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Exhibit No.: _____
Issue: Post-Financing Order Review Process
Witness: Michael Mosindy
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Sponsoring Party: The Empire District
Electric Company
Case Nos.: EO-2022-0040; EO-2022-0193
Date Testimony Prepared: May 2022

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

Surrebuttal Testimony

of

Michael Mosindy

on behalf of

The Empire District Electric Company d/b/a Liberty

May 2022



SURREBUTTAL TESTIMONY OF MICHAEL MOSINDY
THE EMPIRE DISTRICT ELECTRIC COMPANY
BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION
CASE NOS. EO-2022-0040 and EO-2022-0193

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

2 A. My name is Michael Mosindy. My business address is 354 Davis Road, Oakville,
3 Ontario.

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

5 A. I am employed by Liberty Utilities (Canada) Corp. as Director, Treasury.

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

7 A. I am testifying on behalf of The Empire District Electric Company d/b/a Liberty
8 (“Liberty” or the “Company”).

9 **Q. Please briefly describe your educational and professional background.**

10 A. Before joining Liberty Utilities (Canada) Corp in 2014, I spent seven years working in
11 finance in several industries in both public and private practice. I am an accountant,
12 having received the Chartered Accountant designation in Canada, which is now
13 referred to as a CPA, CA. That designation is similar to a Certified Public Accountant
14 designation in the United States. I obtained a Bachelor of Commerce degree from
15 Dalhousie University in Halifax, Nova Scotia. In addition, I completed Level 1 of the
16 Chartered Financial Analyst (CFA) program.

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

19 A. Although I have not previously testified before this Commission, I have testified before
20 the New York Public Service Commission and the Kentucky Public Service
21 Commission.

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

2 A. The purpose of my Surrebuttal Testimony is to address some of the issues raised by
3 Mark Davis of Ducera Partners, LLC, testifying on behalf of the Commission Staff
4 (“Staff”), regarding the post financing order review process Liberty intends to use to
5 provide the Commission with sufficient information so that the issuance advice letter
6 will not be rejected. It is important to remember that as a threshold matter, recovery of
7 Winter Storm Uri costs and Asbury costs through the issuance of securitized utility
8 tariff bonds (the “Bonds”) will provide quantifiable net present value benefits to
9 Liberty’s customers as compared with the traditional method for recovering these types
10 of costs. Therefore, anything that jeopardizes Liberty’s ability to issue the Bonds will
11 threaten quantifiable benefits to Liberty’s customers. Please refer to the Surrebuttal
12 Testimony of Company witness Charlotte T. Emery for details on the calculated
13 amounts.

14 **Q. What is your overall impression of witness Davis’ testimony?**

15 A. At a high level, there appears to be very little disagreement between Liberty’s proposed
16 financing order and the post financing order review process suggested by Mr. Davis on
17 behalf of Staff. That being said, I would like to emphasize that, unlike most other utility
18 securitization statutes, RSMo. §393.1700 (the “Missouri Securitization Statute”)
19 prescribes a specific post financing order review process. The Missouri General
20 Assembly ultimately decided to adopt the process prescribed in the Missouri
21 Securitization Statute to create an appropriate level of Commission oversight in order
22 to achieve the Statutory Objectives (as defined below). There should not be additional
23 protocols or procedures added to the financing order that could lead to delays in

1 completing the transaction, ultimately adding costs that Liberty’s customers will have
2 to pay.

3 **Q. Mr. Davis references a “Savings Standard” on pages 9 and 11 of his Rebuttal**
4 **Testimony. What is the “Savings Standard” referenced by Mr. Davis?**

5 A. Mr. Davis does not define “savings standard,” but pursuant to the Missouri
6 Securitization Statute, there are two standards that the Bond issuance must satisfy. First,
7 the issuance of the Bonds and the imposition and collection of the securitized utility
8 tariff charges (the “Charges”) must be just and reasonable and in the public interest and
9 provide quantifiable net present value benefits to customers. *See* §393.1700.2(3)(c)b.
10 Second, the structuring and pricing of the Bonds must reasonably be expected to result
11 in the lowest Charges consistent with market conditions at the time the Bonds are priced
12 and the terms of the financing order. *See* §393.1700.2(3)(c)c. I refer to these statutory
13 objectives, collectively, as the “Statutory Objectives.”

14 **Q. How has Liberty addressed these Statutory Objectives”?**

15 A. Liberty has proposed a financing order that will allow it to meet the Statutory
16 Objectives. Furthermore, Liberty has included a requirement in the proposed financing
17 order to provide the Commission with certifications from both Liberty and the
18 underwriters in connection with the issuance advice letter that the Statutory Objectives
19 were, in fact, met.

20 **Q. Mr. Davis asserts on page 12 of his Rebuttal Testimony that “[r]eviewing the**
21 **marketing and pricing process can assist in ensuring the best execution, consistent**
22 **with the statutory objective, as other parties may not have a natural incentive to**
23 **protect the of ratepayers, who are wholly responsible for the cost of the financing.”**

1 **What is your reaction to this assertion, and are securitized utility tariff bonds**
2 **different from debt securities issued by Liberty?**

3 A. In my opinion, the marketing and pricing of these Bonds is not fundamentally different
4 from traditional debt securities issued by Liberty. While I acknowledge that the
5 structures used and cash flows are different than more traditional long-term bond
6 issuances, I do not believe those differences necessitate a Commission review process
7 for the issuance of the Bonds beyond what is already prescribed by the Missouri
8 Securitization Statute.

9 I particularly reject the notion, which is implied by Commission Staff's
10 consultant, that Liberty would have anything other than its customers' best interests at
11 heart and in mind when structuring, marketing, and pricing these Bonds or are
12 presumptively unsuited to manage the Bond structuring, marketing, and pricing process
13 in these circumstances because of alleged conflicts of interest. The fundamental
14 purpose of securitization of the costs for Winter Storm Uri and Asbury is to benefit
15 customers through reduced customer rate impacts. Liberty is quite capable of
16 managing the Bond issuance, competently and fairly and has voluntarily offered to
17 certify to the Commission that such Bonds will be issued in a manner consistent with
18 the Statutory Objectives contained in the Missouri Securitization Statute as part of that
19 process. *See* Findings of Fact 68 and 73, Form of Financing Order for the Recovery of
20 Qualified Extraordinary Costs, EO-2022-0040 and Findings of Fact 69 and 74, Form
21 of Financing Order for the Recovery of Energy Transition Costs, EO-2022-0193. The
22 post financing order process proposed by Liberty is designed fundamentally to facilitate
23 issuance of competitive securitization bonds to benefit customers.

1 **Q. Are you suggesting that the Commission should not have a role in the post-**
2 **financing order process?**

3 A. No, not at all, but I want to correct any misperceptions about these Bonds or Liberty's
4 ability to issue debt at low interest rates. The Company has a long history of
5 successfully issuing debt securities. In addition, I am part of a team based at corporate
6 headquarters that oversees financings for all of the Algonquin Power & Utilities Corp.
7 ("APUC") utilities – 28 utilities in thirteen U.S. states plus utilities in Canada, Chile
8 and Bermuda along with financings for APUC, Liberty Utilities Co. and related
9 affiliates for acquisitions, renewable projects and a host of other utility level projects.
10 Suffice it to say, we are extremely experienced.

11 **Q. What role should the Commission have in the post financing order process?**

12 A. The Missouri Securitization Statute is specific that the Commission "shall have the
13 authority to designate a representative or representatives from [C]ommission staff, who
14 may be advised by a financial advisor or advisors contracted with the [C]ommission,
15 *to provide input to the electrical corporation and collaborate with the electrical*
16 *corporation in all facets of the process undertaken by the electrical corporation to*
17 *place the securitized utility tariff bonds to market so the commission's representative*
18 *or representatives can provide the [C]ommission with an opinion on the*
19 *reasonableness of the pricing, terms, and conditions of the securitized utility tariff*
20 *bonds on an expedited basis. Neither the designated representative or representatives*
21 *from the [C]ommission [S]taff nor one or more financial advisors advising*
22 *[C]ommission [S]taff shall have authority to direct how the electrical corporation*
23 *places the bonds to market although they shall be permitted to attend all meetings*
24 *convened by the electrical corporation to address placement of the bonds to market."*

1 *See* § 393.1700.2(3)(h) (emphasis added). Liberty’s proposed financing orders address
2 the role of the Designated Representative in order to comply with the statutory
3 requirements outlined above. *See* Findings of Fact 67 – 69, Form of Financing Order
4 for the Recovery of Qualified Extraordinary Costs, EO-2022-0040 and Findings of Fact
5 68 -70, Form of Financing Order for the Recovery of Energy Transition Costs, EO-
6 2022-0193. Mr. Davis’ suggestion that the Commission, acting through a Designated
7 Representative or advisor(s), should be a decision maker or participate in the selection
8 underwriters or other deal participants is inconsistent with the Missouri Securitization
9 Statute.

10 **Q. What is the “Designated Representative” from Commission Staff?**

11 A. In accordance with Section 393.1700.2(3)(h), the Designated Representative would be
12 a representative or representatives from Commission Staff.

13 **Q. After the financing order is issued by the Commission, please explain the**
14 **necessary steps to issue the Bonds.**

15 A. After the financing order is issued, there are two parallel workstreams that are
16 necessary to complete the financing: 1) the SEC registration process; and, 2) the rating
17 agency process.

18 The SEC registration process includes the preparation of a registration
19 statement. The registration statement, including the prospectus contained therein, is
20 filed with the SEC and contains all of the relevant disclosures about the proposed
21 offering, including descriptions of the terms of the securities, descriptions of the
22 underlying transaction documents, descriptions of the Missouri Securitization Statute
23 and financing order, risk factors and other required disclosures. The prospectus is the
24 primary marketing document for the bond offering.

1 Concurrently with the SEC process, Liberty and the underwriters will also work
2 with the rating agencies who will rate the Bonds. The rating agency process kicks off
3 with an introductory presentation to each rating agency where the key terms of the
4 Missouri Securitization Statute, the financing order and the proposed structure are
5 introduced. After the presentation, there will be a back and forth process whereby each
6 agency asks questions or requests additional information, and Liberty and the
7 underwriters will respond accordingly. Communications with rating agencies are
8 carefully controlled so to ensure compliance with Rule 17g-5 that requires all materials
9 provided to a rating agency also be posted to a password protected website so that other
10 interested rating agencies can have access to the information shared with the hired
11 rating agencies. Due to this requirement, communication with the rating agencies will
12 generally be limited to one person from Liberty and a representative from the lead
13 underwriter.

14 Only after completing the SEC and rating agency processes can Liberty and the
15 underwriters begin the marketing and pricing process more fully explained by
16 Company witness Niehaus in her direct and surrebuttal testimonies. In order to manage
17 the workstreams, Liberty intends to hold regular telephone calls with its underwriters
18 and counsel after the financing order is adopted and until the bond offering is closed.
19 These calls would likely be weekly calls, but could be less frequent, or more frequent
20 as necessary, to ensure everything is completed timely.

21 **Q. Will the Designated Representative from Commission Staff be able to provide**
22 **input and collaborate with Liberty in all facets of the process undertaken to place**
23 **the Bonds to market?**

1 A. Yes, the Designated Representative and their financial advisor will be invited to join
2 the regular conference calls among Liberty, the underwriters and their respective
3 counsel as described in my previous response. By joining these regular conference
4 calls, the Designated Representative, consistent with requirements of the Missouri
5 Securitization Statute, will be privy to information in real time and understand the
6 decisions that Liberty is making with respect to the structuring, marketing and pricing
7 of the Bonds. During these calls, the Designated Representative is welcome to provide
8 suggestions or pose any questions to the group. Liberty envisions a collaborative
9 process with all parties, including the Designated Representative, with everyone
10 working together towards achieving the Statutory Objectives.

11 **Q. What is the ultimate purpose of this collaboration?**

12 A. The purpose of this collaboration is to put the Designated Representative in a position
13 to provide the Commission with an opinion on the reasonableness of the pricing, terms,
14 and conditions of the Bonds on an expediated basis after they are priced as required by
15 Section 393.1700-2(3)(h) of the Missouri Securitization Statute.

16 **Q. Will there be other opportunities for the Designated Representative to provide**
17 **his/her input?**

18 A. Yes, while I do not believe regularly scheduled separate calls with the Designated
19 Representative are necessary, he/she can always reach out directly to Liberty with
20 questions or suggestions about the transaction and Liberty will provide responses and
21 take any suggestions under advisement. It is my belief that this process should provide
22 the Designated Representative with more than enough information, in real time, so that
23 the Designated Representative can regularly update the Commission and be
24 comfortable providing the opinion required by the Missouri Securitization Statute.

1 **Q. How does the Designated Representative’s opinion relate to the Issuance Advice**
2 **Letter process?**

3 A. The Issuance Advice Letter will be submitted by Liberty in accordance with the
4 requirements of the Missouri Securitization Statute and the Commission’s financing
5 order. Consistent with Liberty’s proposed financing order, a draft will be submitted to
6 the Commission not later than two weeks prior to the expected date of commencement
7 of marketing. At that point, the Commission will be able to provide comments,
8 including recommendations. Not later than the end of the first business day after the
9 Bonds are priced, Liberty will submit the final issuance advice letter with final pricing
10 terms and relevant certifications from Liberty and the underwriters to the Commission.
11 While it is ultimately the decision of the Commission on whether, and how, to request
12 an opinion of the Designated Representative, if so requested, I envision that the
13 Designated Representative will also submit their opinion at this time so that the
14 Commission will be able to evaluate the issuance advice letter prior to noon of the
15 fourth business day after pricing.

16 **Q. Does this conclude your Surrebuttal Testimony at this time?**

17 A. Yes.

VERIFICATION

I, Michael Mosindy, under penalty of perjury, on this 27th day of May, 2022, declare that the foregoing is true and correct to the best of my knowledge and belief.

/s/ Michael Mosindy