

Exhibit No.: _____
Issues: Asbury Decommissioning,
Environmental Compliance/Tracker
Witness: Shaen T. Rooney
Type of Exhibit: Direct Testimony
Sponsoring Party: The Empire District
Electric Company d/b/a Liberty
Case No.: ER-2024-0261
Date Testimony Prepared: November 2024

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

Direct Testimony

of

Shaen T. Rooney

on behalf of

The Empire District Electric Company d/b/a Liberty

November 6, 2024



TABLE OF CONTENTS
FOR THE DIRECT TESTIMONY OF SHAEN T. ROONEY
THE EMPIRE DISTRICT ELECTRIC COMPANY D/B/A LIBERTY
BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION
CASE NO. ER-2024-0261

SUBJECT	PAGE
I. INTRODUCTION.....	1
II. ASBURY DECOMMISSIONING.....	3
III. WIND FARM ENVIRONMENTAL REGULATIONS AND TRACKER.....	9

DIRECT TESTIMONY OF SHAEN T. ROONEY
THE EMPIRE DISTRICT ELECTRIC COMPANY D/B/A LIBERTY
BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION
CASE NO. ER-2024-0261

1 **I. INTRODUCTION**

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

3 A. My name is Shaen T. Rooney; and my business address is 602 South Joplin Avenue,
4 Joplin, Missouri 64801.

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

6 A. I am employed by Liberty Utilities Service Corp. as the Director of Strategic Projects
7 for the Liberty Central Region. As Director of Strategic Projects, I oversee
8 environmental compliance, certain large projects, capital expenditure budgeting,
9 project accounting and forecasting, and I provide support for regulatory filings related
10 to certain projects for The Empire District Electric Company d/b/a Liberty (“Liberty”
11 or “Company”).

12 **Q. On whose behalf are you testifying in this proceeding?**

13 A. I am testifying on behalf of Liberty.

14 **Q. Please describe your educational and professional background.**

15 A. I graduated from the University of Missouri-Columbia in 2001 with a Bachelor of
16 Science degree in Chemical Engineering. In February 2002, I was employed by the
17 Missouri Department of Natural Resources’ Air Pollution Control Program as an
18 environmental engineer, primarily responsible for air quality planning, especially
19 focused on construction permitting, energy production, and fuels. In November 2004,
20 I joined Liberty as Environmental Coordinator. In that position, I was responsible for
21 assisting management with Liberty’s generating fleet operations in order to comply

1 with state and federal air pollution regulations. I was also responsible for obtaining the
2 necessary air permits for construction projects. From October 2006 until June 2008, I
3 was employed as the Local Projects Manager at the Company's Asbury Generating
4 Station. My duties included assisting in power plant construction projects, including
5 the construction of a selective catalytic reduction ("SCR") system, and various
6 operations and maintenance ("O&M") activities. In June 2008, I took a position as a
7 Plant Operations Supervisor at the Asbury Generating Station. My duties included
8 leading a team of plant operators in the operation of the plant while prioritizing safety,
9 maximizing production, and maintaining compliance with all applicable state and
10 federal regulations. In November 2010, I assumed the position of Manager of Strategic
11 Projects, where I was responsible for generation resource planning, origination of
12 projects, development of project specifications, selection of contractors, and oversight
13 of project progress. During my time as Manager of Strategic Projects, the Company
14 executed the Asbury Air Quality Control System retrofit and Riverton 12 Combined
15 Cycle Conversion. In May 2015, I returned to the Asbury Generating Station, this time
16 as Plant Operations Manager. My responsibilities in this role were to set plant goals
17 that aligned with the Company's goals and to lead all plant operations teams to achieve
18 those goals while remaining focused on safety, maximizing production, and complying
19 with all applicable regulations. In June 2018, I assumed the position of Generation
20 Operations Project Manager, where my responsibilities were the same as when I had
21 been employed as Manager of Strategic Projects. In August 2019, management of the
22 Company's environmental department was added to my responsibilities, and my title
23 was changed to Senior Manager of Strategic Projects. In December 2022, I was
24 promoted to my current role as Director of Strategic Projects.

1 **Q. Have you previously testified before the Missouri Public Service Commission**
2 **(“Commission”) or any other regulatory agency?**

3 A. Yes, I have testified before this Commission, the Kansas Corporation Commission, the
4 Oklahoma Corporation Commission, and the Arkansas Public Service Commission.

5 **Q. What is the purpose of your direct testimony in this proceeding?**

6 A. The purpose of my testimony is to provide an update on the decommissioning of the
7 Asbury Power Plant (“Asbury”) and describe the need for a new environmental tracker.
8 I discuss the phased approach that the Company took to the decommissioning of
9 Asbury, the process undertaken to solicit bids and select a demolition contractor, and
10 the schedule for demolition. I discuss the results of the demolition process, including
11 worker safety, budget, and recycling of materials. Next, I discuss various
12 environmental regulations and the need to have a regulatory cost tracking mechanism
13 related to the Company’s wind farms at its King’s Point, Neosho Ridge, and North Fork
14 Ridge locations, collectively referred to in my testimony as the “Wind Farms.”

15 **II. ASBURY DECOMMISSIONING**

16 **Q. When did Asbury cease operations?**

17 A. Operations ceased at Asbury on March 1, 2020. On that day, the Company withdrew
18 Asbury Unit 1 from market participation in the Southwest Power Pool and declared the
19 plant retired. Certain administrative and maintenance assets at the site were not retired
20 on that date but were repurposed to serve the Company’s renewable energy generation
21 facilities.

22 **Q. How did the Company plan for the final disposition of Asbury?**

23 A. The Company hired Black & Veatch (“B&V”) to assist with studies and provide
24 technical guidance and support as the Company navigated the process for deciding on

1 the final disposition of Asbury. B&V was selected because of its strong reputation in
2 fossil fuel generation and because of its history with the Asbury Power Plant. B&V
3 designed Asbury Unit 1 and provided engineering support for many major
4 modifications undertaken during the plant's life. B&V assisted the Company in taking
5 a phased approach to evaluate options for Asbury Unit 1's future. The first phase
6 involved developing a fair market value for the plant, an order of magnitude estimate
7 of the cost to remove the unit, and an estimate of the costs to abandon the unit in place
8 for a period of time. Phase 1 also included development of a risk register for both the
9 demolition and abandon in place scenarios. Based on the identified risks and cost
10 impacts of the alternatives, the Company decided to proceed with demolition of Unit
11 1, which triggered Phase 2 of the decommissioning process.

12 **Q. What was the scope of Phase 2 of the process?**

13 A. The goal of Phase 2 was to thoroughly prepare a scope for the demolition of the facility
14 and continue to mitigate risks identified in the Phase 1 risk register, especially those
15 risks involving potential impacts to health, safety, the environment, and cost of the
16 eventual demolition. Phase 2 included thorough surveys for regulated hazardous
17 materials (asbestos, lead, PCB-polychlorinated biphenyls), engineering of the de-
18 energization and isolation of the plant, repowering of the Asbury Renewable
19 Operations Center, refinement of demolition cost estimates, and development of
20 demolition plans and work specifications. Phase 2 was completed in the spring of 2022,
21 with Phase 3 commencing immediately after.

1 **Q. How was Phase 3 of the process defined?**

2 A. Phase 3 consisted of finalization of the bid documents, bid administration, finalization
3 of cost estimates, demolition of the facilities, project management, project accounting,
4 and reporting.

5 **Q. How was the bidding process administered?**

6 A. Prior to release of the bid package, B&V helped the Company identify a list of bidders
7 that had a consistent track record of completing demolition projects of a similar size
8 and complexity. These bidders were expected to have repeatedly demonstrated that
9 they could perform these types of projects safely and within a defined budget. This
10 prequalification process identified five bidders to which the request for proposals was
11 sent on May 13, 2022. A mandatory pre-bid meeting was held at the site on June 6,
12 2022. Five proposals were received on July 22, 2022, and during the week of August
13 8, Liberty conducted interviews of the three bidders that submitted proposals with the
14 lowest fixed price. Due to these interviews and thorough review of the proposals,
15 Liberty identified substantial technical exceptions taken by the bidder with the lowest
16 fixed price. Liberty requested that specific bidder to update its pricing to include the
17 items to which the bidder initially took exception. Liberty then selected the bidder that
18 submitted the lowest conditioned bid price. Price was the most heavily weighted factor
19 in Liberty's evaluation, closely followed by safety record, and then soundness of
20 approach, project understanding, and availability.

21 **Q. Which bidder did Liberty ultimately select?**

22 A. The proposal that received the highest evaluation by Liberty's criteria was GSD
23 Trading USA, Inc. ("GSD") of Houston, Texas. I recommended the selection of GSD
24 on August 30, 2022. My recommendation was accepted, and after finalization of

1 commercial terms, the contract for the demolition of the Asbury Power Plant was
2 executed on September 30, 2022.

3 **Q. How was the demolition of the Asbury Power Plant accomplished?**

4 A. GSD mobilized on site during the week of October 10, 2022, and began assessing
5 hazards, establishing work zones, and installing signs, barricades, and temporary
6 security fencing. GSD's asbestos abatement contractor mobilized the following week
7 to prepare areas for asbestos removal. Abatement began during the week of October
8 24, 2022, and was completed during the week of February 6, 2023. Asbestos abatement
9 mainly began on outlying structures, such as the coal crusher building, which allowed
10 GSD to work on dismantling those structures and other structures that did not contain
11 asbestos-containing materials. During this period, GSD's chimney contractor
12 mobilized to wash down the interior of the plant's original chimney. During their
13 preparation of the washdown GSD discovered the mortar at the top of the stack had
14 deteriorated further since it was removed from service in 2014, so the chimney
15 contractor recommended manual demolition of the rain hood and top ten feet of the
16 brick chimney to make it safe for washdown. Liberty accepted this recommendation,
17 and the chimney contractor performed this scope of work. Once the abatement
18 contractor demobilized, GSD focused on preparing the boiler building, turbine hall, air
19 quality control system building, and the two chimneys for explosive felling, which was
20 performed on the morning of June 29, 2023. For the remainder of the project, GSD
21 processed and shipped scrap and debris, removed concrete foundations, processed
22 concrete for reuse, filled excavations, and restored the site, including installation of
23 vegetation or other surfacing.

1 **Q. Has GSD completed its work?**

2 A. Yes. GSD completed its scope of work under the contract and demobilized during the
3 week of March 25, 2024.

4 **Q. What became of the scrap and debris generated from the demolition of Asbury?**

5 A. While some materials were required to be disposed of either in hazardous waste or
6 construction and demolition landfills, ninety-five percent (by weight) of the materials
7 that made up the Asbury Plant were recycled or beneficially reused. All recovered
8 metals were sent to mills for recycling, while clean concrete and brick was crushed and
9 used to fill excavations left behind when underground structures such as the rotary car
10 dumper were removed.

11 **Q. Did GSD complete the project safely?**

12 A. Yes. In fact, GSD's attention to safety was notable, and their performance demonstrated
13 it. After mobilizing to the site and familiarizing themselves to it, GSD created a site-
14 specific Site Health and Safety Plan, which they revised after receiving feedback from
15 Liberty. GSD held mandatory "all hands" safety meetings every morning for its
16 employees and subcontractor employees. GSD and its subcontractors worked 41,385
17 hours over about seventeen months, experiencing only one incident requiring first aid
18 and only one OSHA recordable incident.

19 **Q. Did GSD complete the project at the price fixed by the contract?**

20 A. Yes, outside of four change orders that impacted contract value. Those four change
21 orders cumulatively increased the contract price by six percent. Two of those changes
22 were for removal of asbestos containing materials that were not identified in the
23 asbestos survey, and another was for the manual partial demolition of the original

1 chimney (discussed previously in my testimony). The final change order was a small
2 reduction in scope, resulting in a reduction in the contract price.

3 **Q. What was the impact on the overall demolition budget for the increase in contract**
4 **price due to the change orders?**

5 A. This increase had no material impact on the cost of the project. The original project
6 budget was \$11,676,650. Following GSD's demobilization, the estimate to complete
7 the demolition is now \$7,712,478¹. The favorable variance to budget had two major
8 contributors. First, overheads were applied to the project at a lower rate than
9 anticipated. Second, because of the work on preliminary surveys and project scoping,
10 there were only three change orders that increased contract value, meaning significant
11 contingency committed to the project budget was not spent.

12 **Q. Did the Company incur additional costs related to the decommission projects**
13 **following GSD's demobilization?**

14 A. Yes. Although GSD's work was completed on March 25, 2024, the Company has
15 incurred minor costs related to modification of stormwater permits and fugitive dust
16 control plans to reflect post-demolition site conditions.

17 **Q. What was the total amount spent by the Company to retire and decommission**
18 **Asbury and complete the related asset retirement obligation ("ARO") projects?**

19 A. As of August 30, 2024, the total amount spent was \$31,274,551. Of that total,
20 \$6,440,801 is associated with retirement/decommission costs, and \$24,833,750 is for
21 ARO costs; \$2,017,544 for the Asbestos removal, and \$22,816,206 for the CCR
22 Impoundment.

23 **Q. Are these costs currently being recovered by the Company?**

¹ As of August 2024.

1 A. Yes, these costs were included as part of the amount securitized in Case Nos. EO-2022-
2 0040 and EO-2022-0193 and are currently being recovered through the Company's
3 Securitized Utility Tariff Charge (Rider SUTC). As specified in the Securitization
4 Order, the Company is to perform a true-up calculation of actual Asbury
5 decommissioning and ARO costs compared to the amount included for securitization.
6 This true-up calculation process is further discussed in the direct testimony of Company
7 witness Charlotte T. Emery.

8 **Q. Does the Company expect to incur any additional Asbury costs beyond the**
9 **September 30, 2024, update period in this case?**

10 A. No. The Company has now completed all projects related to the retirement and
11 decommission of Asbury.

12 **Q. Should the Company continue to track its Asbury decommission costs?**

13 A. Since the decommission is complete and no additional costs are expected, the Asbury
14 Accounting Authority Order ("AAO") authorized by the Commission in the Case No.
15 ER-2019-0374 is no longer needed. For further discussion regarding the termination of
16 the Asbury AAO, refer to the direct testimony of Ms. Emery.

17 **III. WIND FARM ENVIRONMENTAL REGULATIONS AND TRACKER**

18 **Q. Please describe how the measures to comply with current environmental**
19 **regulations for the Company is expected to change for its Wind Farms?**

20 A. The Company must comply with the Endangered Species Act ("ESA") and the Bald
21 and Golden Eagle Protection Act. The ESA was created to protect species that are listed
22 as endangered due to risk of extinction. North Fork Ridge and Kings Point are currently
23 in the range for the endangered Gray Bat. The United States Fish and Wildlife Service
24 ("USFWS") has indicated that it will list the Tricolor Bat as endangered in the near

1 future. When this happens, Neosho Ridge, North Fork Ridge and Kings Point Wind
2 will all be in the range of the Tricolor Bat.

3 **Q. Has the Company seen increased costs related to these regulations since the Wind**
4 **Farms were placed in service in 2021?**

5 A. Yes. There has been an increase in cost for compliance related to these regulations at
6 North Fork Ridge and Kings Point. Both wind farms currently operate under a
7 10(a)1(A) permit. The 10(a)1(A) permit is named for the section of ESA under which
8 it is authorized, and is a research-based permit which permits activities that may be
9 otherwise prohibited to enhance propagation and survival of an endangered species or
10 for scientific purposes. In this case, the 10(a)1(A) permit allows observation of
11 interaction between wind turbines and the Gray Bat. These observations can be utilized
12 to develop operating regimes that reduce Gray Bat take while allowing for the reliable,
13 economical production of renewable energy. Observations take two forms: post-
14 construction monitoring (“PCM”) and acoustic monitoring. Acoustic monitoring
15 involves placing very sensitive recording devices atop the nacelles of several turbines.
16 This is considered an out-of-scope service by the turbine original equipment
17 manufacturer and results in additional cost to install monitors and to retrieve data cards.
18 Liberty also must send the recordings to a consultant that can identify the calls on the
19 recording and correlate those calls to time and meteorological data.

20 PCM requires mowing the vegetation around a specific number of turbines to
21 facilitate recovery of potential carcasses. Liberty is required to pay landowners for crop
22 damage around each turbine that is mowed. The mowed plots are then searched by
23 either a human or a dog team to look for bats or even partial bat carcasses. We are also
24 required to conduct acoustic monitoring at a specific number of our turbines; these

1 turbines coincide with some of the mowed plots. All of these activities are done in
2 consultation with the USFWS and Liberty's biological consultant. In 2026, all three
3 windfarms will begin operating under a Habitat Conservation Plan ("HCP") that is
4 associated with the Incidental Take Permit ("ITP"). These two documents are a
5 requirement of USFWS to help protect any endangered bat species that have a range
6 that coincides with the footprint of Liberty's wind farms. Some of the anticipated
7 requirements in the HCP/ITP will be generation curtailment to reduce take of the
8 protected species, additional mitigation of take and cost increases and variability
9 associated with PCM.

10 If additional PCM is required additional labor costs will be necessary for more
11 frequent mowing, as well as costs for a contractor to perform carcass searches. Acoustic
12 monitoring requires the turbine original equipment manufacturer's ("OEM") personnel
13 to install the monitors atop turbine nacelles and to periodically retrieve data cards from
14 those monitors. Liberty also must send the recordings to a consultant that can identify
15 the calls on the recording and correlate those calls to time and meteorological data, all
16 of which imposes increased costs.

17 Liberty is also required to comply with the Bald and Golden Eagle Protection
18 Act. Liberty is in the process of obtaining an Eagle Conservation Plan (ECP) and ITP
19 for eagles. This could require additional costs for generation curtailment, PCM, and
20 mitigation for eagles in addition to the cost for the permitting process.

21 **Q. Will there be additional regulations the Company will be required to comply with**
22 **in the future?**

23 A. Very likely, yes. The USFWS is currently studying several species of bats to determine
24 if they meet the criteria to be listed on the Endangered Species list. If additional species

1 are eventually listed, Liberty will have a requirement to mitigate the impact of its wind
2 farm operations on those species as well.

3 **Q. What is the impact of these additional regulations to the Company?**

4 A. The impact to the Company to comply with these additional regulations could range
5 from additional generation curtailment, additional PCM monitoring, and additional
6 mitigation cost. These costs would be material in nature.

7 **Q. Can the Company control the timing and/or the costs related to complying with
8 these additional regulations?**

9 A. No, the timing and types of new environmental regulations and their respective costs
10 are outside of the Company's control and could be volatile in nature. Liberty regularly
11 consults with regulatory agencies and other utility operators to keep aware of upcoming
12 regulations. Being aware of upcoming regulations can help the Company plan for what
13 may be required, but what is required and the amount of the additional costs to comply
14 with those requirements are typically not known until the regulations are promulgated.

15 **Q. Please describe what would happen if the Company did not comply with these
16 environmental regulations?**

17 A. If the Company failed to comply with ESA regulations related to the gray bat there
18 could be curtailment of the turbines at night from March 1 to November 15.
19 Additionally, there could be severe legal consequences for non-compliance, including
20 but not limited to criminal fines and penalties. The consequences for non-compliance
21 with the Bald and Golden Eagle Protection Act are similar.

22 **Q. What is the Company proposing regarding these costs?**

23 A. The Company is seeking the Commission's approval and authorization to track its
24 environmental compliance costs to a baseline amount set in this proceeding in a

1 regulatory tracker (regulatory asset/liability account). Please see the direct testimony
2 of Ms. Emery for further discussion of this proposed regulatory mechanism.

3 **Q. Does this conclude your direct testimony at this time?**

4 **A. Yes.**

VERIFICATION

I, Shaen T. Rooney, under penalty of perjury, on this 6th day of November, 2024,
declare that the foregoing is true and correct to the best of my knowledge and belief.

/s/ Shaen T. Rooney