provision of the Stipulation?**

15 A. Staff objects based on the assertion that Empire's recent RES compliance filing provides  
16 enough information about the retail rate impact of not using hydroelectric power-sourced  
17 RECs for RES compliance.<sup>11</sup>

18 **Q. What is DE's response?**

19 A. DE continues to discuss options for addressing this concern with Empire and Staff.

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<sup>11</sup> Staff Objection, page 2.

1 **C. COMBINED HEAT AND POWER**

2 **Q. Why is Staff opposed to the CHP provision of the Stipulation?**

3 A. Staff states that the scope of the outreach survey report contemplated in the Stipulation is  
4 “unclear” with respect to the level of outreach and survey required.<sup>12</sup>

5 **Q. Is Staff’s concern founded?**

6 A. No. The Stipulation describes several target sectors and provides examples of target  
7 customers. Empire would not be the sole party undertaking the survey; CHP TAP would  
8 be doing much of the work at no direct cost to Empire.<sup>13</sup> There would be few additional  
9 costs to Empire or its ratepayers as a result of this outside consultation.

10 **Q. Please describe CHP TAP’s role in the outreach effort.**

11 A. CHP TAP would provide a CHP screening tool (as well as an educational packet) to help  
12 customers determine if CHP is a “good fit” from a financial and technical perspective.  
13 Target sectors would include public, commercial, institutional and industrial facilities  
14 with consistent gas consumption throughout the year, indicative of consistent thermal  
15 load requirements; examples include hospitals, large residential facilities such as nursing  
16 homes and correctional facilities, universities, and food manufacturers. CHP TAP would  
17 score the surveys and share the results with customers; surveyed customers with  
18 favorable results would be encouraged to contact CHP TAP for technical assistance, such  
19 as a detailed feasibility study, at the surveyed customers’ expense. Additionally, CHP  
20 TAP would provide a report of the survey results (with information aggregated to avoid

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<sup>12</sup> *Ibid.*

<sup>13</sup> Stipulation and Agreement, page 2.

1 disclosing customer-specific information) to Empire, which Empire would share with  
2 interested stakeholders such as Staff, the Office of the Public Counsel, and DE.

3 **Q. What would be Empire’s role in the survey effort?**

4 A. Empire would use its knowledge of its service territory and customers to develop a list of  
5 potential customers to survey in the target sectors and to mail surveys to these customers.  
6 The company would contact these customers by mail and phone to encourage survey  
7 completion and, if requested, help these customers obtain past billing information.  
8 Empire would, as noted above, also share the results of the survey report with interested  
9 stakeholders.

10 **Q. Why is this survey necessary?**

11 A. The survey will assist Empire customers with determining if they should install CHP  
12 systems. Customers installing the systems will directly benefit from energy savings,  
13 improved reliability, and greater resiliency; Empire’s gas customers will benefit from  
14 spreading fixed costs over a greater volume of usage, ultimately reducing their rates.

15 **Q. Is DE working with Staff and Signatories to the Stipulation to address Staff’s**  
16 **concerns about the CHP survey?**

17 A. Yes.

18 **D. DEFERRAL MECHANISM**

19 **Q. Does Staff provide any description of why it objects to the Stipulation’s deferral**  
20 **mechanism?**

21 A. No; it only states that the provision in question, “... raises several concerns.”<sup>14</sup>

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<sup>14</sup> Staff Objection, page 2.

1 **Q. Although Staff is concerned about charging ratepayers for these initiatives, is there**  
2 **a reason DE supports such cost recovery?**

3 A. Yes. As noted above, the initiatives contemplated in the Stipulation will provide benefits  
4 to customers, such as meeting public policy goals, supporting environmental and  
5 economic development objectives, and improving reliability and resiliency. If Empire  
6 incurs costs related to providing benefits to customers, then Empire should be allowed the  
7 opportunity to recover reasonably incurred costs.

8 **Q. Is DE working with Staff and Signatories to the Stipulation to address Staff's**  
9 **concerns about the deferral mechanism?**

10 A. Yes.

11 **V. CONCLUSIONS**

12 **Q. Please summarize your conclusions and the positions of DE.**

13 A. Staff objects to numerous provisions in the Stipulation signed by the Applicants, DE, and  
14 Renew Missouri. However, these objections generally do not consider the language in the  
15 Stipulation and are insufficiently detailed to form a basis upon which to respond or for  
16 the Commission to rule. The provisions in the Stipulation will provide economic,  
17 environmental, energy security, and public policy benefits to Empire's customers, and the  
18 Commission should approve it.

19 **Q. Does this conclude your Surrebuttal Testimony in this case?**

20 A. Yes.