Exhibit No.: ______________
Issue(s): ARR/TCR Revenues/FAC Transmission Expense/Administrative and General Expenses/ Cybersecurity
Witness/Type of Exhibit: Schaben/Surrebuttal
Sponsoring Party: Public Counsel
Case No.: ER-2024-0261

SURREBUTTAL TESTIMONY

OF

ANGELA SCHABEN

Submitted on Behalf of the Office of the Public Counsel

THE EMPIRE DISTRICT ELECTRIC COMPANY D/B/A LIBERTY

FILE NO. ER-2024-0261

** ______________________________ **
Denotes Confidential Information that has been redacted.

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September 17, 2025

PUBLIC

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SURREBUTTAL TESTIMONY

OF

ANGELA SCHABEN

THE EMPIRE DISTRICT ELECTRIC COMPANY, D/B/A LIBERTY

CASE NO. ER-2024-0261

INTRODUCTION

Q. What is your name, what is your title, and what is your business address?

A. Angela Schaben, Senior Utility Regulatory Auditor, Office of the Public Counsel ("OPC" or "Public Counsel"), P.O. Box 2230, Jefferson City, Missouri 65102.

Q. Are you the same Angela Schaben who filed direct and rebuttal testimony for Public Counsel in this case?

A. Yes.

Q. What is the purpose of your testimony?

A. The purpose of my testimony is to respond to the rebuttal testimony of Liberty witnesses Todd Tarter, Aaron Doll, and Peter Eichler.

Q. Would you summarize your recommendations in this testimony?

A. I recommend including a normalized amount of ARR/TCR revenues based on a 5-year average both in Liberty's annual revenue requirement and in the base factor of Liberty's FAC. I also recommend allowing Liberty to recover only transmission expense related to purchased power through its FAC. I also reiterate my position on administrative and general ("A&G") expenses from direct testimony, *i.e.*, that Liberty's A&G expense included in its annual revenue requirement align with Liberty's Missouri electric IOU peers' average A&G expense per customer of approximately $149 in 2024—an annual revenue requirement amount of about $41,572,960.

Auction Revenue Rights and Transmission Congestion Rights ("ARR/TCR") Revenues

Q. Before we delve into Liberty witness Mr. Tarter's criticism of your methodology for quantifying the level of ARR/TCR revenues to include in Empire's annual revenue requirement and FAC base factor would you explain again what ARR/TCR revenues are?

A. According to SPP's glossary, an ARR (auction revenue right) is a financial right, awarded during the Annual ARR Allocation Process that entitles the holder to a share of the auction revenues generated in the applicable TCR (transmission congestion right) Auction(s) and/or entitles the holder to self-convert the ARRs to TCRs. And a TCR is a financial right entitling the holder to a share of the congestion revenue collected in the Day-Ahead Market.[1]

Q. How did you calculate your recommended amount of TCR revenues to include in this case?

A. My methodology in direct testimony was formulated using a five-year average of TCR revenues, based on actual TCR revenues from May 2020 through April 2025, then attempting to estimate anticipated revenues through 2025, which averaged approximately $48,908,611. This methodology was meant to demonstrate that TCR revenues received by Liberty have increased significantly over the past several years. I am not changing my methodology in surrebuttal testimony, but I am changing the time period and data to which I apply it to include **only** actual TCR revenues Liberty received between April 2020 through the true-up period of March 2025. I used that actual historical data to calculate a five-year average, or normalization, of Liberty's ARR/TCR revenues to arrive at my updated recommendation of approximately $46.4 million.

[1] https://www.spp.org/glossary/.

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Q. Why are you changing the data to which you apply your methodology to include only actual TCR revenues?

A. Known and measurable data is more reliable than projected data, and the most recent data I have from Empire is through July 2025 as reported in its FAC Data spreadsheet provided with its FAC monthly report submissions. The ordered true-up cut-off date is March 31, 2025, so I am using known and measurable data through that date.

Q. Why does Company witness Todd Tarter say that he disagrees with your methodology of averaging ARR/TCR revenues over 5 years in order to determine an ARR/TCR revenue amount to include in Liberty's annual revenue requirement and FAC base factor?

A. Mr. Tarter states my analysis is "overly simplistic and fails to reflect the complexity of transmission congestion in the electricity markets."[2]

Q. Is that all he says?

A. No. Mr. Tarter asserts that my "simplistic arithmetic average" of ARR/TCR revenues does not account for significant system changes that affect congestion levels, and he points out Liberty's unusually high level of ARR/TCR revenues in 2022.

Q. What is your response to his criticisms of your methodology?

A. First of all, I believe the "simplistic arithmetic average" to which Mr. Tarter is referring, is also called normalization. The whole point of normalization is to smooth out highs and lows of revenues or expenses from year to year. This is demonstrated in Figures 1 and 2 below. Figure 1 shows actual ARR/TCR revenues collected by Liberty through December 2024:

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[2] Rebuttal testimony of Todd Tarter, page 10.

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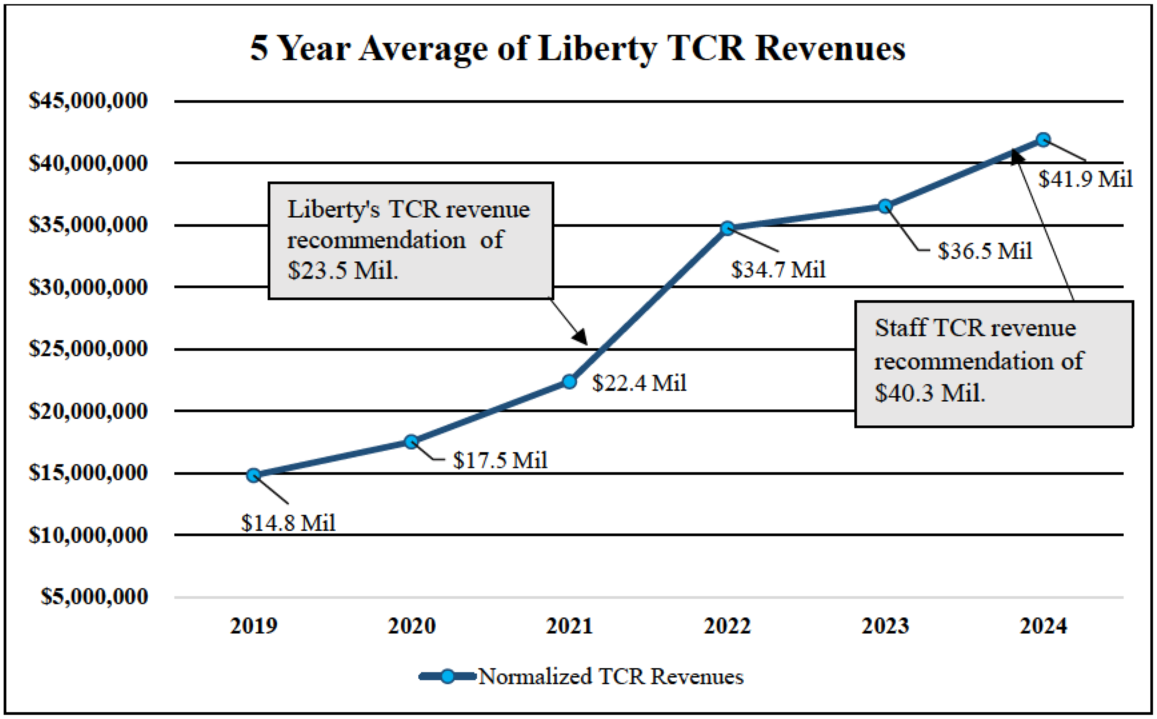
As Figure 1 demonstrates, ARR/TCR revenue activity is rather variable. Figure 2 shows the rolling 5-year average revenues for 2019 through 2024.

Figure 2:



As Figure 2 indicates, averaging ARR/TCR revenues over 5 years smooths out the variability shown in Figure 1 with the averages increasing at a steady rate. Something to note in Figure 2 is that the average ARR/TCR revenue amount OPC recommends, through March 2025[3], $46.4 million, is closer to actual ARR/TCR revenues of $40,317,269 Staff recommended than Liberty's proposed ARR/TCR revenues. Liberty's proposed ARR/TCR revenues of $23,533,318 in this case are just above the 2021 average.

Q. What is your response to Mr. Tarter's charge that your analysis fails to consider recent FERC filings made by SPP that would impact congestion hedging?[4]

A. Mr. Tarter states that the goals of SPP's proposed revisions is to enhance efficiency, transparency, and fairness of congestion hedging. No one knows at this point how these

[3] As stated above, based on actual TCR revenues from April 2020 through March 2025.
[4] Rebuttal testimony of Todd Tarter, page 10-11.

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revisions will affect Liberty's ARR/TCR revenues in the future. What we do know is that Liberty's history of ARR/TCR revenues show that, in general, those revenues are increasing each year.

I saw nothing to indicate that Mr. Tarter considered recent FERC filings made by SPP when he performed his ARR/TCR revenues analysis. There is no evidence that what Mr. Tarter states in his testimony is reflected in his ARR/TCR revenue workpaper.[5] The Company's ARR/TCR revenue workpaper attempts to assign weighted averages to historic ARR/TCR revenues going back to 2017 to determine a level of recommended ARR/TCR revenues, with no explanation for why those weights were used. Several months are not even calculated using a 100% total weight. For these months, the weighted percentage utilized is **____ **. Liberty's methodology of projecting ARR/TCR revenues relies on even older historic information than mine. If SPP proposed OATT revisions in 2024, I fail to see how incorporating weighted ARR/TCR revenue actuals from 2017 or 2018 produces a "forward-looking approach that provides a more accurate representation of future congestion hedging outcomes"[7] than using an average of the last five years of ARR/TCR revenues.

Q. Why is your methodology for determining an appropriate level of ARR/TCR revenues to include in Liberty's revenue requirement and FAC base factor better than Liberty's?

A. Attempts to overcomplicate processes that don't have to be complicated reduces transparency and generates further distrust from consumers. Normalization is used in accounting on a regular basis and, with respect to the level of ARR/TCR revenues recommended in this case, produces a normalized amount that is closer to actuals than the Company's recommended level

[5] Mr. Tarter did not provide testimony describing Liberty's methodology for annualizing ARR/TCR revenues.
[6] Mr. Tarter's "2024 MO Rate Case ARR TCR Offset – Confidential" workpaper assigns a weight of 15% to the year 2024. Only January through March 2024 contain values. April through December 2024 contains no values, yet Liberty's weighted estimate still assigns a 15% weight to these months – essentially calculating 15% of zero. Therefore, the April through December weighted estimates are only weighted at 85% rather than 100%. If April through December 2024 were updated with ARR/TCR actuals, Liberty's weighted estimate increases from $23,533,318 to $27,334,105.
[7] Rebuttal testimony of Todd Tarter, page 11.

of ARR/TCR revenues. Mr. Tarter cites OATT tariff revisions relating to congestion hedging as validation to support Liberty's recommended ARR/TCR revenues, yet Mr. Tarter's ARR/TCR revenue workpaper reveals he is using more of a backward than forward-looking approach. At least a 5-year normalization approach builds in the possibility of reaching a certain amount because it happened at least 20% of the time.

Q. Does Mr. Tarter dispute Staff's recommended ARR/TCR revenues and/or analysis?

A. I can't tell. Mr. Tarter does not specifically disagree with the methodology by which Staff arrived at its recommendation of $40,317,269 in ARR/TCR revenue, only that he supports $23,533,318 in ARR/TCR revenues, as recommended in Liberty's direct filing.[8]

Q. What level of ARR/TCR revenues do you recommend that the Commission include in Liberty's annual revenue requirement and FAC base factor in this case?

A. Based on actual ARR/TCR revenues through the March 2025 true-up cut-off date, I propose to include $46.4 million in ARR/TCR revenues in revenue requirement. Actual ARR/TCR revenues through July 2025 so far are $32,180,169, or $12 million above the annual normalized amount Liberty proposes be included. This shows Liberty's recommended level of ARR/TCR revenues are too low and $46.4 million is reasonable based on normalized actuals, as shown in Table 1 below:

[8] Rebuttal testimony of Todd Tarter, page 3.

Table 1:

Actual ARR/TCR Revenues	Total
04/20 - 03/21	$ 24,875,306
04/21 - 03/22	$ 40,060,239
04/22 - 03/23	$ 79,506,630
04/23 - 03/24	$ 32,301,345
04/24 - 03/25	$ 55,215,905
	$ 46,391,885

Q. Do you have additional ARR/TCR revenue data outside of the true-up period?

A. Yes. Liberty's "FAC Data" reports supplied with its monthly FAC reporting includes updated ARR/TCR revenues through July 2025. Calculating a rolling 5 year normalization of actual ARR/TCR revenues from August 2020 through July 2025 produces an average of $49,339,787, an increase of over $2.9 million in four months, and shows the reasonableness of including true-up actuals through March 2025.

Table 2:

Actual ARR/TCR Revenues	Total
08/20 - 07/21	$ 26,488,889
08/21 - 07/22	$ 69,175,121
08/22 - 07/23	$ 52,592,734
08/23 - 07/24	$ 35,972,122
08/24 - 07/25	$ 62,460,067
Average	**$ 49,337,787**

Q. Are ARR/TCR revenues included in Liberty's FAC?

A. Yes, in calculating the FAC base factor.

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Q. All else being equal, what happens if the ARR/TCR revenues included in the calculation of the FAC base factor are unrealistically low?

A. Liberty would get to keep any excess ARR/TCR revenues beyond what's built in the FAC base factor limited only by the FAC sharing mechanism.

<u>Eligible FAC Transmission Expense</u>

Q. What is Liberty's argument for why it should recover 100% of its SPP and MISO transmission expenses through its FAC?

A. Mr. Doll testifies that SPP and MISO transmission and transmission related expenses are "largely exogenous to Liberty", "fluctuate annually", and "are not within the Company's operation control, **much like fuel**" (emphasis added).[9]

Q. Has the Commission previously addressed which transmission costs can be recovered through FACs?

A. Yes. Within my rebuttal testimony, I provided prior rate case history going back to Ameren Missouri's Case No. ER-2014-0258, where the Commission found in its *Report and Order* in that case that "the policy underlying the FAC statute is clear on its face. The statute is meant to insulate the utility from unexpected and uncontrollable fluctuations in transportation costs of purchased power"[10]. The Commission goes on to define the specific transportation costs of purchased power that should be included in a FAC as the portion of transmission associated with true purchased power. True purchased power, as the Commission defined it, is the amount Liberty receives from SPP above what Liberty generated in each hour, not the SPP load cost.[11] The accepted practice for the FACs of all of the electric utilities in Missouri

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[9] Rebuttal testimony of Aaron Doll, page 16.
[10] File No. ER-2014-0258, ***Report and Order***, issued April 29, 2015, page 115.
[11] Based on FERC order 668 which defines purchased power as the amount provided to Liberty in each hour for its load over the amount Liberty generated. Likewise, off-system sales is the amount provided to SPP above the requirements of Liberty's system.

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has been to flow a percentage of transmission costs through their FAC that corresponds to the percentage of the utility's load that is met through pure purchased power as calculated in the fuel model used to determine the fuel costs included in direct testimony.

Q. If the behavior of SPP and MISO transmission, and transmission related, costs share some similarities to fuel cost behavior as Mr. Doll avers, does that mean all transmission costs should be treated like fuel costs?

A. No. Just because Liberty perceives a causal connection of variability between transmission costs and fuel costs does not mean all transmission costs should be treated as fuel costs. That's like saying footwear and dogfood are similar because they are both sold at Walmart, or that a square should be considered a triangle since they are both polygons. Most operational expenses could technically be considered variable, with a few exceptions, *i.e.* the operational expense is defined within a contract or subscription over several years, *etc*. When developing a revenue requirement, operational expenses are generally normalized over a certain number of years to account for variability. Mr. Doll's statement that transmission costs are "much like fuel" implies that he knows that the transmission costs that Liberty is requesting recovery of through the FAC are not fuel, or fuel related costs.

Q. Does any of Mr. Doll's testimony in this case indicate that not all SPP and MISO transmission costs should be considered similar to fuel costs?

A. Mr. Doll has provided a copious amount of testimony describing Liberty's participation in the SPP transmission planning process. The concept of planning indicates a strategy of setting goals and developing strategies to achieve those goals. Participating in transmission planning implies that Liberty should be aware of the SPP planning outcomes. With knowledge of SPP planning outcomes, Liberty could adjust operations accordingly in order to maximize efficiencies resulting from improved transmission. Improved operational efficiencies resulting from transmission investment, in principle, should balance out and be captured in the overall revenue requirement.[12]

Q. Does RSMo 386.266.1 imply that any cost that varies "like fuel" is eligible for recovery through a FAC?

A. No. RSMo 386.266.1 states that an electrical corporation **may** (emphasis added) request a periodic rate adjustment "outside of general rate proceedings to reflect increases and decreases in its prudently incurred fuel and purchased-power costs, including transportation" RSMo 386.266 allows an electric utility to request a FAC for "prudently incurred fuel and purchased-power costs, including transportation", not any variable expense that may be perceived as "like fuel." Furthermore, a FAC is a privilege, not a right. The statute leaves the decision of granting or denying an electric utility's FAC mechanism to the discretion of the Commission.

Q. Does the 20 CSR 4240-20.090 FAC rule imply that any cost that varies "like fuel" is eligible to be recovered through a FAC?

A. No. In fact 20 CSR 4240-20.090 defines the net base energy cost ("NBEC") as "fuel and purchased power costs net of fuel-related revenues billed during the accumulated period in base rates" and actual net energy costs ("ANEC") as "prudently incurred fuel and purchased power costs net of fuel-related revenues of a rate adjustment mechanism ("RAM") during the accumulation period". The ANEC is reconciled with the NBEC during an accumulation period in order to determine the FAC charge amount. Both the NBEC or ANEC refer to "fuel and purchased power costs" not variable costs perceived as "like fuel".

[12] Theoretically, capital investment of a sensible and practical nature should generate operational efficiencies and decrease operational expenses. However, unnecessary "gold-plated" capital investment could increase capital expense exponentially and not generate sufficient operational efficiencies to offset the capital expense.

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Q. Would recovering 100% of transmission expense through a FAC give customers "the right price signal in real time" and ensure that "Liberty recovers no more and no less than what it must pay to access the regional grid that's delivering those benefits"[13] as Mr. Doll opines?

A. No. It is difficult to say what Mr. Doll means by a real time price signal since the FAC recovery periods occur long after customer usage transpires. A more likely scenario is customers seeing an increased FAC charge as another obscure increase lacking in transparency, which is especially true if Liberty is allowed to recover any transmission expense beyond purchased power transportation expense within the FAC.

Q. Has Liberty brought up any change in circumstances that should cause the Commission to reconsider the methodology for determining the percentage of purchased power transmission expense eligible for recovery through Liberty's FAC?

A. As far as I am aware, Liberty has not presented any new information on which the Commission should change its past determination relating to the amount of purchased power transmission expense eligible for recovery through its FAC.

Q. What level of transmission expense and revenues should the Commission allow Liberty to flow through its FAC?

A. I recommend the Commission only allow transmission expense and revenues that are related to the fuel and purchased power that the Commission allows Liberty to recover through its FAC. The FAC base levels for that fuel and purchased power needs to be consistent with the fuel and purchased power estimates included in Liberty's revenue requirement upon which the Commission designs Liberty's rates. As the Commission stated in its Case No. ER-2014-0370, ***Report and Order***, Section 386.266, RSMo, is meant to insulate utilities from

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Liberty witness Aaron Doll, Rebuttal testimony, p. 17.

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"unexpected and uncontrollable" fluctuations of their **purchased power** transportation costs, not 100% of their wholesale transmission costs.

Other FAC Related Issues

Q. Did Staff witness Brooke Mastrogiannis provide a recommendation regarding costs included in SPP Schedules 1A-1, 1A-2, 1A-3 and 1A-4 (Tariff Administration Service) and SPP Schedule 12 (FERC Assessment)?

A. Yes. Ms. Mastrogiannis recommended that costs included in Schedules 1-A and 12 are administrative costs, not fluctuating fuel and purchased power costs, and therefore should not flow through the FAC. Furthermore, excluding Schedule 1-A and 12 administrative expenses from FAC recovery is consistent with the Commission's treatment of these costs in Evergy Missouri Metro, Evergy Missouri West, and past Empire rate cases[14].

Q. Do you continue to support Staff's recommendation that the costs and revenues on SPP Schedules 1-A and 12 should not be recovered through Liberty's FAC?

A. Yes.

Administrative and General Expense

Q. What is your response to Liberty witness Peter Eichler's testimony that your proposed administrative and general ("A&G") expense adjustment "appears to be based solely on generalized comparisons and subjective opinion rather than substantive evaluation of Empire's cost drivers or regulatory obligations"?[15]

A. I do not believe that comparing Empire's FERC form 1 A&G expenses with those of Ameren Missouri or Evergy (both Missouri Metro and Missouri West) is based on subjective opinion.

[14] Rebuttal testimony of Brooke Mastrogiannis, page 7.
[15] Liberty witness Peter Eichler, Rebuttal testimony, p. 3.

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Ameren Missouri has been providing such an analysis since at least its past four general rate cases.[16] In fact, Liberty witness John J. Reed sponsored testimony in Case Nos. ER-2019-0335, ER-2021-0240, and ER-2022-0337 demonstrating the reasonableness of Ameren Missouri's A&G costs per customer by comparing them to Ameren Missouri's electric investor owned utility ("IOU") peers. I have not found witness testimony in those cases disputing the value of using Ameren Missouri's A&G expenses reported on FERC form 1 to determine the reasonableness of its A&G cost per customer in relation to its Missouri IOU peers. As far as Mr. Eichler's contention that this method of comparison does not provide a "substantive evaluation of Empire's actual cost drivers or regulatory obligations," I think that's the whole point of comparing Empire's A&G expense per customer to those of its Missouri peers. Empire makes management decisions that ultimately determine the cost of service, which includes its capital investments and A&G expense. Yet Empire's decisions, and its parents' decisions, generate a higher A&G expense per customer than the other Missouri's electric IOUs—Ameren Missouri and Evergy. Furthermore, Empire's customers are paying the highest rates in the state and will likely be paying even higher rates by the conclusion of this rate case, due to Empire's and APUC's decisions relating to A&G expense.

Q. What is your response to Mr. Eichler's testimony that Empire's unique service territory can result in higher per customer and administrative costs because its service territory includes both rural and urban areas?[17]

A. Within my rebuttal testimony, I included several examples of Electric Cooperatives ("Co-ops") in southwest Missouri who have managed to operate and provide safe, adequate, reliable service in that same rural area at lower rates than Empire. Evergy Missouri West is also largely rural, and its A&G costs have decreased over several years. The fact that a portion of Empire's

[16] Case Nos. ER-2019-0335, ER-2021-0240, ER-2022-0337, and ER-2024-0319.
[17] Liberty witness Peter Eichler, Rebuttal testimony, p. 3.

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territory could be considered rural isn't a justifiable excuse for the rates that Empire is asking its ratepayers to pay.

Q. Are there notable differences between Co-ops and electric IOUs?

A. Yes. Co-ops are owned by their members and return capital credits to their members. Since Co-ops are owned by their members/ratepayers, there's no incentive to gold plate capital investment projects in order to earn higher returns for investors. Co-ops are locally owned and operated and are familiar with their communities. Co-ops manage to provide safe, reliable service at reasonable rates on lower budgets.

Q. What is your response to Mr. Eichler's testimony that changes in staffing levels and competitive wages and market conditions contribute to higher A&G expenses and that the Company believes this level of growth is reasonable?

A. It's difficult to reconcile Mr. Eichler's statement to APUC's recent earnings call. Empire's parent communicated to investors that APUC's goals included cutting A&G expense as a percent of revenues.[18] This communication implies that Empire's parent company's A&G expense is high and that it plans on taking steps to reduce that expense in the future.

Q. If APUC and Empire manage to reduce Empire's A&G expense within the next couple of years, would Empire's ratepayers see this reduction reflected in their rates?

A. No, not before Empire's general rates are changed. We are past the true up period in this case. Any A&G expense efficiencies and savings APUC and Empire manage to implement within the next year, two, or three, will not be reflected in customer bills until Empire's next general rate case. Empire will get to keep cost savings generated by any A&G efficiencies and will

[18] Schedule ADS-S-2.

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likely pay out higher earnings to its investors. Meanwhile, Empire customers will still be paying the highest electric rates in the state.

Q. What is your response to Mr. Eichler's testimony that the "merger was never intended to be about economies of scale, but rather an opportunity for both companies to gain benefits from diversification of customer bases and geographies"?

A. Mr. Eichler does not address customer benefits from the merger, only benefits gained by the electric companies involved in the sale. He goes on to blame several factors that impact administration costs, to include pandemics, inflation, changing business environments, *etc*. However, Ameren Missouri, Evergy Metro and Evergy West face these issues as well and have managed to keep their administrative costs under control. Liberty is not the only utility facing these issues in Missouri, but the other Missouri electric IOUs manage to keep their A&G costs per customer more reasonable. OPC witness Dr. Geoff Marke will further address Mr. Eichler's comments regarding the economies of scale expectations resulting from the merger.

Q. What is your response to Mr. Eichler's testimony that Empire's customers will not subsidize non-regulated affiliates because APUC is now comprised of primarily regulated assets?

A. Empire customers may not be subsidizing non-regulated affiliates in the future. However, that's not exactly reassuring if APUC continues operating at the same level of administrative overhead as prior to the sale of a majority of its unregulated assets. Unless APUC achieves operating efficiencies, Empire's customers would just be paying a higher level of expense that once was partly allocated to its non-regulated affiliates.

Q. What are you recommending to the Commission?

A. Empire's A&G costs per customer is significantly higher than the other Missouri electric IOUs. Additionally, Empire has not shown that its share of costs allocated by the parent company are

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proportionate to the benefits ratepayers receive from said costs. Liberty's post-acquisition O&M expenses and A&G expenses per customer have increased well beyond its pre-acquisition expenses levels, indicating that Liberty's customers have not received post-merger operational efficiency benefits. For revenue requirement purposes, I recommend the Commission order Liberty's A&G expenses per customer to align with Liberty's Missouri electric IOU peers' average A&G expense per customer of approximately $149 in 2024. Based on Liberty's current approximate 164,320 Missouri customers, this approach would reduce revenue requirement by approximately $41,572,960. If the Commission prefers a Liberty specific alternative, I recommend that Liberty's A&G expense per customer should not exceed the 2013-2016 pre-merger average of $274.50. This Liberty specific alternative, based on pre-merger A&G costs per customer would reduce revenue requirement by approximately $20,950,800. Liberty customers should not be worse off post-merger than they were before. Empire was acquired by APUC, a company that already held multiple utilities and has since acquired several more. One of APUC's corporate goals is the reduction of A&G expense as a percent of revenues, as communicated with investors. Empire customers should have received merger benefits through synergies and economies of scale. Instead, they are paying some of the highest electric rates, and utility A&G expenses per customer, in the State.

Cybersecurity Expense

Q. What is your response to Liberty witness Charlotte Emery regarding proposed party adjustments to cybersecurity operational expense?

A. Ms. Emery alludes in her rebuttal testimony that no parties proposed adjustments to cybersecurity operational expenses.[19] While no one may have done so in their direct case, I did propose an adjustment related to operational cybersecurity expenses in my rebuttal testimony. I recommended that the Commission not allow allocated Cybersecurity Program rate base or O&M (operation and maintenance) expenses in revenue requirement until Liberty

[19] Liberty witness Charlotte Emery rebuttal testimony, p. 47.

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can realize efficiencies and reduce O&M allocations to reasonable levels, has won back the trust of its ratepayers, and can prove that Customer First provides material benefits to its customers.

Q. How did you arrive at your cybersecurity adjustment?

A. I primarily based my adjustment on Liberty witness Shawn Eck's direct testimony and Liberty's responses to OPC data requests 1105 and 1106.

Q. Did you find an adjustment related to cybersecurity operational expense within Liberty's revenue requirement model that it provided as a workpaper to its direct filing?

A. No. Upon reading Liberty's direct testimony I searched Liberty's revenue requirement model and did not find an adjustment related to cybersecurity.

Q. Did you expect to see an adjustment related to cybersecurity expenses in Liberty's direct revenue requirement model?

A. Typically, when a regulated utility files a rate case and requests additional revenue requirement for certain expenses, I would expect to see a correlating adjustment. In this case, Liberty's response to OPC data request 1106 indicates that **______________________________ ____**.

What Liberty did not include in its response to OPC data request 1106 was the cybersecurity program allocated expenses I requested for its affiliates. Liberty also states in response to OPC data request 1106 that the allocated cybersecurity program operating expense from July 1, 2021, through December 31, 2024, is **______ **, though the table supplied within this response shows all of those expenditures were allocated, not assigned, in 2024. However, Liberty's response to OPC data request 1105 indicates that 2024 cybersecurity non-labor actuals were **________ ** with a cybersecurity non-labor budget of **________ **. Mr.

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[20] Liberty's response to OPC data request 1106; also attached as Schedule ADS-S-3.

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Eck requested $1.53 million in **estimated** non-labor cybersecurity costs through calendar year 2024, as of March 14, 2025. Liberty's response to OPC data request 1105 indicates 2024 actuals were less than Mr. Eck's request[21].

Q. Did Liberty's workpaper revenue requirement model for its rebuttal testimony filing include adjustments it had not included in its direct filing or in its direct testimony revenue requirement model workpapers?

A. Yes.

Q. Which adjustments did Liberty update in its rebuttal testimony revenue requirement model?

A. In Liberty's original direct revenue requirement model, adjustment 27 encompassed income tax related adjustments. In Liberty's rebuttal testimony revenue requirement model, adjustment 27 is now a cybersecurity expense adjustment and the income tax related adjustment from the direct testimony revenue requirement model is now adjustment 28. From the testimony I have reviewed, Liberty did not provide rebuttal testimony addressing the shifting of the income tax related expenses from adjustment 27 to adjustment 28, nor did Liberty address cybersecurity expense as the new rebuttal testimony adjustment 27.

Q. Do you have any concerns with Liberty's rebuttal testimony adjustment 27 related to cybersecurity expenses?

A. Yes. The revenue requirement model spreadsheet indicates this adjustment is for the test year ending September 30, 2023, and the cybersecurity expenses allocated to Empire is $1,305,657.

[21] Liberty's response to OPC data request 1105; also attached as Schedule ADS-S-4.

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Q. Why do you find this concerning?

A. Liberty specifically stated in its response to OPC data request 1106 that cybersecurity operating expenses **____ _____ **. Therefore, it's questionable that Liberty was able to go back and determine an appropriate level of cybersecurity related expenses for the ordered test year ending September 30, 2023.

Q. Did Staff issue data requests related to Liberty's cybersecurity expenses?

A. Yes. Staff's data request 499 requests additional information related to cybersecurity expenses.

Q. Did you review Liberty's response to Staff data request 499?

A. Yes.

Q. What did you discover?

A. Liberty's response to Staff data request 499 indicates that Empire's total non-labor cybersecurity costs for 2024 were **_______ ** and Empire's total labor cybersecurity costs for 2024 were **______ ** for total cybersecurity program costs of **_______ **. Liberty's response to Staff data request 499 indicates calendar year 2024 actual cybersecurity costs were less than adjustment 27[23], less than costs reported in response to OPC data request 1105, and less than Mr. Eck's direct testimony O&M estimation of $1.53 million[24] filed on March 14, 2025.

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[22] Schedule ADS-S-3.
[23] Rebuttal testimony adjustment 27 for test year ending September 30, 2023.
[24] Calendar year 2024 estimate.

Q. What else did you discover in Liberty's response to Staff data request 499?

A. Within the "Cyber OpEx Summary" tab of the "MPSC 499 Cyber Program - Test Year Allocation Calculation CONFIDENTIAL" spreadsheet, the allocation percentage assigned to Liberty Power is **____ **. From documents found in the New York Water Case 23-W-0235, before a majority of APUC's non-regulated assets were sold in January 2025, Liberty Power's corporate IT allocation percentage was approximately 7.84%. Liberty's response to Staff data request 499 does not clearly state whether cybersecurity costs allocated to Empire in 2024 were calculated based on allocation percentages that included Liberty Power's share of approximately 7.84%[25], or if the 2024 costs were allocated based on the **____ ** share of remaining hydro assets after the unregulated asset sale in 2025. To ensure that Empire's customers are not allocated costs for which they did not receive benefits, Liberty should provide detailed documentation showing 2024 cybersecurity costs allocated between APUC's affiliates. I am requesting this information in an OPC data request, but I have not issued that data request yet.

Q. Do you believe that Liberty can provide accurate documentation in response to your data request?

A. I do not know, but based on what I have seen I believe it unlikely.

Q. Why?

A. Between revenue requirement requests vs. budgeted expense, vs. actual expense, Liberty's cybersecurity program numbers are all over the place. It's difficult to believe that Liberty will provide an accurate response, in part due to previous discovery issues, and based on the discovery conference held on September 12, 2025, where the following statements were made:

[25] Or the most appropriate affiliate allocation percentage utilized during calendar year 2024 which included all of APUC's assets held during 2024.

Judge Hatcher: Ms. Carter, would you talk about the two outstanding ones that I have identified, 499 and 493[26]? Do we have an expected date that those will be completed? What's the status?

Ms. Carter: So, um, it's about pulling data and I guess each time we go to try and do it there's been a different pickup …

Q. What does this exchange tell you?

A. Ms. Carter's response to Judge Hatcher tells me that Liberty's ability to provide accurate data is questionable because each time Liberty attempts to pull data, the results are different. If Liberty cannot provide reliable and accurate data, then it would be difficult to ascertain Empire's true cost of service, or if Liberty's Missouri customers will end up subsidizing affiliate operations. In short, Liberty's data quality is questionable and it's debatable whether the Company can provide reliable data.

Q. Based on the information provided in your surrebuttal testimony, do you continue to support your rebuttal testimony recommendation related to allocated cybersecurity capital and O&M expenses?

A. Yes. Liberty has not provided consistent information related to allocated cybersecurity expenses and therefore makes it difficult to determine an accurate amount of expense that should be borne by Missouri ratepayers without subsidizing Liberty affiliates.

Q. Does this conclude your testimony?

A. Yes.

[26] In reference to Staff data requests.

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BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

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	)	

AFFIDAVIT OF ANGELA SCHABEN

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

Angela Schaben, of lawful age and being first duly sworn, deposes and states:

1. My name is Angela Schaben. I am a Utility Regulatory Auditor 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.

Angela Schaben
Utility Regulatory Auditor

Subscribed and sworn to me this 12th day of September 2025.

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.