

**Exhibit No.:**

**Issue(s):** Customer First/Resource Planning/  
Gas Hedging

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

**Sponsoring Party:** Public Counsel

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

## **SURREBUTTAL 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

September 17, 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. Are you the same Dr. Marke that filed direct/rebuttal testimony in this case?**

A. I am.

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

A. I am responding to the rebuttal testimony of the following witnesses' select issues:

- Customer First
  - Empire District Electric ("Empire") witnesses Amy M. Walt, Candice Kelly,  
Charlotte T. Emery, John J. Reed, Timothy N. Wilson,
- Resource Planning & Gas Hedging
  - Empire witness Aaron J. Doll

My silence in regard to any issue should not be construed as an endorsement of Empire's or  
any other party's position.

**II. CUSTOMER FIRST**

**Response to Amy M. Walt**

**Q. Empire witness Amy M. Walt provided 31-pages of rebuttal testimony regarding the  
Customer First platform. Can you summarize her testimony?**

A. Yes. Ms. Walt's testimony can be summarized as follows:

- Background over Ms. Walt's professional career and her new position as Chief Customer Officer
- Assertions that Customer First is an SAP enterprise system, and SAP is best-in-class by many utilities (not named)
- Billing customers with more than one service in a consolidated bill is tough
- Posits that Empire (internally and with stakeholders) will have more meetings and accountability via her desire to implement a LEAN operating model<sup>1</sup>
- Empire is making progress on fixing the billing problem
- Empire will have Customer First billing and experience metrics (TBD)
- Empire will need more time to make this right
- Customers are not harmed because Empire has suspended disconnections, and the cost disallowances are not consistent with the harm customers have experienced (presumably, because no one has been disconnected)

I will respond to each of these points in turn.

**Q. Do you have any comments about Ms. Walts' professional background and newly created position?**

A. Her background is very impressive. Moreover, the newly created position of Chief Customer Officer suggests that the Company is at least directionally placing a greater emphasis on customer experience. All of this is encouraging.

**Q. Ms. Walt claims that the Customer First SAP platform is utilized by many "best-in-class" utilities. What is SAP?**

A. SAP (Systems, Applications, and Products in Data Processing) is a German company that creates enterprise resource planning (ERP) software to integrate and automate core business processes like billing and HR. By bringing various business functions into a single system,

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<sup>1</sup> See also Lean manufacturing: [https://en.wikipedia.org/wiki/Lean\\_manufacturing](https://en.wikipedia.org/wiki/Lean_manufacturing)

SAP software is supposed to help companies improve efficiency, increase visibility into operations, and make better-informed decisions.

**Q. What is your response to Ms. Walt’s assertion that the Customer First SAP platform is utilized by many “best-in-class” utilities?**

A. I do not doubt that there are “best-in-class” utilities that utilize SAP as an enterprise software feature across their affiliates and core functions.

However, I believe Empire is presently on the opposite end of the spectrum from best-in-class and the challenges in implementing this enterprise system have further deviated from that ideal. Best-in-class may be Ms. Walt’s aspirational objective, but first Empire needs to prove they can bill customers in a timely and accurate manner.

At this point, that’s the minimum bar I am seeking, as it has proven to be a stubbornly difficult bar to overcome as we now approach the 18<sup>th</sup> month since roll-out occurred, with no end in sight.

**Q. Ms. Walt claims that many of the more complex problems related to Customer First tend to be with customers with more than one service (i.e., electric and water). What is your response?**

A. That may be true. Ms. Walt provides no evidence or data to substantiate this claim.

I will merely observe that customers with more than one service were billed without these levels of concentrated challenges and complaints in the past.

**Q. Ms. Walt wants to enforce more transparency and accountability by adopting a LEAN management style.<sup>2</sup> What are your thoughts?**

A. It sounds great in the abstract, but I have concerns due to the little to no detail provided as to how adopting a LEAN management style will result in customer bills being charged accurately and delivered in a timely fashion, or how exactly Ms. Walt’s managerial

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<sup>2</sup> See also “Lean manufacturing” [https://en.wikipedia.org/wiki/Lean\\_manufacturing](https://en.wikipedia.org/wiki/Lean_manufacturing)

1 approach will be executed, and I have concerns with what accountability means moving  
2 forward.

3 **Q. Ms. Walt claims progress is being made across the billing platform. What is your**  
4 **response?**

5 A. There is no evidence that this is true.

6 If anything, I believe the progress has stalled and/or regressed.

7 **Q. Why do you have that belief?**

8 A. The Company has committed to meeting with Staff and OPC every month to discuss  
9 progress to date over the investigation case. For her part, Ms. Walt has attended the last two  
10 meetings (July and August) in person. However, since Ms. Walt has been employed there  
11 has been no sharing of data or progress to date by the Company with OPC and Staff at these  
12 meetings.

13 Effectively, what OPC and Staff were told is that the Company would not provide data until  
14 it could show meaningful results. When that will occur and what data they intend to show  
15 that will demonstrate meaningful progress is anyone's guess, but I would say that is a "step  
16 back" from the rhetoric of her testimony.

17 **Q. Ms. Walt suggests that metrics will be developed to assess progress on the Customer First**  
18 **challenges. What are those metrics?**

19 A. It is not entirely clear to me what she is claiming to show in the future. Throughout her  
20 testimony, Ms. Walt espouses the need for more measurement and verification, but she only  
21 puts forward three specific metrics and a general category which she calls the "Customer  
22 Experience Index" which appears to be a catch-all category for non-specific surveys and  
23 (industry standard?) benchmarks. Specifically, Ms. Walt identifies the following three  
24 metrics and general catch-all category of the Customer Experience Index:

- 25 1. Billing Accuracy: percentage of bills issued utilizing an actual read
- 26 2. Billing Timeliness: percentage of bills issued within the expected billing month

3. Call Center Responsiveness: average speed of answer

4. Customer Experience Index: based on post-interaction surveys and benchmarks<sup>3</sup>

**Q. What is your response?**

A. I am not sure what to say. On the one hand, my initial response is “great” as the saying goes “what gets measured gets managed.” Empire should be measuring its performance both against itself and other utilities. On the other hand, my follow-up response is then “wait, they don’t already do that?” This follow-up response is, of course, disappointing on many levels and underscores one of the many reasons the Company finds itself in its present condition.

Opining specifically on the metrics, I agree that categories of accuracy, timeliness, and CSR responsiveness are all critically important to track, but I have to believe that Ms. Walt only lists one metric per category for illustrative purposes. For example, CSR employees could score really well in average speed of answer but that doesn’t necessarily provide any insight into the quality of the answers given (e.g., was the CSR able to resolve the customer issue?).

As the Commission is well aware, the parameters around any data set can be massaged to fit a narrative that may not accurately reflect the reality of the lived experiences of Empire’s captive customers. If specific metrics are necessary (and I believe they are), a larger discussion will need to occur regarding agreed-upon parameters and reporting.

It also bears repeating that since Ms. Walt has been employed, there have been no metrics (the aforementioned, or otherwise) shared with stakeholders.

Finally, there is no discussion about the problems present in the Company’s online customer portal. Throughout the town hall meetings, anecdotal stories were given of incorrect and/or inconsistent billing information present on physical bills received (or not received) on the Company’s online customer portal, or from the Company’s customer service representatives

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<sup>3</sup> Rebuttal Testimony of Amy M. Walt p. 29, 19-24.

1 (“CSR). The bills need to be correct, but that correction needs to manifest in all forms  
2 consistently for payment and communication.

3 **Q. Ms. Walt claims the Company will need more time to “make this right.” What is your**  
4 **response?**

5 A. I agree. Far from being “used and useful” the Customer First investment has proven to be  
6 “broken and hurtful.” As stated earlier, we are entering month 18 of the roll-out with no end  
7 in sight and no concrete plan on how to move forward beyond general descriptions of  
8 “LEAN management,” three operational metrics, and post-call phone surveys to customers.

9 I have no further understanding as to what the Company plans to do to ensure that bills are  
10 accurate and timely, its communications are consistent, and that it responds to its customers’  
11 billing inquiries, let alone how this will lead to best-in-class, top-quartile customer  
12 satisfaction.

13 All of that being said, I acknowledge that my criticism should be tempered by the brevity  
14 of Ms. Walt’s employment with Empire, and I remain optimistic that the Company’s  
15 surrebuttal testimony will be able to provide more insight on the Company’s plan moving  
16 forward.

17 **Q. What is your response to Ms. Walt’s argument that the cost disallowance**  
18 **recommendations are not commiserate with the costs imposed on captive customers?**

19 A. Ms. Walt’s argument misinterprets the basis of regulatory disallowances for utility  
20 mismanagement and fails to account for the full scope of harm caused to customers. A cost  
21 disallowance is a penalty for imprudent management and a tool to protect the public interest.  
22 Ms. Walt’s argument is flawed and ignores the foundational principles of utility regulation,  
23 which are based on the public’s right to safe, reliable, and reasonably priced service. The  
24 disallowance is both appropriate and proportionate to the harm caused, specifically the time,  
25 stress, and financial instability the Company’s actions have imposed on its captive  
26 customers, communities, and Southwest Missouri as a whole (to say nothing for the time  
27 and stress imposed on the PSC Staff, OPC, and elected officials for the past year).



1 The purpose of a cost disallowance is not only to remedy past harms but also to provide a  
2 financial incentive for the utility to make prudent management decisions going forward. A  
3 utility is expected to operate with reasonable and prudent management and recover only  
4 reasonable expenses from ratepayers. Erratic and random billing services left unresolved for  
5 approximately 18 months (and counting) is a clear example of imprudent management, and  
6 to allow Empire to recover these costs would be a penalty imposed on captive customers for  
7 the utility's own failures. The resources spent on rectifying billing errors, including  
8 increased customer service call volume and administrative overhead (and overtime), are all  
9 costs of poor performance. These costs (or at the very least the profits tied to those specific  
10 costs) should be borne by Empire, not the ratepayers and communities who suffered and  
11 continue to suffer from the consequences of Empire's imprudent actions.

12 By upholding the disallowance, the Commission sets a clear precedent that billing is a core  
13 (basic) utility function that must be performed to a reasonable standard. This action signals  
14 to the utility and all regulated entities that poor (and detrimental) performance in basic utility  
15 functions will have financial consequences, which is exactly what public utility regulation  
16 is supposed to do.

17 **Q. If the Commission supported your recommendations for cost disallowances, would**  
18 **anything prevent Empire from arguing for cost recovery in a future date?**

19 A. No. Empire could file a new rate case and request cost recovery again, but it cannot simply re-  
20 file the exact same case and costs if the Commission supports my recommendations. Empire  
21 would need to present a new general rate case with a new test year and justify that cost recovery  
22 is warranted because of a change in circumstances (e.g., accurate and timely bills, customers  
23 accurately compensated, website, etc...) that warrants inclusion in rate base as both used *and*  
24 useful.

25 Restated, Empire has a strong incentive to recover the costs of its investments, and if Customer  
26 First cost recovery is denied in this case, Empire will have every incentive to demonstrate a  
27 change in circumstances to justify future cost recovery.

**Response to Candice Kelly**

**Q. How would you characterize Ms. Kelly's rebuttal testimony?**

A. Very different than her direct testimony.

Filed more than ten months ago, Ms. Kelly's direct testimony does not mention any billing or Customer First challenges. Now, in August, Ms. Kelly's entire rebuttal testimony reads as a collective list of (some) notable problems Customer First has caused ratepayers.

**Q. Did Ms. Kelly respond to your recommendation that the Company should notify customers that it is not disconnecting anyone due to their billing performance?**

A. She did, but effectively put it back on me by suggesting that I work with the Company to draft up agreed-upon language in such a manner that would not detract from customers paying their bills. Admittedly, I could have and should have replied with a working example, and I will rectify that in this round of testimony.

**Q. Why did you make this request?**

A. I made this request because Liberty has placed an undue level of stress and anxiety on many of its customers over the past 18 (and counting) months of Customer First operations.

Based on numerous phone calls from Liberty customers, multiple town hall events, local public hearings, comments on Facebook, and more than a thousand filed comments in EFIS between this rate case and the investigation case, it became apparent that customers are struggling, angry, confused, and deserve to be leveled with.<sup>4</sup>

I also fully believe that many customers have overpaid for their electric service out of fear that they will be disconnected and/or out of a feeling of helplessness at their situation and lack of options available to them. Commissioners and advisors are encouraged to review GM-1 through GM-8 for the Town Hall transcripts (public and confidential) from Case No. OO-2025-0233 to hear from the public themselves to substantiate my position.

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<sup>4</sup> See GM-1 thru GM-8 for the Town Hall transcripts (public and confidential) from Case No. OO-2025-0233.

1 **Q. What would you recommend the Company specifically say to customers?**

2 A. I would recommend the following for future communications:

3 Important news for Liberty customers regarding

4 Liberty's "Customer First" billing system.

5 Effective immediately, Liberty will not disconnect service for non-payment related  
6 to issues with the new billing system. Additionally, late fees will not be charged  
7 until the Missouri Public Service Commission confirms that Liberty is billing  
8 accurately and in a timely fashion.

9 **Please note**

10 **Continue paying for services used:** You will still be billed for the services you  
11 consume.

12 **Avoid larger balances:** Timely payment helps prevent a greater balance once the  
13 moratorium ends.

14 **Contact us if you have concerns:** If you believe your bill is incorrect, please contact  
15 Liberty Utilities at [phone number and website]

16 **Future Notification:** We will provide two month's notice in the same format before  
17 we resume disconnections and late fees.

18 **Q. Ms. Kelly argues that even if Customer First isn't working as intended, AMI meters have**  
19 **overwhelmingly been a net positive for Liberty Customers and do not warrant any profit-**  
20 **disallowance. How do you respond?**

21 A. There is no evidence of any benefits from AMI let alone overwhelming evidence of benefits  
22 from AMI meters to offset the "costs" of a broken billing system. It's at best a throw-away line  
23 that is premised on the fact that the benefits of AMI should be self-evident.

24 They are not.

Her testimony is void of any benefits or how customers are better off today because of the AMI investments made.

**Rebuttal to Charlotte T. Emery**

**Q. How would you characterize Ms. Emery’s rebuttal testimony directed at you?**

A. Ms. Emery rejects my argument for cost disallowance associated with the return on portion of the AMI meter investments.

**Q. What is her argument?**

A. Ms. Emery states:

Excluding used and useful plant from rate base undermines the integrity of the cost-of-service framework and fails to recognize the value these investments deliver to customers.

**Q. What is your response?**

A. Meters have one primary function—to accurately tell customers, regulators, and the Company how much electricity service a given customer is using. The Company has consistently demonstrated its shortcomings in being able to accomplish this. The integrity of the AMI meters has also been consistently called into question across town halls and public hearings to such an extent that I am legitimately concerned that a large number of customers will “opt-out” of AMI meters because of the perceived deficiencies of Liberty’s AMI investments.

To be clear, I am not recommending the meters be disallowed. I am merely recommending that the profit associated with this investment be suspended until the Company can uphold its end of the bargain.

Customer First and the AMI meters are a package deal and should be treated as such. A more punitive recommendation would be to kick out the AMI meters in their entirety; my recommendation preserves the investment for cost recovery but correctly does not reward a utility where no such reward is warranted.

1 It should not be lost on the Commission that this would never occur (or at least never occur  
2 for 18 months and counting) in a competitive market. Customers would simply find a new  
3 provider for service. No such luck with a natural monopoly.

4 My cost disallowance is consistent with sound ratemaking principles and recognizes that  
5 customers are not receiving the benefits these investments promised and are in fact harming  
6 customers and the communities it operates in.

7 **Response to John J. Reed**

8 **Q. How would you characterize Mr. Reed's rebuttal testimony directed at you?**

9 A. Mr. Reed summarizes my cost disallowances, dismisses the problems Southwest Missouri  
10 electric customers are experiencing, and claims any disallowance would be inconsistent  
11 with experiences he has had opining on regulatory dockets for the past 49 years of  
12 experience.<sup>5</sup> Mr. Reed concludes by citing a similar situation experienced by Central Main  
13 Power Company in which the Maine Commission "imposed a management-efficiency  
14 adjustment" of a 100-basis points on its return on equity until the Company could  
15 demonstrate it was in compliance based on four specified service quality metrics including:

- 16 • Percentage of business calls answered within 30 seconds
- 17 • Call abandonment rate
- 18 • Bill-error rate
- 19 • Percentage of estimated bills

20 Mr. Reed points out that the total impact of this decision amounted to \$12.5M in lost profits  
21 and notes that such a cost disallowance was "one of the largest financial consequences I  
22 have seen for regulated utilities regarding billing system issues."<sup>6</sup>

23 **Q. What is your response?**

24 A. Clearly, Mr. Reed did not read my testimony beyond the cost disallowance numbers.

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<sup>5</sup> Rebuttal Testimony of John J. Reed p. 17, 19-21.

<sup>6</sup> *Ibid.* p. 23, 5-8.

1 If he had, he would have noted that I already spoke about Central Maine Power at length.  
2 He would have also disclosed that the Commission's decision spurred a statutory change in  
3 Maine that now prevents utility customers from being disconnected if their bills do not  
4 exceed a \$50 threshold. I am also sure he would have noted that the Company's billing  
5 problems were met with so much criticism that it spurred a voter referendum to replace the  
6 utility with a consumer-owned utility. And of course he would have also added how all of  
7 it was short lived as Central Maine Power was then acquired by Spanish Power Company  
8 Iberdrola in 2024.

9 Of course, if Mr. Reed had read my testimony, he wouldn't claim that the Central Maine  
10 Power billing fiasco was the largest he had ever read about, because he then would have  
11 read the other billing challenges at Central Hudson Gas & Electric in New York and  
12 National Grid in Massachusetts who both monetarily exceed what Mr. Reed considers the  
13 upper threshold for punitive actions related to billing.

14 **Q. How should the Commission view Mr. Reed's testimony?**

15 A. Poorly. Especially for a hired consultant. Mr. Reed was brought on to file rebuttal testimony  
16 against the cost disallowances put forward by Staff and OPC related to Customer First and  
17 to OPC's FAC arguments.

18 He either did not read my testimony or consciously chose to omit pertinent details in opining  
19 on industry context. I am not sure which would be worse, but either outcome should be  
20 grounds for cost disallowance.

21 **Q. In light of these facts, what is your recommendation?**

22 A. Promises of holding Empire to a higher standard is a recurring theme read across the  
23 Company's rebuttal testimony. I, too, agree that the Company should be held to a higher  
24 standard, and standard should be extended to the consultants it hires.

25 As such I recommend that Mr. Reed's costs in this docket be removed in their entirety.  
26

**Response to Timothy N. Wilson**

**Q. How would you characterize Mr. Wilson's rebuttal testimony directed at you?**

A. Mr. Wilson disagreed with my cost disallowance suggestions. He pointed to recent C-Suite hires as evidence of a proactive Company response and suggested that cost disallowances per Staff and/or OPC's recommendations would prevent the Company from being able to provide safe and reliable service. He also pointed out that the Commission still has the investigatory docket to hash out billing problems.

I will respond to each of these arguments/observations in turn.

**Q. What are the corporate suite changes Mr. Wilson speaks of?**

A. Mr. Wilson's testimony identifies and provides a short bio on new CEO Rod West, Chief Customer Officer Amy Walt and Chief Regulatory and External Affairs Officer Noel Black. Mr. Wilson suggests that these officers will help ensure a more customer-centric utility moving forward.

**Q. What is your response?**

A. That is impressive.

Mr. Rod West was formerly in charge of Entergy's five operating companies.

Mr. Noel Black spent 30 years at Southern Company, previously serving as Senior Vice President of Federal Regulatory Affairs.

Ms. Amy Black came from previously holding senior leadership roles at Entergy, Consumers Energy, and DTE Energy.

I, for one, am surprised Algonquin could convince such a talented group of industry professionals to leave their former positions and take leadership in such a comparatively smaller company from another country whose biggest affiliate is the smallest investor-owned electric utility in Missouri.

1 **Q. What did Mr. Wilson say regarding the impact of any cost disallowances on Empire?**

2 A. Mr. Wilson stated:

3 Yes, I am very concerned. Liberty has a legal and moral obligation to provide safe,  
4 reliable electric service to our customers, and the recommendations from Staff and  
5 OPC – if adopted in full – would place unreasonable financial risk on a utility that  
6 must continue to serve regardless of economic conditions.<sup>7</sup>

7 **Q. What is your response?**

8 A. My first reaction is the observation that “safe” and “reliable” matter, but apparently,  
9 “affordable” doesn’t make the cut for Mr. Wilson.

10 My second reaction is to remind everyone that Empire’s primary legal and moral obligation  
11 is to its customers, not its shareholders. Protecting customers from unreasonable costs *is* the  
12 fundamental purpose of economic regulation, and both the Staff and OPC are acting within  
13 this mandate.

14 Third, approving costs for an asset that is not “used and useful” but “broken and hurtful”  
15 creates a moral hazard where Empire knows it will be made whole regardless of its spending  
16 decisions, and now has zero incentive to be prudent and every incentive to inflate rate base.

17 Fourth, Empire’s financial risk stems from its own imprudent actions, and the disallowance  
18 simply reflects that reality. The cost disallowances need not be forever in this situation.  
19 That alone should be all the financial incentive Empire needs to put customers first in its  
20 Customer First platform.

21 Finally, I am legitimately concerned as to what message this sends to Southwest Missouri  
22 or to the public at large. I reaffirm my short and long-term concern for this utility and its  
23 customers. Hiring an impressive suite of executives is one thing, but concrete solutions to  
24 the problems plaguing this utility appear to be largely absent, and the lack of clarity moving  
25 forward gives me little confidence.

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<sup>7</sup> Rebuttal Testimony of Tim N. Wilson p. 15, 9-12.



**Q. What is your response to Mr. Wilson's observation that the Commission could just punt these issues to the investigatory docket?**

A. I disagree and will note that any complaint penalty awarded that may result from the conclusions of the investigatory docket would not result in costs being flown back to customers. As the Commission is well aware, any cost violations imposed on a utility for violations of the Commission rules result in penalties being flown into the state's school fund and not back to ratepayers that are harmed.

### **III. RESOURCE PLANNING & GAS HEDGING**

#### **Response to Aaron J. Doll**

**Q. Empire witness Doll suggests you are recommending that the Commission order Empire to cease its gas hedging strategy. Is this true?**

A. I made no such recommendation.

**Q. What did you say?**

A. The Q&A from my direct testimony is as follows:

Q. How have Empire's gas hedging practices affected its retail customers?

A. Adversely. Between 2008 and 2017 Liberty lost approximately \$100 M due to its natural gas-related hedging practices. The Company did not change its hedging practices for a decade despite year-over-year losses and in the face of Shale Gas Revolution.<sup>8</sup> The interplay between Liberty's hedging practices and Liberty's 95/5 FAC sharing mechanism was an issue in Liberty's 2020 rate case.<sup>9</sup>

I also quoted an Agenda discussion from the 2020 rate case in which changes to the FAC fell within a vote (a change at the end of the deliberation) of changing the fuel adjustment clause from 95/5 to 85/15.

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<sup>8</sup> See Case No. EO-2017-0065

<sup>9</sup> Direct Testimony of Geoff Marke p. 19, 20-24 & p. 20, 1-2.

**Q. Why did you bring up the \$100M losses in gas hedging borne by ratepayers?**

A. It was one part of an abridged retrospective overview of the managerial decisions of Liberty that preceded this filing.

**Q. Did Mr. Doll provide rebuttal to the approximately \$100 M in natural gas hedge losses?**

A. He did not.

**Q. Mr. Doll also says that OPC is “clearly attempting to use alleged deficiencies in resource planning as a vehicle to achieve broader regulatory outcomes.” What is your response?**

A. There is some truth to this statement. Unsustainable rates and poor quality of service do not happen in a vacuum or overnight. This case and the evidence presented are a cumulative work in progress that dates back to the Liberty acquisition.

“How we got here?” is a critical question in answering the larger fundamental question of “how are we going to fix this utility?”

I provided twenty pages of direct testimony articulating poor performance scores, questionable generation investments and early retirements, poor hedging strategies, a complete disregard for its customers when it came to corporate tax breaks, and the challenges the parent company has experienced with commissions in other states to provide proper context and level-set the realities facing captive customers in Southwest Missouri as the Commission considers the 30% rate increase request and 10% profit margin Liberty feels entitled to be awarded.

**Q. Can you summarize those observations again?**

A. I can.

- In 2016 Empire’s preferred resource plan was that it would be another fifteen years before Empire added new generation. This was, in part, a result of customers experiencing a 62.23% compound rate increase over the previous ten years.
- Empire sold its business at a 21% premium to Algonquin/Liberty under the pretense that there would be “no net detriment” to its Missouri retail customers.

- 1           • Following Liberty’s acquisition of Empire, Liberty stated that it intended to
- 2           transition Empire into a net-zero utility by “greening its fleet.”
- 3           • Liberty then entered into a tax-financing scheme that allowed for 600MW of wind
- 4           to come online at a cost of over \$1B to ratepayers.
- 5           • Liberty prematurely retired Empire’s 213 MW Asbury Plant fifteen years before the
- 6           end of its anticipated useful life. Liberty’s retail customers are on the hook for the
- 7           \$100 M undepreciated balance now being recovered through securitization charges.
- 8           • Within a year of Asbury being retired, Empire incurred over \$200 M in fuel-related
- 9           costs due to Storm Uri for which Empire’s retail customers are now paying through
- 10          securitization charges.
- 11          • Empire/Liberty incurred over \$100M from poor natural gas hedging strategies that
- 12          customers had to absorb.
- 13          • Liberty was also the only utility in Missouri to refuse to flow the reduction in its
- 14          annual base rate revenue requirement of \$17,837,022 from the 2017 Tax Cuts and
- 15          Jobs Act to ratepayers and forced a contested hearing and a direct order from the
- 16          Commission to flow benefits back to ratepayers.
- 17          • Algonquin/Liberty had a series of challenging (Montana) or rejected acquisitions
- 18          (Jacksonville, Kentucky Power), which were compounded by ballooning debt due
- 19          to increased interest rates and resulted in the sale of all of its non-regulated assets.
- 20          • Liberty ranks in the bottom 5% of all electric utilities in the United States per JD
- 21          Power’s most recent residential customer satisfaction scores from 2024.

22          This is all before we even consider what a disaster the Customer First roll-out has been, or the  
23          fact that approximately 1 out of every 4 residential accounts has an average arrearage amount  
24          of approximately \$500 based on the most recently available data.

**IV. CONCLUSION:**

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

A. I have three.

First, I have not amended any of my previous positions/recommendations based on the rebuttal testimony that was filed by other parties. To the extent I did not address an issue in surrebuttal, parties should assume I am maintaining the position I last recommended.

Second, it came to my attention that the Empire/Liberty acquisition Case No. EM-2016-0213 included the following provision first in the Ratepayer Protections section of the Order issued by the Missouri Public Service Commission. That provision reads as follows:

**Ratepayer Protections:**

In the first rate case after Empire implements a new customer information system and/or billing system, Empire will support the costs of the new system by submitting a “business case,” with its application. The business case will, among other things, (1) demonstrate Empire’s need for a new system and the impact of the merger on this need, (2) demonstrate Empire’s analysis resulting in the selection of the new system implemented, (3) describe and quantify the costs associated with the selected system, and (4) describe the impact on rates of the cost of the new and the retiring systems, including the treatment of any remaining undepreciated balances and changes to the useful lives of the systems.<sup>10</sup>

**Q. Are you aware of this study?**

A. I am not. To the best of my knowledge, I cannot recall this study ever being conducted let alone filed in front of the Commission. If it was conducted, I am puzzled why it has not come up in discussions from the Company in support of their arguments. That being said, I would not rule out that I overlooked this analysis in a previous filing. I am merely putting

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<sup>10</sup> Case No. EM-2016-0213 Order Approving Stipulations and Agreements and Authorizing Merger Transaction.

1           this information out there for the Commission's consideration and inquiry if this case  
2           progresses to an evidentiary hearing.

3           Finally, I am recommending that the Company strongly consider changing the name of its  
4           billing enterprise platform. The current name, "Customer First," appears to be a  
5           misrepresentation of Empire's true priorities or, at the very least, ironically highlights a  
6           perceived shortcoming in the Company's performance. A more appropriate name would be  
7           a neutral descriptor that avoids making unsubstantiated claims in the face of the Company's  
8           performance to date.

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

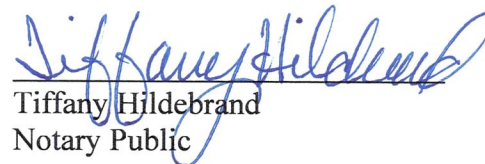
10 A.    Yes.

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            )**  
   )  
**COUNTY OF COLE              )          ss**

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 surrebuttal 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.

Subscribed and sworn to me this 12<sup>th</sup> day of September 2025.



My Commission expires August 8, 2027.