

Exhibit No. 221

OPC – Exhibit 221
Testimony of Manzell Payne
Direct
File No. ER-2024-0261

Exhibit No.:	_____
Issue(s):	Market Price Protection Mechanism
Witness/Type of Exhibit:	Payne/Direct
Sponsoring Party:	Public Counsel
Case No.:	ER-2024-0261

DIRECT TESTIMONY

OF

MANZELL PAYNE

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 Highly Confidential Information that has been redacted

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July 2, 2025

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DIRECT TESTIMONY

OF

MANZELL M PAYNE

THE EMPIRE DISTRICT ELECTRIC COMPANY D/B/A LIBERTY

CASE NO. ER-2024-0261

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

A. My name is Manzell Payne. I am a Utility Regulatory Auditor for the Office of the Public Counsel (“OPC” or “Public Counsel”), P.O. Box 2230, Jefferson City, Missouri 65102.

Q. What are your qualifications and experience?

A. My educational background includes a Bachelor of Arts degree in Accounting from Westminster College in Fulton, Missouri, which I received in 2020.

Prior to joining the Office of Public Counsel in July 2023, I worked as an analyst and auditor in the banking industry for four and half years. The responsibilities during my time as an analyst included risk analysis, tracking/monitoring expenditures, auditing of business financial statements and business plans. Through my various analysis and auditing work in the banking industry, I had the opportunity to review an individual or company’s credit worthiness.

Since joining the OPC, I have attended the National Association of Regulatory Utility Commissioners (“NARUC”) Rate School, and I have attended other seminars and trainings relating to utility regulation.

Q. Have you testified previously before the Missouri Public Service Commission?

A. Yes, I have previously testified before the Missouri Public Service Commission (“Commission”). Please refer to schedule MMP-D-1 attached hereto for a list of cases in which I have testified.

Q. What is the purpose of your direct testimony?

A. The purpose of my direct testimony is to address The Empire District Electric Company d/b/a Liberty¹ Market Price Protection Mechanism (“MPPM”) and its wind facilities.

¹ Heretofore “Company” or “Liberty.”

MARKET PRICE PROTECTION MECHANISM

Q. What is the Market Price Protection Mechanism?

A. The Market Price Protection Mechanism is a mechanism designed to share the risk between Liberty's customers and shareholders for Liberty's Wind Projects. The MPPM ultimately was proposed by Liberty as a way to protect customers from risk related to the upfront capital costs and the uncertainty of any benefits to customers during the first ten years of the wind projects.

Q. Did Liberty Advocate for the Commission adopting the MPPM in Case No. EA-2019-0110?

A. Yes. In that case Company witness, David Holmes asserted that the Market Price Protection Mechanism would be a significant benefit to Empire's customers and addressed the concerns raised by both Staff and the OPC. In Mr. Holmes surrebuttal testimony, the following summarization was provided:

The Market Price Protection manages the cost benefit risk associated with the Wind Project in terms of the capital costs, operating costs, SPP prices and wind production. While it is true that all variables could change over time, the Market Protection Provision includes all of these factors and will update these factors based on actual values so customers do not need to lock in future conditions based on today's assumptions. Again, this is unprecedented in terms of generation additions even in the form proposed by Empire and should provide significant comfort to the Commission.²

Q. What is the history of Liberty's MPPM?

A. OPC witness, Lena Mantle provided context and background for the MPPM that Liberty and other parties had designed and agreed to in her memo for year 1 of the MPPM submission. In her memo Ms. Mantle stated:

In its Report and Order, in Case No. EA-2019-0010 (consolidated with Case No. EA-2019-0118) the Commission ordered implementation of the Market Price Protection Mechanism that Liberty and other parties had designed and agreed to.³ In that Report and Order, regarding the MPPM, the Commission

² Empire CCN Case No. EA-2019-0010, Company witness, David Holmes Surrebuttal Testimony, Page 10 & 11, Lines 16-23 & 1-2, respectfully.

³ *Non-Unanimous Stipulation and Agreement* filed on April 5, 2019. OPC objected to this Stipulation and Agreement on April 12, 2019.

1 said, “In general terms, that mechanism seeks to provide for the sharing of risk
2 between customers and shareholders associated with the possibility of reduced
3 market prices and wind production associated with the Wind Projects”—
4 Liberty’s Neosho Ridge, North Fork Ridge, and Kings Point wind projects.⁴
5 In its order in that case, the Commission stated that the MPPM balances the
6 interests of the customers and shareholders appropriately.⁵

7 The MPPM calculates on an annual basis an Annual Wind Value (“AWV”).
8 One of the terms of the AWV is “the value associated with avoiding the
9 replacement of the existing wind power purchase agreements
10 (PPA_Replacement).”⁶ PPA_Replacement is specifically defined as
11 “PPA_Replacement Value = value associated with replacing the existing wind
12 PPAs during the period of the guarantee, as shown on Exhibit C (row 15
13 excel).”⁷ The “existing wind PPAs” are Liberty’s Elk River and Meridian
14 Way wind project PPAs.⁸

15 These PPAs provide renewable energy credits (“RECs”)⁹ that are used to meet
16 the Missouri renewable energy standard (“RES”) requirements.

17 Prompted by the signatories to the Fourth Partial Stipulation and Agreement
18 in Case No. ER-2021-0312, the Commission approved that settlement
19 agreement, which includes clarification of aspects of the MPPM,¹⁰ including
20 the MPPM PPA replacement value. Importantly, as to stated Issue 18.(a), “Is
21 it necessary and appropriate for the Commission to make changes to the
22 MPPM in this case?” the signatories to the Fourth Partial Stipulation and

⁴ ¶6p, p. 59.

⁵ P. 29.

⁶ Appendix B to Case No. EA-2019-0010 Report and Order, Appendix B to the Non-Unanimous Stipulation and Agreement, File EA-2019-0010, Market Protection Provision, ¶3, p 17.

⁷ Id. ¶2, p. 16.

⁸ Id. ¶3, p. 17.

⁹ One REC is created for each mega-watt hour (“MWh”) generated.

¹⁰ Case No. ER-2021-0312, March 9, 2022, Order Approving Stipulations and Agreements. The stated MPPM issues were (from Amended List of Issues filed January 28, 2022):

18. Market Price Protection Mechanism (“MPPM”)

(a) Is it necessary and appropriate for the Commission to make changes to the MPPM in this case?

(b) If so,

- i. Should the rate base revenue requirement component remain formulaic or only change with the effective dates of new rates?
- ii. What costs should be included?
- iii. What revenues should be included?
- iv. How should the PPA replacement value be calculated?
- v. When should a jurisdictional allocation factor be applied?
- vi. Should the MPPM include interest on the cumulative costs/gains?
- vii. If the cumulative value at the end of ten years is a net cost, how should the net cost be shared between customers and Empire?

(c) How should the components in Empire’s MPPM be tracked?

Agreement agreed, and the Commission approved, that the changes to the MPPM were to clarify it: “Clarification only.”

The clarification of the PPA replacement value in the *Fourth Partial Stipulation and Agreement* follows:

iv. A PPA replacement value will be calculated:

- For any renewable compliance standard not met by the existing wind PPAs through life of the MPPM;
- Based on the energy from the wind projects being used to meet the renewable standards that is not met by existing solar requirements (e.g., currently 2% of Missouri RES).¹¹

Q. What did Ms. Mantle identify about the first year of the MPPM in her memo?

A. OPC witness, Lena Mantle, pointed out in her Year 1 MPPM memo that Liberty’s Elk River and Meridian Way wind PPAs have not expired; therefore, Liberty did not avoid replacing either of them before the end of the first year of the MPPM ten-year guarantee period. Further, Liberty had enough RECs from these wind PPAs and its other qualifying renewable resources to comply with the Missouri renewable energy standard for calendar year 2022 without any RECs from its Wind Projects. Ms. Mantle went further to point out that in its first MPPM filing to report the costs and benefits of the first year of the ten-year MPPM guarantee period, Liberty incorrectly included a PPA Replacement Value benefit of more than \$8.3 million. Because neither Liberty’s Elk River wind PPA nor its Meridian Way wind PPA has expired, the appropriate PPA replacement value is zero.

Q. Did you review Liberty’s Year 2 MPPM filing and identify the same issues that Ms. Mantle had identified for Liberty’s Year 1 MPPM filing?

A. Yes. Once again, Liberty’s Elk River and Meridian Way wind PPAs have not expired; therefore, the Company again did not avoid replacing either wind farm before the end of the second year of the MPPM ten-year guarantee period. Additionally, as it was in year one, Liberty had enough RECs from the PPAs of Elk River and Meridian Way and its other qualifying renewable resources to comply with the Missouri renewable standard without any RECs from its wind Projects. In the second year MPPM filing, Liberty incorrectly included a

¹¹ Case No. ER-2021-0312 – Item No. 389 – OPC’s Response to Liberty’s MPPM Filing - 2023 Memorandum filing - Year 1 Market Price Protection Mechanism value PPA Replacement Value. Attached as MMP-D-2.

1 PPA Replacement Value of \$7.7 Million. Because neither Liberty's Elk River wind PPA nor
2 its Meridian Way wind PPA has expired, the appropriate PPA replacement value is zero.

3 **Q. When will Liberty's Elk River and Meridian Way wind PPAs expire?**

4 A. Liberty's Elk River and Meridian Way wind PPAs expire at the end of 2025 and 2028,
5 respectively. However, in response to OPC Data Request No. 1219, the Company stated:

6 *** _____

7 _____

8 _____ ***12

9 **Q. Did the Office of Public Counsel participate in developing the MPPM?**

10 A. Yes, initially, but not as it took its final form. Initially Ms. Mantle was part of the drafting and
11 design of the MPPM. However, during the drafting process, it became clear to the OPC that
12 the other parties were moving to an agreement on a MPPM that would leave Liberty's retail
13 customers exposed to all downside risk while the Company and tax equity partners would be
14 guaranteed a profit. As such, the OPC would not agree with the MPPM that was moving
15 forward. As a result, the OPC was excluded from participating in the final design of the
16 MPPM.

17 **Q. What is your understanding of why parties created the MPPM and its purpose?**

18 A. It is my understanding that Liberty promoted the wind farms on the basis that they would be
19 a good deal for customers since the expected revenues received from the wind projects would
20 be greater than the expected costs to Liberty's customers. This would in turn result in lower
21 customer bills. The MPPM was agreed upon by some of the parties to the case through
22 negotiation due to the speculative generation that was being built to "beat the market," not
23 generation being built to meet a need. The MPPM was to cover the possibility that the wind
24 projects might not provide more revenue benefits than their costs in the first ten years the wind
25 facilities operated.

26 The MPPM tracks the benefits provided to customers from the wind projects and the costs of
27 the wind projects paid for by the customers during the ten years of the projects. The MPPM

¹² Company Response to OPC Data Request No. 1219. Attached as MMP-D-3 - Highly Confidential.

1 in the Non-unanimous Stipulation and Agreement of case no. EA-2019-0010 requires a shared
2 risk of the first \$52.5 million of losses between Empire and its customers. If, after ten years,
3 losses were greater than \$52.5 million, parties could propose to the Commission alternatives
4 for the treatment of the amounts greater than \$52.5 million that Empire's customers will have
5 already paid.¹³

6 **Q. Moving forward to the most recent MPPM submission, have you reviewed the**
7 **Company's most recent MPPM filing?**

8 A. Yes. The Company's most recent MPPM filing was its second annual July 29, 2024,
9 submission in Case No. ER-2021-0312.

10 **Q. Do you have any concerns about the MPPM?**

11 A. Yes. Based on my review of the MPPM and Liberty's responses to OPC Data Requests in this
12 case, I have concerns regarding the benefits and the costs associated with the wind facilities
13 and their relation to the MPPM. I fully support the goal of the MPPM to provide protections
14 to customers, however, I am worried about transparency by the Company and the increased
15 risk to customers it is seeking.

16 **Q. What worries you about transparency?**

17 A. In preparation for direct testimony, I issued a number of data request to Liberty in regard to
18 its wind facilities. I asked questions in relation to the MPPM, collapsed wind turbines, blade
19 failures, transformer failures, and wildlife and endangered species mitigation efforts. In
20 response to these data requests, Liberty's responses were incomplete, vague, or failed to
21 answer the question directly. This lack of answers and details heightens my concern that
22 Liberty is not forthcoming with information and is lacking in transparency. This lack of
23 transparency is detrimental to Liberty's retail customers, as the MPPM is supposed to be for
24 their protection.

25 **Q. Would you provide examples of Liberty not providing complete responses to OPC Data**
26 **request or an answer at all?**

27 A. Yes. I will do so throughout my testimony where appropriate.

¹³ ER-2021-0312 Direct Testimony of OPC witness, Ms. Mantle. Page 12. Lines 12-18.

1 **Q. What concerns do you have about Liberty's failure to respond to data requests**
2 **completely?**

3 A. The Company's lack of transparency in response to OPC Data Requests is concerning, as the
4 issues of fallen turbines, blade separations, transformer failures, and wildlife-related
5 curtailments or mitigation efforts, are not minor or isolated operational issues. These all
6 directly affect the reliability, safety, and availability of wind generation assets for which the
7 MPPM was created. The Company's unwillingness or inability to provide full information
8 raises concerns about its safety protocols, asset management practices, and overall internal
9 oversight.

10 **Q. How do these failures to disclose information related to the MPPM?**

11 A. The MPPM was intended to track the benefits provided to customers from the wind projects
12 and the costs of the wind projects paid for by customers during the ten years of the projects.
13 If turbines are offline due to structural failures, transformer breakdowns, or broken blade
14 issues, the Company produces less energy, earning less market revenue, and passes more costs
15 on to ratepayers. The Commission and other stakeholders must be able to evaluate the causes
16 and frequency of such outages to determine whether the resulting costs are reasonable and
17 prudent.

18 **Q. Would you please describe the operational problems that Liberty's Wind Farms have**
19 **faced since they became operational?**

20 A. Liberty has been faced with operational issues stemming from two main power transformers
21 failing at its Neosho Ridge facility, wind turbine issues (collapsed wind turbine and blade
22 liberation), and environmental issues (wildlife deaths). In response to OPC Data Request No.
23 1210, the Company only provided details on two issues it is facing at its wind facilities, those
24 being the transformer failures and wind turbine issues. The Company did not mention its
25 environmental issues. This is an instance where the Company did not provide details about its
26 wind farm issues. The Company did however provide details in its responses to later OPC
27 Data Requests when asked specifically about the environmental issues. However, a response
28 should have been made in OPC Data Request No. 1210 to acknowledge these issues. The
29 Company then could have provided an explanation in detail in a later response. Liberty's
30 incomplete responses leave it unclear whether or not there are other issues faced by the
31 Company at its wind facilities.

Q. Are you aware of operational issues at the Neosho Ridge, Kings Point, and North Fork Ridge due to the death of wildlife, whether or not threatened or endangered?

A. Because the Company did not provide information on whether or not the Neosho Ridge facility is faced with “incidental takes” or deaths of protected and endangered species, I cannot say. The Company did respond regarding its Kings Point and North Fork Ridge projects that it currently has had the following “incidental takes” or deaths of bats, some of which are protected and endangered species. The following table identifies the bat deaths that have occurred at Liberty’s Kings Point and North Fork Ridge Wind facilities¹⁴:

Total Carcasses Found													
Kings Point	Big Brown Bat	Eastern Red Bat	Evening Bat	Gray Bat ^{1,2}	Hoary Bat ¹	Silver-Haired Bat ¹	Tricolored Bat ¹	Seminole Bat	Eastern Red or Seminole Bat	Unknown	Bats found Incidentally	Total	
April 4 - October 31, 2021	0	44	2	4	7	4	1	0	0	3	5	70	
April 4 - October 31, 2022	3	193	20	5	41	5	6	0	0	0	4	277	
April 4 - October 31, 2023	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	0	
April 4 - October 31, 2024	6	405	26	12	66	9	13	1	11	16	15	580	
											Total	927	
North Fork Ridge	Big Brown Bat	Eastern Red Bat	Evening Bat	Gray Bat ^{1,2}	Hoary Bat ¹	Silver-Haired Bat ¹	Tricolored Bat ¹	Seminole Bat	Eastern Red or Seminole Bat	Unknown	Bats found Incidentally	Total	
April 4 - October 31, 2021	1	51	3	0	13	3	0	0	0	0	7	78	
April 4 - October 31, 2022	8	204	5	1	32	4	1	0	0	0	3	258	
April 4 - October 31, 2023	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	0	
April 4 - October 31, 2024	15	419	10	1	58	4	3	3	5	18	20	556	
											Total	892	
¹ Missouri Department of Conservation Species of Conservation Concern													
² State and Federal listed Endangered													
Total for Both Wind Farms												1819	

Q. From the excerpt above, what is the total number of incidental takes or bat deaths that have occurred at these two Liberty’s wind farms over the past 4 years?

A. From the tables above, the total number of bat deaths have been 927 and 892 for Kings Point and North Fork Ridge, respectfully. That is a total of 1,819 bats deaths since 2021.¹⁵

Q. Are you confident that the numbers above accurately represent all bat deaths that have occurred at Liberty’s wind facilities?

A. No. It is not reasonable to expect that all bat carcasses would be collected from across two different wind farms, each consisting of 69 wind turbines. The Company’s lack of information

¹⁴ Workpaper titled “Liberty Wind Farms Bats”. Data collected from Liberty’s response to OPC Data Request No. 1239. Attached as MMP-D-4.

¹⁵ That does not include the year of 2023, as the number of bat deaths is unknown at the time of this direct testimony. The Company did not provide the 2023 annual report in response to OPC Data Request No. 1239.

1 regarding the number of bat deaths that occurred in 2023 adds to my lack of confidence in
2 Liberty's transparency. Additionally, the annual reports provided by the Company utilized the
3 GenEst model to statistically estimate total bat fatalities, adjusting for searcher efficiency,
4 scavenger removal, and survey coverage. Meaning, it is likely more bat deaths occurred at the
5 wind projects.

6 **Q. Has the Company taken any mitigation steps for incidental bat takes?**

7 A. Yes. The Company has taken mitigation efforts at each wind facility, however, it is unclear
8 what those mitigation efforts are, as the Company did not answer OPC Data Request No. 1240
9 with full detail. The Company did provide one mitigation project that has occurred in response
10 to OPC Data Request 1240. The Company stated:

11 Empire currently owns Buffalo Quarry Conservation Bank, located in
12 Southwest MO. Buffalo Quarry is home to a large maternity colony of gray
13 bats (endangered species). Empire purchased this property to protect the gray
14 bat and created the conservation bank to create mitigation credits that Empire
15 anticipated it would need to operate North Fork Ridge and Kings Point Wind.
16 Empire is currently in the process of protecting two of its other properties in
17 Southwest Missouri for the protection of the Tricolor bat. It is Empire's
18 understanding, after conversations with the USFWS and private consultants,
19 that the Tricolor is likely to be listed during the operational life of the
20 windfarms. The Company's proactive approach to creating the permittee
21 responsible mitigation needs, will prevent the requirement for the Company's
22 windfarms to curtail at avoidance of the Tricolor bat until a new permit can be
23 obtained. The permit issuance would likely take more than one year.¹⁶

24 **Q. Do you know if Liberty is undertaking other mitigation projects, investments, or efforts
25 for its wind farms?**

26 A. I am aware of other potential mitigation alternative such as acoustic deterrent systems, and
27 generation curtailments. Since the Company did not answer OPC Data Request No. 1240 with
28 more detail of other mitigation projects, investments, or efforts, it is unclear which wind
29 facilities have other mitigation efforts. However, from different answers to other OPC Data
30 Requests and reviewing annual reports, the Company does in fact employ mitigation efforts
31 other than the Buffalo Quarry Conservation Bank, such as operational curtailment during
32 certain periods of the year.

¹⁶ Company Response to OPC Data Request No. 1240. Attached as MMP-D-5.

1 **Q. Has Liberty identified costs related to environmental compliance or mitigation at the**
2 **wind facilities for which Liberty is seeking recovery from its ratepayers in this case?**

3 A. Yes. Liberty is seeking to recover wind environmental compliance costs in this rate case. In
4 response to OPC Data Request No. 1241 requesting this information, the Company stated:

5 The costs being sought for recovery are included in the proposed base rates of
6 this case. Per the direct testimony of Company witness Shaen Rooney and
7 Charlotte Emery's testimonies, the Company is proposing a tracking
8 mechanism for wind environmental compliances costs, including mowing
9 expenses, monitoring expenses, and environmental monitoring related crop
10 damage payments. The Company has proposed that a baseline amount be set
11 in the base rates approved in the current docket and any difference in future
12 actuals incurred and the baseline amount would be deferred into a regulatory
13 asset or liability account for recovery in a future rate case.¹⁷

14 **Q. How should costs due to the environmental compliance or mitigation at Liberty's wind**
15 **facilities be handled in this rate case?**

16 A. A normalized, annualized amount of the environmental compliance and mitigation efforts
17 should be included in base rates and in the MPPM. There should not be a new tracking
18 mechanism for these costs. A tracking mechanism would not incentivize Liberty to work to
19 minimize these costs. Liberty is incurring these environmental compliance costs to continue
20 to generate electricity at Liberty's wind facilities.

21 **Q. Is Liberty including costs associated with wildlife related curtailments and mitigation**
22 **efforts in the MPPM?**

23 A. The Company has stated that there are no costs related to curtailments or mitigation efforts in
24 the MPPM, however, any reductions in revenue related to reduced generation would be
25 included in the MPPM figures. The revenue impacts are reflected in the MPPM, but the
26 Company does not isolate or identify them. In its full response to OPC Data Request No.
27 1246, Liberty states:

28 There are no costs related to curtailments or mitigation efforts included in the
29 MPPM. The Company offers and sells all the generation it produces to the
30 SPP Integrated Marketplace and separately purchases all the energy needed to
31 serve its native load. These transactions are completely separate and given the
32 interconnected nature of all generation bought and sold through the SPP
33 Integrated Marketplace, without a re-clearing of the entire market on both a
34 Real-Time and Day-Ahead bases, it is not possible to determine the impact a

¹⁷ Company Response to OPC Data Request No. 1241. Attached as MMP-D-6.

single generator or even a group of generators could have on the Marginal Energy Component (MEC), Marginal Congestion Component (MCC), or Marginal Loss Component (MLC). Therefore, while not a specific cost, any reductions in revenues related to reduced generation would be included in the MPPM figures but would not be possible to individually isolate and identify.¹⁸

Q. From this response to OPC Data Request No. 1246, what is your understanding of what Liberty means by saying the transactions are completely separate and it is not possible to isolate the impacts of curtailments or mitigation efforts on the MPPM?

A. The Company offers (sells) all of its generation into the SPP market and purchases energy from the SPP market to serve its native load as separate transactions. Because the SPP is a centrally cleared market, it is complex to measure the specific cost impacts of a single generator being curtailed. The Company is arguing that identifying how much wildlife related curtailment affects the marginal market prices or congestion costs would not be feasible.

Q. Does that mean wildlife related curtailments and mitigation efforts have no effect on the MPPM?

A. No, quite the opposite. The Company is confirming that when wind generation is curtailed due to wildlife concerns, it earns less revenue from the SPP market. Those reduced revenues are reflected in the MPPM, meaning customers experience higher net market costs. So, while the Company is stating that it does not isolate or identify these impacts, the impacts are real and are already embedded in the MPPM.

Q. Can Liberty reasonably estimate the impacts of its curtailments or its mitigation efforts, even if it cannot isolate them precisely?

A. Yes. The Company already tracks the number of MWhs curtailed due to environmental efforts. The Company could easily estimate the associated revenue loss by multiplying the curtailed MWh by the average SPP market prices during those hours. While this would be an approximation, it would provide useful transparency and a reasonable understanding of the cost impact to ratepayers, especially since the Company is seeking to establish a separate tracking mechanism for environmental mitigation costs.

¹⁸ Company Response to OPC Data Request No. 1246. Attached as MMP-D-7.

1 **Q. Why is it important for the Commission to understand the impacts of Liberty's**
2 **curtailments and mitigation efforts on the MPPM?**

3 A. It is important because the Company is seeking to create a new tracking mechanism to recover
4 environmental compliance costs. However, some of those very same costs, specifically those
5 associated with curtailments, are already having an impact on Liberty's retail customers
6 through the MPPM. Without tracking and estimating the impact of the curtailments, there is
7 a real risk to customers of double recovery. Once through lower market revenues, which is
8 reflected in the MPPM, and again through direct rate recovery in the proposed tracking
9 mechanism. This is all about transparency, which Liberty has demonstrated that it is reluctant,
10 or unable, to provide.

11 **Q. Turning to its collapsed wind turbine, what is Liberty's explanation for the cause of that**
12 **collapse?**

13 A. In response to OPC Data Request No. 1201, Liberty explained the cause of the collapse of
14 each wind turbine was:

15 The only turbine collapse to occur at North Fork Ridge wind farm was
16 attributed to delamination of a lightning damaged blade. DNV was hired to
17 conduct a root cause analysis, and the associated report is attached.¹⁹

18 **Q. Is it normal for wind turbines to collapse?**

19 A. No. It is very unusual for wind turbines to collapse.

20 **Q. According to Liberty has its collapsed wind turbine affected the MPPM?**

21 A. In response to Data Request No. 1217, the Company explained the following.

22 The collapse of the wind turbine has not impacted the MPPM to date.²⁰

23 **Q. Do you believe that the Company's response to Data Request No. 1217 is complete?**

24 A. No. The response lacked any detail as to why the collapsed wind turbine has not yet impacted
25 the MPPM, nor whether it may do so in the future. The Company's short response may have
26 answered the question partially, but it lacked the explanation that was requested.

¹⁹ Company Response to OPC Data Request No. 1201. Attached as MMP-D-8.

²⁰ Company Response to OPC Data Request No. 1217. Attached as MMP-D-9.

1 **Q. Should retail customers pay for any costs caused by the collapsed wind turbine at**
2 **Liberty's wind facility?**

3 A. No. It is not fair or reasonable for Liberty's customers to pay for any costs associated with the
4 collapsed wind turbine. Since the Company has submitted claims to its insurance providers
5 and has warranty claims, the costs for each turbine should be paid by those means. Any
6 additional costs that are not covered, should be recovered from Liberty shareholders, not its
7 customers.

8 **Q. What other issues has Liberty faced from its wind facilities in the past 5 years?**

9 A. Neosho Ridge, in particular, had problems with transformers. More specifically, two
10 transformers went out of service three days apart which resulted in zero MWhs being
11 generated at this site for about three months beginning in May 2022, and then the transformer
12 failures limited generation at Neosho Ridge for the next ten months. North Fork Ridge has
13 had problems with the blades of one of its wind turbines due to lightning damage.

14 **Q. Is it normal for a transformer to go out of service when it has only been in service for**
15 **less than one year?**

16 A. No. This is very unusual, and for it to happen to two transformers at the same facility,
17 simultaneously, is far from a routine operational issue.

18 **Q. Did someone perform a root cause analysis of the transformer failures?**

19 A. Yes. **
20
21

22 **Q. Was Neosho Ridge taken offline due to the transformer failures?**

23 A. **
24
25
26

27 **Q. What is the Company's explanation for why a blade failed at one of its wind turbines**
28 **located at the North Fork Ridge facility?**

29 A. In response to OPC Data Request No. 1211, the Company stated:

²¹ Company Response to OPC Data Request No. 1211. Attached as MMP-D-10 – Confidential.

²² Company Response to OPC Data Request No. 1211. Attached as MMP-D-10 – Confidential.

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1 Additionally, the Company is pursuing a claim for the lightning damages that
2 occurred in late 2023, but no insurance proceeds have been received to date.²⁶

3 **Q. Would you please summarize your MPPM testimony?**

4 A. The MPPM was designed to share the risk between Liberty's customers and shareholders for
5 Liberty's wind projects. Ultimately, the MPPM was a way to protect customers from the
6 upfront capital costs and the uncertainty of any benefits to customers during the first ten years
7 of the wind projects. In review of the Company's annual MPPM filings, it was evident that
8 the MPPM was not being utilized as the Company had previously stated. The Company has
9 not been completely transparent about the benefits and the costs to customers in its MPPM
10 filings. The Company repeatedly failed to provide complete, direct responses to data requests
11 on various items related to the MPPM, including wind turbine collapses, blade liberations,
12 transformer failures, and wildlife related issues. None of these issues are minor operational
13 irregularities. These all affect the generation output, market revenues, and ratepayer costs. The
14 Company's unwillingness or inability to explain the cost impacts of these events raises serious
15 concerns about the MPPM and the Company's internal oversight. The Company has real and
16 measurable data on the curtailment of its wind farms, as it provided actual MWh lost due to
17 curtailments. These curtailments reduce generation and market revenues, which flow through
18 the MPPM. Additionally, the Company is requesting a new tracking mechanism for
19 related environmental compliance costs, without already accounting for those that now are
20 embedded in the MPPM which risks duplicating the recovery of costs from customers.
21 Overall, the MPPM is a tracking mechanism that is supposed measure the risk between
22 customers and shareholders. However, that is not the case. The Company has failed to be
23 transparent on numerous issues related to the MPPM, which is detrimental to customers. The
24 issues that these wind projects are having and the poor responses to data requests indicate
25 weak internal controls and restricts OPC's and Staff's abilities to audit the costs and benefits
26 that are incurred and that are recorded in the MPPM.

27 **Q. What is your recommendation to the Commission as to the MPPM?**

28 A. First, separate but related to the MPPM, I recommend that the Commission not approve any
29 tracking mechanisms related to wind facilities or environmental compliance. Second, I

²⁶ Company Response to OPC Data Request No. 1218. Attached as MMP-D-11.

1 recommend that the Company improve its MPPM reporting to include regular disclosure of
2 curtailed MWh, estimated lost revenues, and outage impacts. And third, I recommend that the
3 Company improve its internal controls and managerial practices.

4 **Q. Does this conclude your direct testimony?**

5 **A.** Yes, it does.

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

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

1. My name is Manzell Payne. I am a Utility Regulatory Auditor for the Office of the Public Counsel.

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.

Manzell Payne
Utility Regulatory Auditor

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.