

**Exhibit No.:**

**Issue(s):** Customer Experience/VOLL & Emergency  
Curtailment Tariff/PISA/Ozark Beach/Income Eligible  
Programs/Rate Design & CCOS

**Witness/Type of Exhibit:** Marke/Rebuttal

**Sponsoring Party:** Public Counsel

**Case No.:** ER-2024-0261

## **REBUTTAL TESTIMONY**

**OF**

**GEOFF MARKE**

Submitted on Behalf of the Office of the Public Counsel

**THE EMPIRE DISTRICT ELECTRIC COMPANY**

**D/B/A LIBERTY**

FILE NO. ER-2024-0261

August 18, 2025

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**I. INTRODUCTION**

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

A. Geoff Marke, PhD, Chief Economist, Office of the Public Counsel (OPC or Public Counsel),  
P.O. Box 2230, Jefferson City, Missouri 65102.

**Q. What are your qualifications and experience?**

A. I have been in my present position with OPC since 2014 where I am responsible for economic  
analysis and policy research in electric, gas, water, and sewer utility operations.

**Q. Are you the same Geoff Marke who filed direct testimony in this docket?**

A. Yes.

**Q. What is the purpose of your rebuttal testimony?**

A. I am responding to the direct testimony filed by the Company and select intervenors over  
Liberty Utilities (“Liberty”, “Empire”, and whose parent company is at times referred to as  
“Algonquin” or “APUC”) filed rate case. Specifically, on the following topics:

- Customer Experience
  - Empire witness Timothy N. Wilson
- Emergency Energy Conversation Plan & Value of Lost Load (“VoLL”) Study Update
  - Empire witness Dmitry Balashov
- Plant-In-Service-Accounting (“PISA”): Cost-Benefit Analysis for Projects over \$1M
  - Empire witness Dmitry Balashov
- Ozark Beach Crane Extension
  - Missouri Public Service Commission Staff (“Staff”) witness Brodrick Niemeier

- Income Eligible Programs
  - Consumer Council of Missouri (“CCM”) witness Jim Thomas
  - Empire witness Nathaniel W. Hackney
- Rate Design and Class Cost of Service
  - Empire witness Timothy S. Lyons
  - CCM witness Caroline Palmer

My silence regarding any issue should not be construed as an endorsement of, agreement with, or consent to any party’s filed position.

**Q. Would you please provide an overview of the rebuttal testimonies of Public Counsel’s witnesses?**

**A.** Sure. The following witnesses filed rebuttal testimony from the Missouri Office of the Public Counsel:

Mr. David Murray, CFA (Utility Regulatory Manager)

Mr. Murray’s rebuttal testimony responds to the direct testimonies of Empire’s rate of return (“ROR”) witness Daniel S. Dane and Staff’s ROR witness Christopher C. Walters. Mr. Murray’s rebuttal testimony also addresses Staff witness James A. Busch’s recommendation to reduce Empire’s revenue requirement based on an amount consistent with a 100 basis point reduction to Empire’s authorized return on common equity (“ROE”).

Mr. John Riley, CPA (Utility Regulatory Supervisor)

In addition to the proposed reductions in direct testimony, Mr. Riley is proposing in rebuttal that the Company be responsible for the income tax liability of the repayment of the securitized bonds. Saving the ratepayer nearly \$7.3 million annually. Mr. Riley is also requesting reductions in rate base for deferred taxes totaling \$98 million; this will lower revenue requirement by approximately \$9 million annually.

Mrs. Lena M. Mantle, PE (Senior Analyst)

In her rebuttal testimony Mrs. Mantle:

- Responds to Liberty's request to remove the sharing mechanism from the FAC;
- Proposes language for the FAC tariff schedule intended to prevent the subsidization of large load customer(s) by other customer classes;
- Responds to Liberty's inaccurate characterization of the Market Price Protection Mechanism settlement discussions from Liberty's last case; and
- Describes why the Commission needs to determine the length of weather history that should be used by electric and gas cases in rate case normalizations.

Mr. Jordan Seaver (Policy Analyst)

Mr. Seaver's rebuttal testimony responds to Liberty's witness Mr. Jeffery Westfall's testimony regarding service reliability and related distribution and transmission investments made since the last rate case. The investment in distribution and transmission hardening, replacement of old parts, and upgrades to smart or simply new parts has been large and extensive. Some of these projects have been part of the Operation Toughen-Up plan, which is a Liberty Utilities-wide distribution investment project meant to harden the grid and get Liberty's reliability metric scores to a specific point. This point has not been reached despite the large investments; reliability issues persist, while customer satisfaction is at an all-time low. Mr. Seaver recommends a disallowance of 2% of the distribution and transmission investment in Mr. Westfall's direct schedule JW-1 CONF due to the failure of Liberty to sufficiently improve its reliability along with the fallout among customers from Liberty's mismanagement.

1       Mr. John A. Robinett (Utility Engineering Specialist)

2               Mr. Robinett discusses the accounting authority order requests from Liberty and  
3               Staff's recommended accounting treatment for Riverton units 13 and 14. Next, Mr.  
4               Robinett rebuts Staff's position related to the Stipulation and Agreement from  
5               Liberty's case number EA-2023-013. Mr. Robinett also recommends isolated  
6               adjustments related to needed retirements for 2025 associated with general plant  
7               amortization.

8               Finally, Mr. Robinett recommends how the stranded investment for account 370  
9               non-AMI meters should be treated and recovered.

10       Mrs. Angela Schaben (Utility Regulatory Auditor)

11              Mrs. Schaben responds to Liberty witnesses Aaron Doll and John Reed regarding  
12              Fuel Adjustment Clause ("FAC") eligible transmission expense, Staff witness  
13              Brooke Mastrogionnis on FAC reporting requirements, Staff witness Melanie Marek  
14              on bad debt expense, Liberty witness Shawn Eck on cybersecurity investment, and  
15              Liberty witness Jill Schwartz on corporate allocations. She makes several  
16              recommendations including: 1.) that only transmission related to purchased power  
17              flow through the FAC; 2.) that only bad debt expense related to Missouri be included  
18              in revenue requirement; and 3.) that expenses related to the cybersecurity program  
19              not be included in the revenue requirement until Liberty can realize efficiencies and  
20              reduce O&M allocations to reasonable levels.

21       Mr. Manzell M. Payne (Utility Regulatory Auditor)

22              Mr. Payne's testimony rejects the Company's request for an environmental  
23              compliance tracker stressing that such a request is speculative in nature and not tied  
24              to any specific mandate or any known costs. Mr. Payne also points out that the  
25              Company is not requesting an Environmental Cost Recovery Mechanism  
26              ("ECRM"), which provides greater protections to customers.

Mr. Payne's testimony also responds to Company witness Aaron Doll's calculation of the Market Price Protection Mechanism ("MPPM"). Mr. Payne describes the impact of mechanism when the Company incorrectly includes the Power Purchase Agreement ("PPA") Replacement value and how customers do not benefit at the end of the first ten years of the wind project, which goes against the spirit of the MPPM. Mr. Payne recommends the Commission order the PPA Replacement value be zero until the Company's Elk River and Meridian Way PPAs expire so that the MPPM calculation correctly portrays the overall benefits customers will receive at the end of the first 10 years of the wind projects.

Lastly, Mr. Payne responds to Company witness, Dmitry Balashov on the Transportation Electronification Pilot Program ("TEPP") and how the program has struggled to date. Since the pilot programs have elicited little to no participation from Liberty's customers, continuing it would needlessly increase cost to customers at a time when costs are already wildly out-of-synch with the rest of the electric utilities in the state. As such, Mr. Payne recommends the Commission order Liberty to cease the TEPP at this time.

## **II. CUSTOMER EXPERIENCE**

### **Q. What does Empire say about its rate increase request and customer impacts?**

A. Mr. Wilson's testimony states that Liberty is seeking to recover an annual base rate revenue deficiency of \$152,825,837 per year, or an approximate 30% overall increase to rates.<sup>1</sup> Within two pages of this stated request, Mr. Wilson states that,

In any decision-making process, Liberty's first priority is evaluating the impact on customers.<sup>2</sup>

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<sup>1</sup> Direct Testimony of Timothy N. Wilson p. 6, 11-12.

<sup>2</sup> *Ibid*, p. 8, 1-2.

1 He then laments about the poor timing of the 30% rate increase and the new securitization  
2 surcharge that Empire customers are also being asked to absorb.

3 **Q. Does Mr. Wilson provide an example to illustrate the cost impact of its Empire's**  
4 **requested increase on a typical residential customer?**

5 A. No. To find that information, one would need to go to the end of the Direct Testimony of  
6 Timothy S. Lyons in which he states:

7 Overall, the proposed change of \$152M base rate deficiency will impact monthly  
8 bills for a Residential customer using 1,000 kWh per month by \$47.41 per month,  
9 or 31.05 percent.<sup>3</sup>

10 To be clear, this is on top of the approximate \$10 per month surcharge for the average  
11 residential customer using 1,000 kWh per month from the securitization of the Company-  
12 induced stranded asset of the Asbury Power Plant and fuel related Storm Uri costs.

13 Taken together, if fully granted, Liberty customers consuming 1,000 kWh per month would  
14 see an approximate increase of \$688.92 annually, or \$57.41 per month.

15 **Q. Does this suggest to you that Liberty is prioritizing customer impact?**

16 A. I do not see how anyone could reasonably conclude that.

17 **Q. Would you provide context for what this \$152M per year base rate increase means to**  
18 **customers?**

19 A. Customers and communities will suffer.

20 Although it is difficult to generalize the impact across Liberty's community and customer  
21 base, the Federal Reserve's Survey of Household Economics and Decisionmaking  
22 ("SHED") provides some insight. Taken annually, the SHED survey includes a hypothetical  
23 scenario asking how people would cover unexpected expenses. In its 2025 annual survey,  
24 37% of respondents (nationwide) said they would be unable to cover an unexpected \$400

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<sup>3</sup> Direct Testimony of Timothy S. Lyons, p. 39, 2-4.



1 emergency expense without taking out a loan, borrowing from family or friends, reducing  
2 their spending in other areas, or using a credit card.

3 That means more than a third of Americans are just one surprise car repair, medical bill, or  
4 housing crisis away from serious financial stress. For Liberty customers the numbers are  
5 likely much worse. This is because fifteen out of the sixteen counties Liberty provides  
6 service to have a higher percentage of families living below the federal poverty line than  
7 the US and Missouri averages.<sup>4</sup>

8 The federal poverty line for a family of four is \$32,150. In McDonald County and St. Clair  
9 County that represents 18.2% of the population. To provide proper context, if approved and  
10 allocated as requested, Liberty's rate case request and newly issued securitization costs  
11 (\$688.92 annually) would represent a little over 2% of a family of four's annual budget at  
12 the federal poverty level ("FPL")—or \$32,150 annually.

13 **Q. Is this requested rate increase a one-time anomaly?**

14 A. No. Liberty expects to continue aggressive capital investment expenditures to the tune of more  
15 than \$2 billion over the next four-and-a-half years, as seen in the Company's most recent PISA  
16 filing.

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<sup>4</sup> The federal poverty line for a family of four is \$32,150. In McDonald and St. Clair County, 18.2% of the population lives at or below that level.

See also the Direct Testimony of Geoff Marke p. 26-31.

Figure 1: 2025 PISA Investment Breakdown 2025-2029<sup>5</sup>

2025 Liberty Capital Investment Plan						\$ Millions
Program Name	2025	2026	2027	2028	2029	Total
Solar	\$11.0	\$10.0	\$99.0	\$225.2	\$0.0	\$345.3
Plant Emissions	\$1.3	\$1.5	\$1.6	\$1.7	\$1.8	\$8.1
Transportation Electrification *	\$0.2	\$0.8	\$0.4	\$0.3	\$0.3	\$1.9
Cyber & Technology Upgrades *	\$15.7	\$13.2	\$13.2	\$13.6	\$13.6	\$69.4
Grid Resiliency - Distribution *	\$78.2	\$127.7	\$159.3	\$163.1	\$152.2	\$680.5
Grid Resiliency - Transmission	\$29.2	\$91.1	\$173.5	\$282.9	\$216.9	\$793.6
Generation Optimization	\$36.7	\$42.6	\$73.3	\$53.6	\$25.9	\$232.1
<b>Total</b>	<b>\$172.3</b>	<b>\$287.0</b>	<b>\$520.3</b>	<b>\$740.5</b>	<b>\$410.8</b>	<b>\$2,130.9</b>
New Thermal Generation	\$21.5	\$22.5	\$0.0	\$0.0	\$0.0	\$44.0
<b>Total including New Thermal Gen</b>	<b>\$193.7</b>	<b>\$309.5</b>	<b>\$520.3</b>	<b>\$740.5</b>	<b>\$410.8</b>	<b>\$2,174.8</b>
Grid Modernization Subtotal	\$94.0	\$141.7	\$173.0	\$177.1	\$166.2	\$751.9
<b>Grid Mod Percentage (%)</b>	<b>55%</b>	<b>49%</b>	<b>33%</b>	<b>24%</b>	<b>40%</b>	<b>35%</b>

This reported investment plan reflects Liberty-Empire's full budget, not just focused on PISA-eligible spend.  
AFUDC is not included in this report and investment plan summary.  
Planned costs for retirement projects are not included in this report and investment plan summary.  
\* Included in the Grid Modernization subtotal.

**Q. Based on your review of Empire's current filing is it prioritizing customer affordability?**

**A.** No, and I believe this entire rate case is evidence of that. Consider for a moment the work order justification criteria a project manager is required to answer as shown in Figure 2.

<sup>5</sup> Case No. EO-2019-0046 Liberty 2025 PISA Report: Annual Update. p.5

Figure 2: The 20 work order justification criteria for a Liberty CAPEX project<sup>6</sup>

- |   |  |
|---|--|
| 1. Reason for work                        | <b>12. <u>Regulatory Constructs for Recovery</u></b> |
| <b>2. <u>Capitalization Rationale</u></b> | 13. Included in the current year's budget?           |
| 3. Growth or Customer Connection?         | 14. Engineering Drawings % Complete                  |
| 4. Locations/Expansion Objectives         | 15. Service Agreements /                             |
| 5. Permitting and Environmental           | Reimbursements                                       |
| 6. Existing Asset Retirements             | 16. Procurement Plan                                 |
| 7. Alternatives/Options                   | 17. Strategic Project Designation                    |
| 8. Risk Assessments                       | 18. Intercompany Project Requirements                |
| 9. Health, Safety, and Security           | <b>19. <u>PISA Eligibility</u></b>                   |
| 10. Other Pertinent Details               | <b>20. <u>Grid Modernization Investment</u></b>      |
| <b>11. <u>Regulatory Lag</u></b>          | <b>Category</b>                                      |

As highlighted above, 25% of the (five of the twenty) inputs are centered on CAPEX rationale (as opposed to OPEX) or dependent on cost-recovery timing. There is no input for:

- competitive bids,
- the impact to customer rates,
- efficiencies gained,
- service time reduced,
- emissions saved,
- reliability sustained, or
- cost-benefit justification as is required by law.<sup>7</sup>

<sup>6</sup> See GM-1 or Staff DR-0335.0, PO0012\_4006630\_Justification\_Documents.pdf.

<sup>7</sup> RSMo § 393.1400.4: For each project in the specific capital investment plan on which construction commences on or after January first of the year in which the plan is submitted, and where the cost of the project is estimated to exceed twenty million dollars, the electrical corporation shall identify all costs and benefits that can be quantitatively evaluated and shall further identify how those costs and benefits are quantified. For any cost or benefit with respect to such a project that the electrical corporation believes cannot be quantitatively evaluated, the electrical corporation shall state the reasons the cost or benefit cannot be quantitatively evaluated, and how the electrical corporation addresses such costs and benefits when reviewing and deciding to pursue such a project. No such project shall be based solely on costs and benefits that the electrical corporation believes cannot be quantitatively evaluated. Any quantification for such a project that does not produce quantified benefits exceeding the costs shall be accompanied by additional justification in support of the project.

1 The inputs used (in Figure 2) and those omitted (echoed in the previous sentence) above echo  
2 the comments I included in my direct testimony from former Empire Electric Manager of  
3 Community Relations, Rick Hendricks and are reprinted, in part, here again:

4 Second, in my opinion the **more important** issue to be examined is the Capital  
5 Budget. **What is Liberty's capital cost per customer compared to other utilities**  
6 **(sic) their size?** Everyone knows that Liberty is trying to capitalize every penny,  
7 every project, every item they can. Why? Because rates are based on the capital  
8 expenditures. Return on Equity is calculated based on the capital cost the Company  
9 incurs. Here are some specific things that need to be examined.

- 10 1. Why does Liberty use contract labor for practically every capital project? Using  
11 Liberty crews to do maintenance work. Examine in 2017 when they purchased the  
12 system the relationship between the Capital Budget and the Operations and  
13 Maintenance Budget (O&M) when Empire owned the system and how much larger  
14 the Capital Budget is now in comparison to the O&M Budget. If something can be  
15 maintained, just get rid of it and buy a new one. Employees tell me the question is  
16 always asked of a project, "can we recover this from the rate payer". Why is the  
17 policy that overtime is allowed if it involves working on a Capital project, but not if  
18 it is maintenance?
- 19 2. The relationship with certain contractors need to be audited. Were there competitive  
20 bids submitted? Were least cost options considered? Many employees feel they are  
21 "gold plating" projects. Are the same contractors getting most of the capital projects?
- 22 3. Specifically, the relationship between the current President of Liberty Central and  
23 Burns and McDonald in Kansas City needs to be examined. Have there been  
24 gratuitous perks? When construction employees are asked to explain budget  
25 overruns, they consistently see charges, many 5- and 6-digit charges added to the  
26 job after it left their hands. Burns and McDonald would have absolutely nothing to  
27 do with the job or many times were never on site. Those charges don't appear to be

1           legitimate to many employees. That needs to be looked at. Not making accusations  
2           just saying it needs to be closely examined.

3           . . .

4           After 40 years in the business I know this is just manipulation of the rate making  
5           process. Capitalize everything. Get Return on Equity on those cost.

6           Let me close with this story. When Empire purchased the natural gas system from  
7           MoPub, myself, Ron Gatz the VP to be over the gas system, and our CEO Bill  
8           Gipson went to every service center and talked to every employee. Bill came out of  
9           Economic Development and his message to the employees was this. The way  
10          Empire grows is to grow the communities that we serve. We grow as a Company as  
11          a result. Fast forward. Right before I retired (3 months prior to the purchase) I  
12          attended a Managers meeting at our Riverton Power Plant. Blake Mertens was VP  
13          of production. His message to Empire employees was this. I will never ever forget  
14          his words. **"The way we grow this Company is putting steel and concrete in the**  
15          **ground"**. (emphasis in original)<sup>8</sup>

16   **Q.    What do current residential customer arrearage amounts look like for Liberty's electric**  
17   **service?**

18   A.    As of August 1, 2025, the average customer arrearage amount is \$498.36. That is the average  
19          across 31,653 customers or roughly 22% of all of Liberty residential customers.<sup>9</sup> This is before  
20          the 30% rate increase request.

21   **Q.    What should the Commission take away from the foregoing?**

22   A.    As discussed in my direct testimony, on an annual bill basis, Liberty electric customers were  
23          already being charged some of the highest rates in the nation. The \$47.41 monthly rate  
24          increase request, combined with the \$10.00 monthly securitization charge, should call into

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<sup>8</sup> See GM-2.

<sup>9</sup> See Service Disconnection Report (20 CSR 4240-13.075) BSDR-2026-0092.

1 question any affordability narrative Mr. Wilson attempts to put forward. Arrearage amounts  
2 are already at unsustainable levels with no clear end in sight, and aggressive future CAPEX-  
3 centric investment plans combined with changes in federal policy regarding social service  
4 entitlement programs, as well as the possibility of a future fallout from a recession/stock  
5 market bubble, paint a very disturbing picture that does not seem sustainable.

6 I am extremely concerned about the near- and long-term economic health of Southwest  
7 Missouri as a result of Liberty's inability to provide safe, adequate, and affordable service  
8 to its customers.

9 This rate case represents the vehicle for appropriate regulatory change and a means to  
10 prevent regulatory failure.

11 Public utility economic regulation exists due to market failures. However, merely having  
12 economic regulation is no guarantee of success. Regulatory failure can occur when  
13 regulators do not adequately provide a reasonable proxy of a competitive market where  
14 natural pressures and competition induce good performance. The challenge for regulators is  
15 to ensure utilities operate as if they faced competition, despite their monopolistic status.

16 I maintain that no competitive business would be in operation if it behaved and performed  
17 as Liberty does.

18 **Q. What is your recommendation?**

19 A. I continue to recommend no increase to rates until the Company, at a minimum, can  
20 demonstrate that they are capable of accurately charging for their service today. A large  
21 segment of Liberty's customers have little to no faith in the accuracy of what they are being  
22 charged today.

23 It is also incumbent upon the Company to provide an explanation of and plan for how it  
24 intends to reimburse customers for overpayments, lost time, and other cost-prohibitive  
25 outcomes that have resulted from the ineptly named "Customer First" roll-out. The  
26 Company's response in rebuttal testimony to Staff and OPC's damning direct testimony will

no doubt be illustrative of how seriously they are taking the billing calamity that they alone created.

Those recommendations deal with my immediate concerns, but to ensure long-term sustainability, I recommend Liberty be required to meet with Staff and OPC on at least a quarterly basis to discuss how the Company intends to make its rates affordable moving forward. Furthermore, I recommend that the Company be required to file an annual “Affordability” plan with the Commission that provides a clear roadmap with deliverable actions with the expressed goal of lowering rates to be aligned with other electric utilities in Missouri.

Achieving bill affordability through proactive efforts should be the primary focus for the Commission and the Company moving forward; otherwise, affordability concerns will drive this Company and Southwest Missouri into a downward spiral, which will be difficult to escape.

### **III. VALUE OF LOST LOAD STUDY & EMERGENCY CONSERVATION PLAN TARIFF**

#### **Q. What is Liberty’s current Emergency Conservation Plan?**

A. Originally, it was a tariffed sheet that outlined the thresholds and priority of curtailment options to the Company in the face of an emergency.

#### **Q. What is Liberty proposing to do to its Emergency Conservation Plan in this case?**

A. Liberty has filed a new tariff sheet that strips all details and largely relies on the Southwest Power Pool as the authoritative power for determining when an “emergency” curtailment is warranted.

To its credit, Liberty has included a section within its tariff that discusses customer notification. The currently approved tariff is void of any such detail.

**Q. Is Liberty currently participating in a VoLL Study?**

A. Yes. As discussed in the Direct Testimony of Dmitry Balashov Liberty is currently undergoing a Value of Lost Load Study in conjunction with the other Missouri investor-owned utilities through Lawrence Berkeley National Labs. The results of which should be completed by the end of this calendar year.

**Q. What is a Value of Lost Load (“VoLL”) Study?**

A. A VoLL study determines the economic impact of power outages on consumers, essentially measuring how much they are willing to pay to avoid or compensate for a loss of electricity. It's a crucial tool for assessing the reliability of power systems and guiding investments in grid infrastructure.

A VoLL study quantifies the economic cost of electricity not being available when it's needed and looks at both direct costs (lost productivity, spoiled goods, damage to equipment) and indirect costs (reduced quality of life, potential safety concerns). A VoLL study can be used to complement the prudence of distribution grid investments as an input into cost-benefit analysis as well as pricing (reflecting the true value of reliable power) and outage management decisions (helping understand prioritization of outage restoration and allocation of resources during an emergency).

**Q. Why is Liberty studying VoLL?**

A. Liberty is undertaking a VoLL because OPC raised concerns around the Company's Emergency Conservation Plan Tariff and recommended a 3<sup>rd</sup>-party VoLL study because of the \$220 million in excess fuel-related costs from Winter Storm Uri in 2021.

Proper resource planning will go a long way to mitigating such events in the future, but as Uri demonstrated, systematic failure can and does occur at the wholesale market level. Absent a sound, agreed-upon plan, the possibility of cost-prohibitive fuel cost expenditures will always be a dangerous risk to captive customers.



Simply put, I believe there needs to be an agreed-to dollar amount in which economic curtailment is triggered. The proposed draft tariff is void of any of that detail.

**Q. What are your recommendations?**

A. I am not opposed to working with parties on cleaning up this tariff as a near-term solution, but the reality is that Liberty's tariff, as well as Ameren Missouri, Evergy Metro, and Evergy West will all need to file revised tariffs over their Emergency Curtailment Plans after the results of the VoLL study are presented. As such, I have less of a recommendation here and more of a public notice to Liberty and stakeholders that this reality needs to be addressed in the first quarter of 2026 following the results of the VoLL study.

No one wants to forcibly curtail power in any situation, but electric service is not a perfectly inelastic demand where one will pay the price no matter what. Failing to account for that leaves both the Company and its customers at the whim of potentially financially crippling fuel costs in an extreme situation. As the SPP market's resource margins continue to shrink this will only become more and more of an operational risk moving forward. Failure to address this issue following the VoLL study results calls into question future cost recovery for excess fuel-related costs if a Uri-like event transpires in the future. I recommend that the Commission order the Company to refile its Emergency Conservation Plan Tariff with specific VoLL curtailment price thresholds in place no later than the end of the first quarter of 2026 for approval.

**IV. COST-BENEFIT ANALYSIS FOR PISA INVESTMENTS**

**Q. Is violating a statute such as the PISA statute a basis for which a complaint may be brought?**

A. It is, but it is not an action I am recommending at the moment. As articulated in the direct testimony of Dmitry Balashov, Liberty, OPC, and Staff have all agreed to postpone a cost-benefit analysis justification for Liberty's PISA investments until the results of the VoLL

study could be used as baseline input and the Company's newly integrated software could be put into place.

**Q. Do you know why Mr. Balashov speaks of a \$1 million threshold for a CAPEX cost benefit analysis when the PISA statute has a \$10 million threshold?**

A. The \$1 million threshold agreement predates the statute and was included in the Fourth Partial Stipulation and Agreement in Case No. ER-2021-0312:

Empire will meet with Staff and OPC at least twice regarding "parameters and assumptions" and will provide to Staff and OPC, with HC confidentiality protection, cost-benefit analyses and performance metrics for planned capital investments of greater than \$1 million. Empire agrees to file the cost-benefit analyses and performance metrics in its PISA [Plant in Service Accounting] docket and update annually.<sup>10</sup>

**Q. Have any of the foregoing actions occurred yet?**

A. No.

**Q. Do you have concerns about Liberty's ability to comply with its commitments?**

A. Yes. Above and beyond, the Company's inability to provide an accurate bill of service and the lack of any cost-benefit or performance metrics to date, I have concerns that the point-of-contact for this critically important action no longer works for Liberty—Dmitry Balashov. In fact, Mr. Balashov has not worked for the Company since 2024. Since Mr. Balashov's departure, the Company has not spoken to us about a replacement or provided any further update on its software deployment.

**Q. What do you recommend regarding Liberty's PISA settlement commitments?**

A. We have already given Liberty a pass on the last three years of this requirement in part because I believed the VoLL study results would serve as a valuable input from which to base future cost justifications. In retrospect, this has proven to be a mistake as the Company

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<sup>10</sup> Case No. ER-2021-0312, Fourth Partial Stipulation and Agreement, p.2. February 5, 2022.

has been unable to account for concerns around gradualism and affordability, as evidenced by the poor timing, questionable investments, and size of its rate increase. Moving forward, I believe the PISA cost-benefit analyses should help inform my earlier recommendation to the Commission that requires the Company to file an “Affordability” roadmap to bring its rates in line with the rest of Missouri’s utilities. The Company should plan on supplementing its next PISA filing with all of the appropriate cost-benefit analyses and performance metrics for planned capital investments of greater than \$1 million or be prepared to defend why it can’t comply with Commission orders and Missouri statute.

**V. OZARK BEACH CRANE EXTENSION**

**Q. What is Ozark Beach?**

A. Ozark Beach is a hydroelectric power plant located in Forsyth, Taney County, Missouri. There are four turbine-generator units, each with a 4 MW capacity for a total of 16 MW of generating capacity. Ozark Beach operates on Lake Taneycomo, a man-made lake/reservoir that is a popular destination for trout fishing and various water activities, including boat tours and jet boat rides. The 22-mile lake was made by damming the White River over 100 years ago.

**Q. Did Liberty include any CAPEX at Ozark Beach in its rate base for the ordered test year?**

A. Yes. Staff witness Brodrick Niemeier’s direct testimony states:

All project costs appear reasonable according to the provided information, and most projects remained close to their initial estimates, although one project ended up being 3,000 times its initial estimate. This project extended the existing outdoor crane at Ozark Beach downstream so that equipment and supplies could be brought in via an access road instead of via barge. Empire cited safety issues associated with moving heavy materials via an unstable barge as justification. After Staff looked

further into this project, it was determined that the initial estimate of \$10,000 was significantly low, and that the final cost of \$2.9 million was reasonable.<sup>11</sup>

**Q. What is your response?**

A. First, this is exactly why a cost-benefit analysis for investments over \$1 million was agreed to in Case No. ER-2021-0312. Second, I fail to see how this project is PISA eligible (not grid modernization) and why the 3000% cost overrun is prudent. A review of Staff's discovery and the Company's response on this topic provides no further comfort.<sup>12</sup>

As such, I am recommending a \$2,900,000 cost-disallowance of expenditures. Further discovery and dialogue with parties is warranted and surrebuttal testimony may be adjusted accordingly.

**VI. INCOME ELIGIBLE PROGRAMS**

**Q. Is Liberty proposing a revised income eligible program in this case?**

A. Yes. Empire witness Nathaniel W. Hackney recommends that the current Low Income Pilot Program ("LIPP"), which is effectively a bill credit program, be replaced by an arrearage payment program called "Fresh Start." The Fresh Start program can roughly be described as follows:

**Fresh Start:** \$300K annual program

- Funded at a 50/50 split (ratepayer/shareholder)
- 250 customers (41 to 60% area median income) would get a \$50 monthly discount
- 75 customers (≤40% area median income) would get a \$75 a month discount
- 49 customers would qualify for an arrearage match
  - based on an average arrearage estimate of \$279
  - Mandate a 3<sup>rd</sup> party study at a cost of no more than \$25K

<sup>11</sup> Direct Testimony of Brodrick Niemeier p. 2, 8-14,

<sup>12</sup> See GM-1 or Staff DR-0335.0, PO0012\_4006630\_Justification\_Documents.pdf

**Q. What is your response to the “Fresh Start” proposal?**

A. Mr. Hackney’s low-income solution was cited by no less than three other Liberty witnesses in this case. That solution being that 250 income-eligible customers would get a \$50 monthly bill credit which means these select customers would effectively not have to shoulder the rate increase request of \$47.41, and in fact, receive a \$2.59 reduction to their existing bill (assuming an average monthly usage of 1,000 kWh). 75 additional customers in greater economic constraints would get a \$75 monthly bill credit. Additionally, 49 customers would receive help on their arrearages; however, the assumed “help” was capped at a \$279 arrearage assumption, which is considerably less than the current realized average arrearage amount of \$498.36 across 31,653 accounts or roughly 22% of all of Liberty residential customers. Finally, we are also going to pay up to \$25K to have a 3<sup>rd</sup> party research consultant inform us of the success of this program that can, at most, serve 325 people.

My response is that this is a painfully underwhelming recommendation that gives me little hope that Liberty is serious about prioritizing customer impact or the long-term sustainability of its company and community. I do not support Mr. Hackney’s recommendation and stand by the recommendations I made in direct testimony.

**Q. What is CCM’s position on “Fresh Start”?**

A. CCM witness Jim Thomas largely supports Mr. Hackney’s proposed Fresh Start program but makes a number of program-expanding recommendations, including an increased budget (\$900,000), increased funding for the 3<sup>rd</sup> party evaluation (\$40,000), and an increased targeted number of participants (1250 to 1600).

**Q. What is your response to CCM’s proposed modified “Fresh Start” program?**

A. I do not support Mr. Thomas’s recommendations to Mr. Hackney’s Fresh Start program and continue to maintain the income eligible affordability recommendations I made in direct testimony.

**Q. Do you agree with stakeholder/collaborative recommendations Mr. Thomas made?**

A. I do. The recommendations put forward include meeting on a quarterly basis and including all low-income programs in the discussion. Both seem reasonable and should be adopted. I would also welcome CCM to the collaborative to the extent they would like to participate moving forward.

## **VII. RATE DESIGN & CLASS COST OF SERVICE**

**Q. What is your position on the Class Cost of Service (“CCOS”) studies parties presented in direct?**

A. I have no faith in the billing determinants used to inform these studies given the well-documented customer billing debacle. OPC factored that consideration and our overall position of rejecting any increase when the Company can’t demonstrate they can accurately bill its customers when it elected not to conduct its own CCOS. If the Commission elects to selectively disallow imprudent costs as it pertains to Customer First-related expenses, I would not be opposed to the Staff’s recommendation to confine those cost decreases to the residential class. As to any remaining cost allocation, I recommend an equal percentage increase across classes with no revenue-neutral shift.

**Q. Do you take a position on the residential customer charge?**

A. Yes. I recommend no increase. Given the financial constraints Liberty’s customers are already experiencing it would appear to be patently unfair to minimize customers’ ability to control their bill.

**Q. Do you have any additional comments to make?**

A. Yes. In direct testimony I recommended cost disallowances associated with ancillary costs from the poor roll-out of Liberty’s Customer First, namely, billing, meter and customer service representative costs. Due to internal miscommunication, the discovery I had drafted did not get issued. As such, I will update the specific cost disallowance amounts in surrebuttal testimony.


1     **Q.     Does this conclude your testimony?**

2     A.     Yes.


In the Matter of the Request of The )  
 Empire District Electric Company d/b/a )  
 Liberty for Authority to File Tariffs ) Case No. ER-2024-0261  
 Increasing Rates for Electric Service )  
 Provided to Customers in Its Missouri )  
 Service Area )

STATE OF MISSOURI )  
 ) SS  
COUNTY OF COLE )

1. My name is Geoff Marke. I am a Chief Economist for the Office of the Public Counsel.
2. Attached hereto and made a part hereof for all purposes is my rebuttal testimony.
3. I hereby swear and affirm that my statements contained in the attached testimony are true and correct to the best of my knowledge and belief.

  
Geoff Marke  
Chief Economist

TIFFANY HILDEBRAND  
NOTARY PUBLIC - NOTARY SEAL  
STATE OF MISSOURI  
MY COMMISSION EXPIRES AUGUST 8, 2027  
COLE COUNTY  
COMMISSION #15637121

  
Tiffany Hildebrand  
Notary Public

My Commission expires August 8, 2027.