

**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 Increasing Rates) Case No. ER-2024-0261
For Electric Service Provided to Customers)
In its Missouri Service Area)

LIBERTY’S REPLY POST-HEARING BRIEF

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COMES NOW The Empire District Electric Company d/b/a Liberty (“Liberty,” “Empire,” or the “Company”), and for its Reply Post-Hearing Brief, respectfully states as follows to the Missouri Public Service Commission (“Commission”):

Introduction

This Brief primarily replies to the *Office of the Public Counsel’s Initial Brief* of (“OPC Brief”) and the *Initial Brief of the Consumers Council of Missouri* (“CCM Brief”), both of which object to the Global Settlement¹ that has been filed by the Staff of the Commission (“Staff”), Midwest Energy Consumers Group (“MECG”), the International Brotherhood of Electrical Workers Local Union No. 1474 (the “Union”), Renew Missouri Advocates d/b/a Renew Missouri, and the Company.

¹ The Non-Unanimous Global Stipulation and Agreement (“Base Stipulation”) Filed on October 6, 2025, as supplemented by the Supplemental Stipulation and Agreement (“Supplemental Stipulation”) filed on December 12, 2025 (collectively the “Global Settlement”).

However, it will also highlight portions of the briefs of the Staff, MECG and Renew Missouri, as they have all done an excellent job of describing both the issues with which the Commission is presented and why the Global Stipulation is the best path to address those issues in a way that will provide the best opportunity for Liberty's customers to receive safe and adequate service at just and reasonable rates as we move forward.

OPC and CCM object to the Global Settlement and instead suggest that the Commission essentially dismiss this rate case – provide Liberty with no rate increase, or potential for a rate increase, as a result of this case. However, doing so would completely ignore the Commission's obligation to design rates to generate sufficient revenue to cover operating expenses and capital costs, while providing the utility an opportunity to earn a fair return – one that allows the utility an opportunity to maintain financial integrity, creditworthiness, and attracts capital for continued investment² and to establish rates that are “just and reasonable” by balancing the interests of the Company's shareholders and its customers.³ OPC and CCM's recommendations for zero increase/dismissal are plainly punitive and are not commensurate with the underlying record or applicable law.⁴

The OPC and CCM positions center on customer service issues largely associated with billing. As Liberty has described in testimony and in its Initial Brief, deployment of Customer First did not meet the standards Empire's customers deserve. The frustration and confusion expressed by customers is valid and reflects the challenges the Company must address. Ex. 53, Walt Reb., p. 11, ln. 14-15. Although ignored by OPC and CCM, the Company has already shown

² See *Federal Power Comm. v. Hope Natural Gas Co.*, 320 U.S. 591, 603 (1944) and *Bluefield Water Works & Improvement Co. v. Public Service Commission of the State of West Virginia*, 262 U.S. 679, 690-93 (1923).

³ RSMo. §393.130.

⁴ A public utility is entitled to recover from ratepayers all its costs (plus a reasonable return on its investments) by way of rates that are "just and reasonable." *Office of Pub. Counsel v. Mo. Pub. Serv. Comm'n*, 409 S.W.3d 371, 376 (Mo. banc 2013).

progress on addressing its billing challenges. Ex. 53, Walt Reb., p. 14 slide & p.16, ln. 1 – p. 17, ln. 7; Ex. 54, Walt Surreb., p. 14, ln. 9 – p. 15, ln. 23. Nevertheless, the Company acknowledges that every customer should receive timely and accurate bills, and the Company is fully committed to that outcome. Empire continues to focus its efforts on identifying and resolving issues, to provide consistent and reliable service across the entire customer base. Ex. 61, Wilson Reb., p. 6, ln. 2-7.

Billing is a very important part of the service provided to Empire’s customers and something on which the Commission is appropriately focused. However, it cannot be the only focus in this rate case or other aspects of service may suffer. In the first instance, customers expect the lights to come on when they flip the switch. Making this happen is a process that involves many aspects of the provision of electrical service, to include significant investment in generation, transmission, and distribution, among other things. The OPC/CCM recommendation disregards the evidence that beyond the Customer First investment there has been more than \$550 million in prudent infrastructure investments since Liberty’s last rate case⁵ – investments essential for safe, reliable, and adequate service for Liberty’s electric customers in Missouri. With very minor exception, no party disputes the usefulness or prudence of these investments. In order to continue the delivery of electricity, the Commission must allow Empire a fair return on its prudent investments.

Both OPC and CCM’s initial briefs discuss the ongoing investigatory docket, Case No. 00-2025-0233, wherein Liberty’s billing challenges are being investigated. OPC indicated in its direct case that OPC plans to review Staff’s findings in that investigation and is confident OPC will be

⁵ Ex. 60, Wilson Dir., p. 7, ln. 15-16 (“Since our last test year, Liberty has invested \$702 million in capital to serve its Missouri customers”). Ex. 43, Penny Dir., p. 9, ln. 11-12 (“... Customer First, of which, approximately \$145.6 million is Empire’s Missouri electric operations’ allocated share.”). \$702 million - \$145.6 million = \$556.4 million.

filing a complaint case against Liberty. Ex. 202, Marke Dir., p. 58, ln. 4-7. The Commission’s investigation and any subsequent complaint cases are the appropriate forum for addressing the Company’s past billing challenges.

To quote Staff, “[t]he Global [Settlement] provides the best method to deliver that return, as it safeguards customers from poor performance with measurable costs to Empire, and provides financial security to ratepayers and to Empire’s stakeholders by ensuring that any return is based on prudent and economic management.”⁶ The Global Settlement does this by also acknowledging the issues associated with Customer First. To again quote Staff, “Staff supports this stipulated revenue requirement, in part, because it acknowledges Empire’s prudent investments and incorporates a \$(20,181,324) reduction tied to Empire’s execution of its Customer First billing system.”⁷

The central question before the Commission remains the determination of just and reasonable rates for Liberty’s electric customers in Missouri.⁸ Even OPC and CCM acknowledge that some increase is warranted. After arguing that the Commission should essentially dismiss this case out right, CCM states that “. . . Liberty should receive a no greater revenue requirement increase than the \$56 Million supported by Public Counsel’s revenue requirement testimony.”⁹ OPC provides a slightly different number, but similarly admits that, in the absence of a “zero”

⁶ Staff’s Brief, p. 3.

⁷ Staff’s Brief, p. 2.

⁸ As a matter of due process, the Commission allowed all parties to this rate case the full and fair opportunity for a hearing on the issues they identified as being contested before the Commission. All parties to this action were given multiple opportunities to identify any disputed issues, the witnesses it desired to present with regard to those issues, and the witnesses it desired to cross-examine. This case does not present any of the same issues as were identified in *State ex rel. James M. Fischer v. Public Service Commission of Missouri*, 645 S.W.2d 39 (Mo. App. 1982). In *Fischer*, the Commission allowed OPC the opportunity to present a proposal for a gas company’s rate design and to cross-examine opposing witnesses; however, the Commission decided, prior to hearing, that the only issue it would consider was whether to approve a stipulation and agreement submitted by all parties except OPC, thus negating the meaningfulness of the hearing. In this rate case, the Commission made no such prior decision and did not prejudice any element or issue presented.

⁹ CCM Brief, p. 3.

result, an increase is otherwise warranted, stating, “Liberty should get an increase of no more than about \$53.6 million per year, about a 10.5% increase.”¹⁰ While this alternate revenue requirement is based, in many parts on which Liberty and the Staff do not agree (as discussed in the initial briefs of Liberty and Staff), it still serves to show that based on the test year, as trued up, in this case, a “zero” result would not provide the utility an opportunity to earn a fair return on its investments.

Timing and Form of Rate Increase

In terms of timing of a rate increase, CCM takes the position that “No rate increase should be adopted until Liberty can prove up an historical test year period that contain billing and customer service results that actually meet the Missouri standard for adequate service.”¹¹ OPC previously recommended that there be no increase in rates until the Company demonstrated minimum billing challenges were resolved.¹² Of course, this is precisely what the Global Settlement is designed to do, and what it will do, if adopted by the Commission.

The Supplemental Stipulation sets metrics consistent with the Commission’s Chapter 13 Rules that the Company must meet and document for Staff to audit before any rate increase begins to be phased-in. The tariff sheets designed to increase the Company’s annual revenue requirement will not become effective until after the Company has complied with these metrics for three consecutive months, beginning January 1, 2026.

The Global Settlement revenue requirement reflects an annual \$20,181,324 revenue reduction associated with Customer First. The Customer First reduction is comprised of a rate base

¹⁰ OPC Brief, p. 15.

¹¹ CCM Brief, p. 2.

¹² Ex. 204, OPC Dr. Marke Reb., p. 12, lines 18-22.

amount of \$149,287,965 earning a 0% rate of return \$(13,750,356), and the reduction of expenses in the amount of \$(6,430,968) consisting of the following:

- O&M Expenses: \$(1,308,017)
- Incentive Compensation: \$(2,113,492)
- Amortization Expense: \$(3,009,459)

This means that with approval of the terms of the Global Settlement, the rates will not include recovery related to these Customer First amounts in this case, despite evidence that Customer First is fully used and useful, including for activities beyond billing services.

Instead, the Global Settlement focuses on target metrics for the billing process going forward. This is done by setting metrics related to Liberty's initial rate increase and by establishing a process for metrics related to implementation of a regulatory asset for Customer First investment.

The Global Settlement further provides for an annual revenue requirement increase of \$97 million, phased in over three years (\$32.3 million per year, or about a 6.33% increase per year), reflecting a compromise among stakeholders. Moreover, contrary to CCM's suggestion,¹³ the separate metrics process outlined associated with the Customer First investments will, at most, result in a regulatory asset and **will not** increase customer rates during the period the Global Settlement is in effect.¹⁴

OPC suggests that the Global Settlement, with its rate implementation delay conditioned on billing improvements, represents some sort of "reward."¹⁵ This format is far from a reward. It provides significant emphasis on the customer service/billing issues that have been thoroughly discussed in this case, while providing the utility an opportunity to earn a fair return on its investments. It is more accurately summarized by MECG, which states:

¹³ ". . . relating to rate "Customer First"-related rate increases that would occur on top of the proposed (stipulated) \$97 Million annual revenue requirement increase . . ." CCM Brief, p. 2

¹⁴ Base Stip., para.7.

¹⁵ OPC Brief, p. 15.

The efforts by the parties have produced a stipulation and agreement, as supplemented, that balances the Company's need for an increase to support the provision of service with the interests of customers in paying just and reasonable rates for that service. The Commission should issue an order that implements and incorporates the terms and conditions within the stipulation and agreements.¹⁶

The Global Settlement, representing the joint position of Liberty, Staff, MECG, Renew Missouri, and the Union¹⁷, offers a fair, balanced, and legally sound resolution of all issues in this case. It thoughtfully addresses Liberty's acknowledged billing challenges while ensuring continued progress toward improvement, all within the framework of governing legal standards. At the same time, it avoids jeopardizing the Company's ability to provide safe, reliable, and adequate service to customers. This settlement strikes the proper balance between accountability and financial stability, resulting in rates that are just and reasonable under Missouri law and applicable precedent. For these reasons, the Commission should adopt the terms of the Global Settlement in its entirety as the complete resolution of this proceeding.

Global Settlement Benefits

It is significant to note that while OPC and CCM continue to object to the Global Settlement, they did not object to more than 30 operative provisions – many of which contain commitments that could only be implemented through Liberty's agreement and could not otherwise be ordered under applicable law or supported by the evidentiary record.¹⁸ For example, the Global Settlement, through the Base Stipulation, provides \$8.5 million in arrearage forgiveness (para. 28); a moderate and more gradual rate increase (phase-in, with no carrying charge) (para. 8); a rate case stay out (para. 8); and targeted assistance for vulnerable households through a Low-

¹⁶ MECG Brief, p. 5.

¹⁷ The Union is a signatory to the Base Stipulation, and it has stated its non-objection to the Supplemental Stipulation.

¹⁸ As stated in paragraph 45 of the Base Stipulation, these terms are the product of extensive negotiations among the signatories. Consistent with the nature of comprehensive rate case settlements, the provisions of the Global Settlement are interdependent and must be considered as a unified package rather than in isolation.

Income Weatherization Program (para. 29), a Low-Income Pilot Program with increased funding¹⁹, and Critical Medical Needs Program funding (para. 31). The Global Settlement is not only a measured resolution of the billing issues. It benefits customers directly while also maintaining a reasonable and fair balance between accountability for the billing issues and financial stability for the Company, ultimately resulting in rates that are just and reasonable under Missouri law. The same is not true of OPC's and CCM's recommendations for zero increase and/or dismissal.

Law Concerning Non-Unanimous Stipulations

OPC suggests that “[s]ince the Settlement purports to resolve all of the issues—including Public Counsel’s issues—without identifying how each specific issue is resolved (a “black box” settlement) . . . [i]t is not clear to Public Counsel how the Commission can adopt the Settlement and resolve the large number of contested issues.”²⁰

It is correct that even if the Commission chooses to approve the Global Settlement, the Commission’s decision must be supported by specific findings of fact.²¹ In *State ex rel. Fischer v. Public Service Commission*, 645 S.W.2d 39, 42-43 (Mo. App. 1982), the court held that the Commission must make findings of fact in support of its determinations, even when adopting proposals contained in a non-unanimous stipulation; the Commission may not simply accept the stipulation without independent analysis. Thus, there is nothing unlawful about the Commission’s adoption of a non-unanimous stipulation, it just must do so with independent analysis supported by findings of fact.

¹⁹ The current funding for this program is \$500,000, split evenly between shareholders and customers. Ex. 26, Hackney Dir., p. 13, ln. 10-11. The Base Stipulation provides a budget for this program of \$900,000, split evenly between shareholders and customers. Base Stip., para. 30.

²⁰ OPC Brief, p. 22.

²¹ See RSMo. §536.060, §386.420; *State ex rel. Fischer v. Public Service Commission*, 645 S.W.2d 39, 42-43 (Mo. App. 1982).

It is also the case that Missouri courts have consistently affirmed that the Commission has broad discretion in setting rates and that it is not the particular methodology or theory employed but the ultimate impact of the rate order that determines whether rates are just, reasonable, and lawful.²² Accordingly, the Commission must make detailed findings of fact on contested issues in this proceeding, and then, based on the record evidence, may further conclude that adoption of the terms of the Global Settlement constitutes a fair and reasonable resolution of all issues.²³

OPC's primary concern appears to be with the agreed to revenue requirement as it states that "the Settlement does not enable the Commission to determine the revenue requirement impact of the settlement of each particular issue or the evidentiary basis for how the signatories resolved that particular issue."²⁴ However, the variety of revenue requirements provided in this case by Liberty, Staff and OPC provides much room to support the Global Settlement revenue requirement.

Liberty's pre-filed testimony supports an annual revenue requirement increase of approximately \$169 million, reflecting prudent investment necessary to maintain safe and reliable service. Staff's pre-filed testimony recommends an increase of approximately \$129 million, which already incorporates significant adjustments to address customer service and billing concerns. Lastly, as stated above, OPC alleges that if Liberty receives a revenue requirement increase, it should be no more than about \$53.6 million per year.²⁵

In its Initial Post-Hearing Brief, the Company provided findings of fact with citations to the record as contested issues in this matter, as did Staff and OPC. At a high level, the findings of fact could indicate that in the absence of the Global Settlement, the Commission could/would find Staff's positions to result in a \$129 million revenue requirement. That would certainly provide

²² *State ex rel. Associated Natural Gas Co. v. Public Serv. Comm'n*, 706 S.W.2d 870 (Mo.App.1985); *State ex rel. Missouri Water Co. v. Public Serv. Comm'n*, 308 S.W.2d 704, 714 (Mo.1957).

²³ This would be similar to the procedural process followed in Commission Case No. WR-2007-0216.

²⁴ OPC Brief, p. 22.

²⁵ OPC Brief, p. 15.

support that the \$97 million revenue requirement agreed to by Liberty should be ordered. This is similar to Commissioner Mitchell's suggestion during the hearing, that because the Global Settlement calls for a rate increase that is \$32 million less than the rate increase recommended by Staff, likely provides a comfort gap that supports the reasonableness of the agreement. Vol. 11, Tr. 164, lines 2-7.

This is especially true given that the Global Settlement revenue requirement is further mitigated by a three-year phase-in, with no carrying costs, and a rate case stay out. With the phase-in year 1 of the Global Stipulation phase-in would result in a \$32.3 million increase in base rates in year 1 (or about a 6.33% increase), which is actually less than the \$53.6 million increase in base rates (or about 10.5% increase) that OPC's calculations would support in year 1.

The Commission could alternatively get to the reasonableness of the \$97 million by starting with OPC's \$53.6 million and finding that sufficient Company positions (such as its position on Rate of Return and A&G Expenses and Costs and Jurisdictional Allocations) or Staff positions contrary to OPC are supported by the evidence, making approval of the Global Settlement both lawful and reasonable.

These approaches, or something similar, could provide independent analysis supported by findings of fact for an order approving the Global Settlement.

Discussion of the Contested Issues

Liberty provided extensive treatment of the contested issues, to include citations to the evidentiary record, in its Initial Post-Hearing Brief. Liberty's failure to address specific issues in this Reply Brief should not be construed as representing any change of position.

Agreement with Staff

Irrespective of the Global Settlement, Liberty finds Staff's position as to the following issues to be reasonable and acceptable for purposes of this rate case: 4, 6, 7, 8, 9, 10, 11, 15, 16, 18, 19, 20, 21, 23, 24, 25, 26, 34, 60, 61, 111, 112, 113, 127, and 139.

Rate of Return (Issue 1)

A. There Is Substantial Competent Evidence Contained In the Record to Support the Effective Rate of Return That Would Result From the Approval of the Global Settlement

At pages 16-21 of its Initial Brief, Liberty identified the substantial competent evidence contained in the record relating to the cost of capital issues that showed the effective rate of return resulting from an approval of the Global Settlement is more than reasonable. Staff did the same at pages 8-10 in its Initial Brief. While there are a couple of issues raised by OPC in its initial brief that Liberty would like to reply to herein, the evidence in the record cited in the initial briefs of Liberty and Staff clearly refutes the challenges made by OPC with respect to the reasonableness of the rate of return and should be adopted by the Commission.

B. The Commission Should Put No Weight on OPC Witness Murray's Use of APUC's Hurdle Rate or WACC To Establish Liberty's ROE for Ratemaking Purposes

As pointed out at pages 12-13 of Mr. Dane's rebuttal testimony, OPC Witness Murray's use of APUC's Board of Directors' materials and investor presentations discussing hurdle rates and weighted average cost of capital ("WACC") in his ROE analysis are taken out of context. They do not support or corroborate Mr. Murray's ROE recommendation. They also undermine the concept of peer analysis in cost of capital studies of the comparable return component of the *Hope* and *Bluefield* standards. Ex. 5, Dane Reb. Testimony, pp. 12-13.

The APUC WACC and hurdle rates are merely point in time metrics reflecting APUC's cost of capital for investment screening purposes and for capital allocation purposes and not regulatory constructs. These metrics should not be used to determine Empire's cost of capital or

ROE for ratemaking purposes. Regulators base ROE decisions on legal standards, market data and financial modeling, not on hurdle rates reported by the parent company, which reflects the internal benchmark used for investment screening and capital allocation purposes. Using a parent company WACC or hurdle rate to establish (or even benchmark for) a utility operating company's return on equity would not meet the financial integrity, capital attraction, or comparable return components of the fair return standard and, as such, would be inconsistent with the *Hope* and *Bluefield* decisions. Ex. 5, Dane Reb. Testimony, pp. 12-13. The Commission should disregard Mr. Murray's recommendations on this issue entirely.

C. The Commission Should Reject OPC's Allegation That APUC and LUCo Have Improperly Manipulated Empire's Capital Structure

As set forth at pages 9-11 of Mr. Dane's surrebuttal testimony, there is no basis for OPC's allegation that APUC and LUCo's financial transactions with Empire are arbitrary, or have been improperly manipulated for ratemaking purposes. Mr. Dane pointed out that Liberty has followed the commitments APUC made in the Stipulation and Agreement in Case No. EM-2016-023 (the APUC/Empire Acquisition Case), which provided that certain evidence must be submitted related to the cost of capital in future rate cases. He testified that the proposed capital structure was the "most economical" when compared to APUC and LUCo's capital structures and thus consistent with that merger commitment. Mr. Dane further testified that Liberty's proposed capital structure was consistent with capital structures at other peer utility operating companies, consistent with industry benchmarks, and thus consistent with the fair return standard. Ex. 6, Dane Sur. Reb. pp. 9-11.

Mr. Dane also testified that just because the exact timing of Liberty's financial transactions don't match Mr. Murray's expectations does not make them arbitrary. He indicated that there are many factors that affect the timing of financing, and the management thereof, including liquidity

needs, maintenance of credit ratings, adherence to debt covenants, regulatory approvals, market conditions, among others. Liberty must weigh all of these factors in balancing its capital structure. In addition, as pointed out by Mr. Dane, ratings agencies closely monitor Liberty's capital structure and financial transactions for consistency with Liberty's credit ratings and changes in Liberty's debt balances have real consequences for Liberty's credit profile, despite Mr. Murray claiming otherwise. Accordingly, the Commission should reject OPC's allegation that Empire's capital structure has been improperly manipulated by APUC and LUCo. Ex. 6, Dane Sur. Reb. pp. 9-11.

D. As Pointed Out by Staff the Pro-Forma Debt Issuance Included in the Capital Structure Agreed to By Liberty and Staff Reduces the Equity Ratio in Favor of the Customers

OPC contended that the Commission should not accept the pro-forma debt issuance included in the capital structure because the debt has not yet been issued. However, as pointed out by Staff at pages 9-10 of its Initial Brief, absent this debt issuance, Empire's equity ratio would be higher (53.1% instead of 53%), which would not favor customers. As pointed out by OPC, Empire's request to issue said debt is pending approval by the Kansas Corporation Commission in Docket No. 26-EPDE-131-SEC.

Customer Experience (Issues 142-165)

Global Settlement Metrics

CCM argues that no improvement can be shown by Liberty as to this case "because the utility service received during [the] test year was inadequate."²⁶ It therefore argues that "[n]o rate increase should be adopted until Liberty can prove up and historical test year. That contains billing and customer service results that actually meet the Missouri standard for adequate service."²⁷

²⁶ CCM Brief, p. 2.

²⁷ *Id.*

First, counsel is unaware of any customer service comments and questions provided in a rate case having been limited to the test year. It is hard to imagine a situation where the Commission would reject a customer comment, or an assessment of utility service, because it involved a matter outside the test year.

Moreover, in this case, the test year ordered by the Commission is the twelve months ending September 30, 2023. The test year predates the SAP go-live date of April 2024. Ex. 150, Young Reb., p. 8, ln. 2-13. Accordingly, Liberty doubts if CCM truly wants to limit the assessment of customer service to the test year.

CCM further argues that the metrics found in the Supplemental Stipulation “set a very low bar for billing service” and would not “document meaningful billing improvements over time.”²⁸ Those metrics are based in Chapter 13 Rule compliance over a multi-year period. Liberty would argue that Chapter 13 is the Commission’s standard “bar for “billing service” and that if the Company shows such compliance, it should be provided an opportunity to earn a fair return – one that allows for the opportunity for maintaining financial integrity, creditworthiness, and attracts capital for continued investment.²⁹

Empire believes that its alternate proposal found in its testimony and in the Global Settlement would appropriately tie Liberty’s return on Customer First to measurable performance metrics, accountability and customer benefit before any return is earned. Ex. 54, Walt Sur., p. 8, ln. 1-3. This proposal strikes a balance between protecting customers from rate impacts and recognizing the need for continued investment in essential service infrastructure. By tying Empire’s rate increase and return on the Customer First billing module to clear, measurable billing

²⁸ CCM Brief, p. 2.

²⁹ See *Federal Power Comm. v. Hope Natural Gas Co.*, 320 U.S. 591, 603 (1944) and *Bluefield Water Works & Improvement Co. v. Public Service Commission of the State of West Virginia*, 262 U.S. 679, 690-93 (1923).

and service performance metrics, the Commission can provide meaningful progress on customer service issues and provide Empire with the opportunity to earn a reasonable return on investment, consistent with the standards established in the *Hope* and *Bluefield* decisions, thereby promoting continued investment and reliable service. Ex. 54, Walt Sur., p. 8, ln. 15-19.

Issue 142) How should the Company’s investment in Customer First be treated for ratemaking purposes in this case?

CCM and OPC suggest that Customer First is not “used and useful” and not “fully operation and used for service” under Missouri law.³⁰ They therefore argue that the Commission should exclude all of the Customer First costs from the revenue requirement.

The CCM and OPC positions continue to ignore the fact that Customer First is involved in many functions other than billing. Customer First serves as Liberty’s enterprise-wide backbone system - supporting critical functions such as financial management, procurement, employee data, geographic information systems (“GIS”) outage management, metering, and customer information and billing. Employees across the organization rely on Customer First daily to perform their roles and deliver essential services to our customers. The system is not only operational – it is used and useful in all parts of Liberty’s electric operations in Missouri and is integral to Liberty’s ability to manage its utility responsibilities effectively. Ex. 61, Wilson Reb., p. 4, ln. 17-23.

Field crews use inventory to complete jobs planned in the Network Design & Operations module, which allows the Company to configure and map assets as distribution and service lines. These assets are then tagged and tracked in the GIS system within SAP. Daily work orders are dispatched to crews through the SAP “Click” module, guiding field operations with location-specific tasks. Capital projects and regulatory assets are managed through the Powerplan module, which supports financial planning and asset tracking. The Advanced Metering Infrastructure

³⁰ CCM Brief, pp. 9-10; OPC Brief, p. 83-85.

("AMI") module facilitates service orders for customer move-ins and move-outs and generates billing determinants. Ex. 61, Wilson Reb., p. 5, ln. 6-13.

Employees use the Employee Central module to record time, manage leave, and track performance. Finally, all customer bills are generated through the eCustomer module. Ex. 61, Wilson Reb., p. 5, ln. 13-16. Customer First is not only used every day – it is central to Empire's ability to operate as a regulated utility. Ex. 61, Wilson Reb., p. 5, ln. 16-17. As a result, the Customer First system delivers billing and customer services to all of the Company's electric customers in Missouri. Ex. 54, Walt Sur., p. 7, ln. 4-5.

Liberty believes that the Global Settlement appropriately addresses this issue to the extent its terms are adopted as a complete resolution of all contested issues. As stated above, the Customer First reduction is comprised of a rate base amount of \$149,287,965 earning a 0% rate of return \$(13,750,356), and the reduction of expenses in the amount of \$(6,430,968) consisting of O&M Expenses: \$(1,308,017); Incentive Compensation: \$(2,113,492); and Amortization Expense: \$(3,009,459). This means that with approval of the terms of the Global Settlement, rates will not reflect any recovery of or a return on Customer First in this case, despite evidence that Customer First is fully used and useful, including for activities beyond billing services.

In the absence of such approval, the Commission should focus only on the costs associated with the Customer First billing module, as most of the Customer First modules are in service, being used by Liberty employees on a daily basis, are critical to the provisions of safe and reliable service, and are not associated with the criticisms of Liberty's billing matters.

The Customer Information System ("CIS") portion of the initial software investment (also known as Customer First Foundations) was the system responsible for customer billing. As such, Staff used the Customer First capital expenditure details to identify the percentage of Empire's investment in Customer First Foundations that is related to the CIS. Staff estimated that the portion

of Empire's Customer First software that is related to the billing function (CIS) represented \$60 million of the Customer First investment.³¹ Ex. 122, Young Dir., p. 18, ln. 10-12, 17-21.

Fuel Adjustment Clause (Issues 41-43, 85, 90-99)

FAC Issues in the Global Settlement

Staff, MEEG, Renew Missouri, Liberty, and the Union agree that the proper resolution of the FAC issues is found in the filed Global Settlement.³² The agreement provides that the FAC mechanism should be continued with:

- sharing at 95/5 (the Staff recommendation); (Issue 98)
- transmission costs/revenues included at currently authorized percentages; (Issue 93, 95)
- transmission expenses included at 21.39% SPP and non-SPP 50% (the percentages recommended by Staff and OPC); (Issue 93, 95)
- SPP schedules 1A and 12 not to be included in the FAC (Staff and OPC position); (Issue 94)
- the FAC Base Factor set at \$13.97/MWh; (Issue 91)
- The following FAC voltage adjustment factors shall be utilized: VAF Transmission 1.0376, VAF Primary 1.0534, VAF Secondary 1.0748; (Issue 92) and,
- FAC reporting as outlined within Brooke Mastrogiannis Direct Testimony. Also provide to OPC. (Issue 96).

Continuation of FAC

³¹ Ex. 43, Penny Dir., p. 9, ln. 11-12 (“... Customer First, of which, approximately \$145.6 million is Empire's Missouri electric operations' allocated share.”).

³² Base Stip., para. 9, 25.

Both CCM and OPC take the position that the Commission should reject Liberty’s request to continue its Fuel Adjustment Clause (“FAC”).³³

Liberty asked to continue and modify its fuel adjustment clause (“FAC”) in this case. Ex. 42, Palumbo Dir., pp. 4-13. Nearly every state in the United States has some form of energy cost recovery mechanism for regulated utilities. These adjustment clauses are designed to align the costs associated with purchasing fuel to generate electricity or purchased power agreement costs with the rates that are charged to customers. Ex. 44, Reed Dir., p. 4, lines 17-20; Ex. 44, Reed Dir., p. 19, lines 11-13. It is because electric utilities’ fuel and power costs are large, unpredictable, and volatile that FACs are a common ratemaking tool. Ex. 44, Reed Dir., p. 7, ln. 6-8.

Empire was granted its first FAC in Commission Case No. ER-2008-0093. The Commission emphasized that while the statute does not provide specific guidance on when an FAC should be approved, it must reasonably be designed to provide the utility with a sufficient opportunity to earn a fair return on equity.³⁴ Ex. 44, Reed Dir., p. 12, ln. 12-17. In granting Empire’s FAC, the Commission determined that the Company’s situation met the three-pronged test for determining whether an FAC was appropriate for the Company’s fuel and purchased power costs. That three-pronged test asked if: 1) the costs were a substantial portion of the Company’s costs, 2) the costs were variable and could rapidly eat up the returns the Company might otherwise earn; and 3) large portions of the costs were beyond the control of the Company. The Commission concluded that given the market conditions in place at the time, “it would be impossible for Empire to earn its Commission allowed return on equity without a fuel adjustment clause.”³⁵ Ex. 44, Reed Dir., p. 12, ln. 17 – p. 13, ln. 4.

³³ CCM Brief, p. 5; OPC Brief, p. 13, 91 (although OPC did state in its objection to the Base Stipulation (filed October 8, 2025) (p. 4, para. 13) that it “does not oppose continuing Liberty’s FAC . . .”).

³⁴ Report and Order in Case No. ER-2008-0093, July 30, 2008, p. 35.

³⁵ Report and Order in Case No. ER-2008-0093, July 30, 2008, p. 39.

The underlying energy costs and revenues in the FAC continue to be large, volatile, unpredictable and largely beyond the utility's control. It is therefore virtually impossible to estimate the amount of energy and transmission cost that should be included in base rates that are set as much as four years in advance of the costs actually being incurred. Ex. 44, Reed Dir., p. 17, ln. 1-5; *See also* Ex. 144, Mastrogiannis Reb., p. 9, ln. 8-12 (“Empire’s total energy costs have continued to be both large and volatile.”), p. 11, ln. 1-2.

The proposed FAC will allow Empire to largely recover the Company’s prudently incurred fuel and energy costs, including transportation, and to provide customers with reductions in those costs in a way that provides a sufficient opportunity for the Company to earn a fair return on equity. The Commission should continue Empire’s FAC.

Timing of Changes to FAC

OPC further suggests that, based on the status of Liberty’s customer service, FAC parameters otherwise should not change in this or any other case until after Liberty shows that it has improved its customer service to where that service has become adequate.³⁶ The Supplemental Stipulation provides that FAC tariffs shall not be changed until the metrics identified in that document have been met.³⁷

Issue 91) What should be the FAC base factor for this case?

CCM suggests, without explanation, that the base factor for Liberty’s FAC be set at \$11.11 MWh.³⁸ OPC also supports the Staff’s base factor.³⁹

By rule, the Commission must rebase a utility’s base energy costs in each general rate proceeding in which the FAC is continued or modified.⁴⁰ “Base energy costs means the fuel and

³⁶ OPC Brief, p. 14.

³⁷ Supp. Stip., para. 5.

³⁸ CCM Brief, p. 5.

³⁹ OPC Brief, pp. 70-72.

⁴⁰ Commission Rule 20 CSR 4240-20.090(2).

purchased power costs net of fuel-related revenues that are included in the revenue requirement used to set base rates in a general rate case.”⁴¹ The FAC base factor, which will be a part of Empire’s FAC tariff, is the base energy cost divided by net generation in kilowatt-hours. Ex. 49, Tarter Dir., p. 4, ln. 13-14.

OPC argues that “without disclosing it was doing so Liberty relied on forecasted 2025 natural gas prices in its direct case and forecasted 2026 natural gas prices in its true-up for deriving its net fuel and purchased power costs.” This was debunked at the hearing in this matter where it was pointed out to the Commission that Liberty witness Tarter’s direct testimony specifically indicated that the FAC base modeling done by Liberty included “projected spot market prices” “consistent with the approach the Company used in its past two Missouri general rate case filings (Case Nos. ER-2019-0374 and ER-2021-0312).” Tr. Vol 13, p. 44-46; Ex. 49, Tarter Dir., p. 10, ln. 17-19.

Liberty does agree with OPC that it is important that the Commission get Liberty’s FAC base factor as correct as possible. OPC witness Mantle also indicated the importance of the FAC Base Factor in stating that “if you get your base factor correct, it really doesn’t matter what the incentive mechanism is.” Tr. 68 (Mantle). Lastly, the FAC base factor will likely be in effect for a number of years. For example, Empire’s current FAC Base went into effect on June 1, 2022, and has now been in effect for over three years. PSC MO No. 6, Sec. 4, Tariff Sheet No. 17i.

In its Initial Post Hearing Brief, Liberty explained in detail in response to Issue 43 the importance of the projected spot market information provided by Horizons Energy. See Liberty Brief, pp. 52-54. When information beyond the true-up date, such as natural gas prices and market costs, may affect the costs to be experienced in the FAC, those factors are very much “relevant

⁴¹ Commission Rule 20 CSR 4240-20.090(1)(C).

factors that may affect the costs or overall rate and charges” and should be taken into account in determining the energy base costs.

Liberty witness Tarter also explained during the hearing that once the FAC base factor is set, all prudently incurred fuel and purchased power costs that are eligible for the FAC would get trueed up through the FAC process so that the customers end up paying the true cost of those energy costs, less any sharing mechanism. It does not matter at the time this comparison is made whether an over-recovery or under-recovery resulted from a change in TCRs or RECs or fuel costs or anything else. Tr. Vol. 13, pp. 41-42.

The FAC Base Factor of \$13.97 found in the Base Stipulation is between the FAC Base Factors proposed by Staff and Liberty. Staff proposed a \$11.11/MWh fuel base factor in its true-up testimony. Ex. 165, Mastrogiannis Sur. and True-Up Dir., p. 5, ln. 9.

Liberty explained in its Initial Brief that in order to compare to the Staff’s proposed FAC base factor, the Company calculated a FAC base factor of \$15.28/MWh at true-up using the same percentage of transmission cost as Staff’s proposal. Ex. 52, Tarter True-Up Rebuttal: p. 2, ln. 13-17. This proposal compares favorably to the weighted average of costs of \$16.21/MWh Empire experienced from May 2022 through August 2025, a period during which Company had a similar generation mix to today. Ex. 52, Tarter True-Up Rebuttal: p. 7, ln. 8-10.

While there is no specific method to derive the agreed to FAC Base Factor in the Global Settlement, Liberty witness Tarter explained during the hearing that starting with the Company’s true-up position of \$15.28 and increasing the TCR/ARR revenues from the Company’s \$38M to about \$45M (which is close to Ms. Schaben’s \$46.3M) would result in a \$13.97 FAC Base Factor. Tr. 42-43 (Tarter).

Moreover, the \$13.97 FAC Base Factor of the Global Settlement is much closer to the \$16.21/MWh weighted average of actual costs Liberty experienced from May 2022 through

August 2025, a period during which the Company had a similar generation mix to today, than the \$11.11/MWh recommended by Staff in prefiled testimony. Ex. 52, Tarter True-Up Rebuttal: p. 7, ln. 8-10.

Issue 98) What ratio of the difference between Empire’s actual and base net fuel costs should the Commission order be shared between Empire and its customers as an incentive mechanism in Empire’s FAC, should the Commission authorize continuation of an FAC for Empire?

CCM argues that “Liberty should absorb any costs above the FAC base and retain all savings below the FAC base level of fuel costs,” “because electric consumers have no control over the utility’s fuel management practices and thus should not bear any of the risk of fluctuating costs.”⁴²

The CCM’s implication that Liberty, as an individual electric utility, has any “control” over the market, market prices and the cost of fuel is naïve at best. Liberty witness Reed addressed the question of the Company’s ability to control costs:

Fuel costs are largely driven by market forces and generation dispatch economics, not by discretionary utility behavior. The idea that a utility can meaningfully “manage” fuel costs in a way that justifies penalizing it for increases is not supported by operational reality. Moreover, the FAC already includes prudence reviews and audit mechanisms to ensure that costs are the product of prudent decision making. Adding a sharing mechanism does not improve efficiency.

Ex. 46, Reed Sur., p. 4, ln. 6-11.

Further, in response to questions by CCM’s counsel, Liberty witness Reed indicated that Liberty only has the ability to a very small degree. The analogy he used was as follows:

. . . it's like asking the utility to bear the risk partially on federal tax rate changes. Its ability to influence, for example, what happens at the transmission level and what happens in national fuel markets is about the same as its ability to influence the federal tax rate.

Tr. Vol. 13, p. 33, ln. 4-14 (Reed).

⁴² CCM Brief, pp. 5-6.

In the alternative, CCM suggests a 50%/50% sharing basis.⁴³ The Base Stipulation calls for a sharing at 95/5, which was the Staff recommendation.

Liberty addressed this issue in detail in its Initial Brief.⁴⁴ Among other things, it explained that a change away from the current 95/5 sharing would represent a further departure from regulatory norms and introduce a level of risk that is incompatible with the utility business model. This would increase Liberty's cost of capital, reduce its financial flexibility. Ex. 46, Reed Sur., p. 7, ln. 19-20, 22-23.

There is also an aspect of the alternate 50%/50% CCM recommendation that may not be palpable. That is, while the Company would only receive 50% of costs if fuel costs rise above the base, it also will only return to customers 50% of the amount fuel costs may drop below the fuel base. Given that neither customers, nor the utility, have any true control over the market forces and generation dispatch economics, a 50%/50% sharing mechanism just creates a game of chance in which the only certainty will be that the price paid by customers will vary greatly from the actual cost of fuel.

Also, by arbitrarily assigning a portion of fuel cost risk to the utility, the sharing mechanism creates a disconnect between actual costs and customer bills. For example, under a 95/5 mechanism, customers only see 95% of the fuel cost change. Under a 90/10 mechanism, they see even less. This dilution affects the relationship between actual costs and what customers pay and undermines the principle that rates should reflect cost causation. Ex. 46, Reed Sur., p. 3, ln. 21 – p. 4, ln. 3.

The Commission should leave the sharing mechanism at 95/5, as agreed to as part of the Global Settlement.

⁴³ *Id.*

⁴⁴ Liberty Brief, pp. 59-62.

Gas Transportation Costs (Issues 134-135)

These issues are a part of the revenue requirement agreed to in the Global Settlement. However, if the Global Settlement is not approved, the Company responds to the Staff and OPC positions as described in the following paragraphs.

Issue 134-135) What is the appropriate way of determining gas transportation costs? Should annual gas transportation costs be calculated using the new rates established by the contract that took effect in June 2025?

Staff's calculation relies on rates from contracts that expired in May 2025. The appropriate basis for determining gas transportation costs is the new contract rates that took effect in June 2025, well before the operation of law date in this case. Although the effective date is after the close of the true-up period, the contract terms were executed in May 2024 well within the defined update and true-up periods – and therefore have been known and measurable for over eighteen months. Ex. 50, Tarter Reb., p. 9, ln. 1-8.

These updated amounts provide a more accurate reflection of expected costs and should be used for ratemaking purposes. The appropriate gas transportation costs to include in rates is \$14,088,261, as it reflects the most current contract pricing. *Id.*

OPC admits that the June 2025 rates are known and measurable but argues they should have been proposed as “discrete adjustments” in accordance with the Order Establishing True-Up Period, issued April 23, 2025.⁴⁵ OPC further alleges that the Company did not reveal the use of these contract prices until Liberty witness Tarter's True-Up Rebuttal Testimony.

Liberty does not agree utilizing the referenced contract rates discrete adjustments. Again, as stated above, the contract terms were executed in May 2024 well within the defined update and true-up periods – and therefore have been known and measurable for over eighteen months. They

⁴⁵ OPC Brief, pp. 80-81.

were in effect as of June 2025 and are appropriate for consideration in this case, even absent the discrete adjustments. Ex. 50, Tarter Reb., p. 9, ln. 1-8. Moreover, as can be seen by the prior testimony citation, this contract was first discussed in Liberty witness Tarter's Rebuttal Testimony, and merely repeated in the True-Up Rebuttal referenced by OPC.

PAYGO (Issue 27)

Issue 27) Should the Company be allowed a return on the PAYGO tracker regulatory asset balance?

This issue should be resolved in accordance with approval of the Global Settlement.⁴⁶ However, if not so resolved, the Commission should not accept Staff's position.⁴⁷

The PAYGO tracker was explicitly authorized by the Commission in the Company's last rate case, Case No. ER-2021-0312, and its purpose is to account for the volatility and unpredictability of PAYGO related transactions. Since that time, the Company has properly tracked and recorded the revenue impacts in accordance with the Commission's directive. Including the regulatory asset in rate base and earning a return on the balance is consistent with sound ratemaking principles and accounts for the financial impacts of revenue volatility in a fair and transparent manner. Ex. 18, Emery Reb., p. 9, ln. 18 - p. 10, ln. 5; Ex. 20, Emery True-Up Reb., p. 7, ln. 7-18.

Property Tax (Issues 28, 141)

Issue 28) Should the Company be allowed to recover property tax expense that was tracked since the effective date of the applicable statute? If so, what should be the approved rate base and amortization period?

This issue should be resolved in accordance with approval of the Global Settlement.⁴⁸ However, if not so resolved, the Commission should not accept Staff's position⁴⁹ and instead the

⁴⁶ Base Stip., para 15 and Exh. B.

⁴⁷ Staff Brief, p. 25.

⁴⁸ Base Stip., para. 24 and Exh. B.

⁴⁹ Staff Brief, p. 25.

Company should be allowed to recover property tax expense that was tracked since the effective date of Section 393.400.2, RSMo, (August 28, 2022). There is no language in the statute stating that the deferral is to begin only after a future general rate proceeding; thus, reading such language into the statute would be unsupported. In fact, from the effective date of the statute, it directed that Liberty “. . . shall defer to a regulatory asset or liability account any difference in state or local property tax expense actually incurred . . .” (emphasis added).

Additionally, there have been other Missouri utilities that have been allowed the recovery of the property tax tracker expense since the August 2022 effective date. It would be discriminatory to treat Liberty differently. The approved rate base as of the March 2025 true-up period is \$15,603,022 with an amortization period of three years. Ex. 17, Emery Direct: p. 21, line 15 through p. 22, line 4; p. 42, lines 8-11; Ex. 18, Emery Rebuttal: p. 15, line 4 through p. 18, line 10; Ex. 19, Emery Surrebuttal and True-Up Direct: p. 16, lines 13-21; p. 22, Table 1; Ex. 20, Emery True-Up Rebuttal: p. 8, lines 13-20.

Issue 141) What is the base level of property tax to be established for the property tax tracker?

This issue should be resolved in accordance with approval of the Global Settlement.⁵⁰ However, if not so resolved, the Commission should not accept Staff’s position⁵¹ and instead The appropriate amount of property tax expense to be used for establishing the baseline for the property tax tracker at the effective date of rates in this case should be \$33,233,996. Ex. 19, Emery Sur. and True-Up Dir., p. 33, ln. 1-11; Ex. 19, Emery True-Up Dir. Schedule CTE-1, p. 96, ln. 7, 9.

Deferred Long-Term Maintenance (Issue 29)

Issue 29) Should the Company be allowed to include the deferred long-term maintenance prepayment costs in rate base? If so, what is the appropriate deferred

⁵⁰ Base Stip., para. 24 and Exh. B.

⁵¹ Staff Brief, p. 25.

long-term maintenance prepayment balances as it pertains to Riverton, StateLine, and the Wind SWMA?

This issue should be resolved in accordance with approval of the Global Settlement. However, if not so resolved, the Commission should not accept Staff's position.⁵²

The Company changed its accounting methodology for long-term prepaid maintenance costs since the Company's last rate case. Instead of immediately expensing all the costs, the Company deferred the costs in FERC account 186 because their proper disposition is uncertain at the time of payment. Once the work is completed, the Company evaluates the nature of the expenditures, and any costs related to capitalized work are transferred to the appropriate plant account. Any non-capital costs are reclassified to the appropriate O&M account. This methodology has also been approved by the Arkansas Public Service Commission in the Company's last rate case, Docket No. 22-085-U. The Company should be allowed to include these deferred long-term maintenance costs in rate base and the deferred balances as of the March 2025 true-up period is \$18,833,904 for Riverton and State Line and \$5,749,158 for the Wind SWMA. Ex. 17, Emery Dir., p. 22, ln. 5-20, p. 24, ln. 15 - p. 25, ln. 7; Ex. 18, Emery Reb., p. 10, ln. 6 - p. 12, ln. 2, p. 37, ln. 19 - p. 38, ln. 5; Ex. 19, Emery Sur. and True-Up Dir., p. 8, ln. 11 - p. 9, ln. 20, p. 22, Table 1; Ex. 20, Emery True-Up Reb., p. 8, ln. 13-20.

SB-EDR regulatory asset (Issue 30)

Issue 30) Is there a lawful SB-EDR regulatory asset? Should rates reflect the SB-EDR regulatory asset and respective amortization, including recovery of all SB-EDR discounts incurred since the Company's last rate case?

This issue should be resolved in accordance with approval of the Global Settlement.⁵³ However, if not so resolved, the Commission should not accept Staff's position.⁵⁴

⁵² Staff Brief, p. 25-26.

⁵³ Base Stip., para. 14.

⁵⁴ Staff Brief, p. 26.

There is a lawful SB-EDR regulatory asset due to statutory authorization. The rates should reflect the SB-EDR regulatory asset and respective amortization. Further, the Company should be allowed recovery of all SB-EDR discounts incurred since the Company's last rate case through a regulatory asset and amortization. The SB-EDR regulatory asset was established pursuant to the provision of Senate Bill 564, codified at §393.1640, RSMo. This asset reflects the cumulative discounts provided to qualifying customers under the SB-EDR tariff in accordance with Senate Bill 564. The cost of providing these discounts must be recovered from all customer classes, as stated in the statute; therefore, regulatory asset treatment is appropriate. Ex. 17, Emery Dir., p. 20, ln. 24 - p. 21, ln. 7, p. 40, ln. 13-17; Ex. 18, Emery Reb., p. 18, ln. 11 - p. 19, ln. 12, p. 23, ln. 1 - p. 24, ln. 4; Ex. 19, Emery Sur. and True-Up Dir., p. 9, ln. 21 - p. 10, ln. 21, p. 22, Table 1; p. 27, Table 2; Ex. 20, Emery True-Up Reb., p. 8, ln. 13-20; p. 9, Table 2; p. 10, ln. 12 - p. 11, ln. 4.

Asbury AAO (Issue 35)

Issue 35) What is the appropriate rate base and amortization expense balance for the Asbury AAO liability?

This issue should be resolved as a part of the approval of the Global Settlement.⁵⁵ However, if the Global Settlement is not approved, it should be resolved as described in the following paragraph rather than in accordance with the Staff position.⁵⁶

During the true-up period, it was discovered that there were additional Asbury obsolete inventory costs that were incurred after the balances were established for securitization in Case No. EO-2022-0193. These costs were inadvertently excluded from the Company's direct filing and therefore have been included as an offset of the Asbury AAO liability at the true-up period. The appropriate rate base balance for the Asbury AAO Liability is a Missouri pro forma ending

⁵⁵ Base Stip., Exh. B.

⁵⁶ Staff Brief, p. 28.

balance of (\$3,147,420). The appropriate amortization expense for the Asbury AAO liability is a Missouri pro forma ending balance of (\$1,049,140). Ex. 17, Emery Dir., p. 28, ln. 16 - p. 29, ln. 16, p. 43, ln. 1-7; Ex. 18, Emery Reb., p. 20, ln. 10 - p. 11, ln. 7; Ex. 19, Emery Sur. and True-Up Dir., p. 22, Table 1, p. 25, ln. 16-22; p. 27, Table 2; Ex. 20, Emery True-Up Reb., p. 7, ln. 19 - p. 8, ln. 6, p. 13, ln. 7-11.

Pension/OPEB (Issues 62-64)

These issues should be resolved in accordance with the Global Settlement (para. 11). However, if the Global Settlement is not approved, they should be resolved as described in the following paragraphs as is provided in response to the Staff Brief (p. 43-44).

Issue 62) What expense amount should be included in the revenue requirement for FAS 87 costs?

The expense amount to be included for total pension expense is (\$1,411,647). This balance includes: (1) projected 2025 non-service expense in Accounts 426581 and 426591 of (\$130,055) (which is made up of (\$1,970,169) of FAS 87 credits determined by the Company's actuary and pension settlement expense of \$1,840,114); (2) projected 2025 FAS 87 service cost expense in Accounts 926148 and 926150 of \$1,689,074 as determined by the actuary; and projected five-year amortization of (\$2,970,666) of credits related to trackers authorized in prior cases. The ongoing amount of FAS 87 expense is (\$281,095). However, in the event that FAS 88 expense is excluded from recovery, the ongoing FAS 87 expense should be set at zero. Ex. 21, Fallert Dir., p. 3, ln. 1-11, p. 4, ln. 14-24; Ex. 23, Fallert True-Up Dir. p. 1, ln. 14 - p. 2, ln. 7; Ex. 24, Fallert True-Up Reb. p. 1, ln. 13 - p. 2, ln. 2.

Issue 63) What expense amount should be included in the revenue requirement for FAS 88 costs?

The expense amount for FAS 88 that should be included in the revenue requirement is \$1,840,114. Ex. 21, Fallert Dir., p. 3, ln. 1-11, p. 4, ln. 14-24; Ex. 22, Fallert Reb., p. 1, ln. 14 - p.

3, ln. 8; Ex. 23, Fallert True-Up Dir., p. 1, line 14 - p. 2, ln. 13; Ex. 24, Fallert True-Up Reb., p. 1, ln. 13 - p. 2, ln. 13.

Issue 64) What expense amount should be included in the revenue requirement for FAS 106 costs?

The expense amount for FAS 106 that should be included in the revenue requirement is (\$1,851,251) and the ongoing level of FAS 106 expense should be set to zero. Ex. 21, Fallert Dir., p. 3, ln. 17 - p. 4, ln. 24; Ex. 23, Fallert True-Up Dir., p. 2, line 19 - p. 3, ln. 2; Ex. 24, Fallert True-Up Reb., p. 3, ln. 13-14.

SERP (Issue 65)

Issue 65) What expense amount should be reflected in the revenue requirement for SERP?

This issue should be resolved in accordance with the Global Settlement (para. 12). However, if the Global Settlement is not approved, the expense amount for SERP that should be included in the revenue requirement is \$1,011,002, which is based on the most recent 2025 regulatory expense amounts as calculated by the Company's actuary. Ex. 21, Fallert Dir., p. 3, ln. 12 - p. 4, ln. 24; Ex. 22, Fallert Reb., p. 3, line 9 - p. 4, ln. 15; Ex. 23, Fallert True-Up Dir., p. 2, ln. 14-18; Ex. 24, Fallert True-Up Reb., p. 2, ln. 14 - p. 3, ln. 10.

A&G Expenses and Costs and Jurisdictional Allocations (Issues 73, 74, and 84)

OPC Witness Schaben's recommendation that Staff's proposed A&G expenses be reduced by \$17.1 million should be rejected for the many reasons set forth in detail at pages 72-78 of Liberty's Initial Brief.

OPC inserted Table 4 that was included in Ms. Schaben's direct testimony in its Initial Brief at page 62 to support its adjustment to A&G expenses. However, as set forth in Liberty's Initial Brief, it is her Table 4 that illustrated the problems with Ms. Schaben's recommendation. She implied at the hearing that there were no outliers in her tables that required the need to

normalize her data. Vol. 12, Tr. 46, line 24 through Tr. 47, line 28 (Schaben). Yet, she admitted that her Table 4 included a very significant outlier, year 2018. Ex. 218, Schaben Dir. p. 6, lines 18-20. She attempted to explain that the outlier was due to high natural gas prices. Ex. 218, Schaben Dir. p. 6, lines 18-20, footnote 10, Schedule ADS-d-5. However, natural gas prices are not A&G expenses and could not have been the cause of the outlier. Ex. 218, Schaben Dir. p. 1, lines 15-19; p. 2, lines 1-6; Schedule ADS-d-1; Ex. 15, Eichler Reb. p. 4, lines 19-22. Had she taken the time to normalize her data she would have likely been able to identify the cause or causes for the outlier. However, she testified that such was not necessary.

Finally, Ms. Schaben reprinted her Table 4 from her direct testimony and included it in her rebuttal testimony as Table 1, but this time showed much different numbers for 2018 than what were shown in Table 4 in her direct testimony. Ex. 218, Schaben Dir., p. 7, Table 3, p. 8, Table 4; Ex. 219, Schaben Reb., p. 68. She provided absolutely no explanation for the different numbers for 2018 in her Table 4 in her direct testimony and her Table 1 in her rebuttal testimony. Her Table 4 in her direct testimony and her Table 1 in her rebuttal testimony are shown below for comparison purposes.

Table 4 from the Direct Testimony of Angela Schaben (Ex. 218, p. 8)

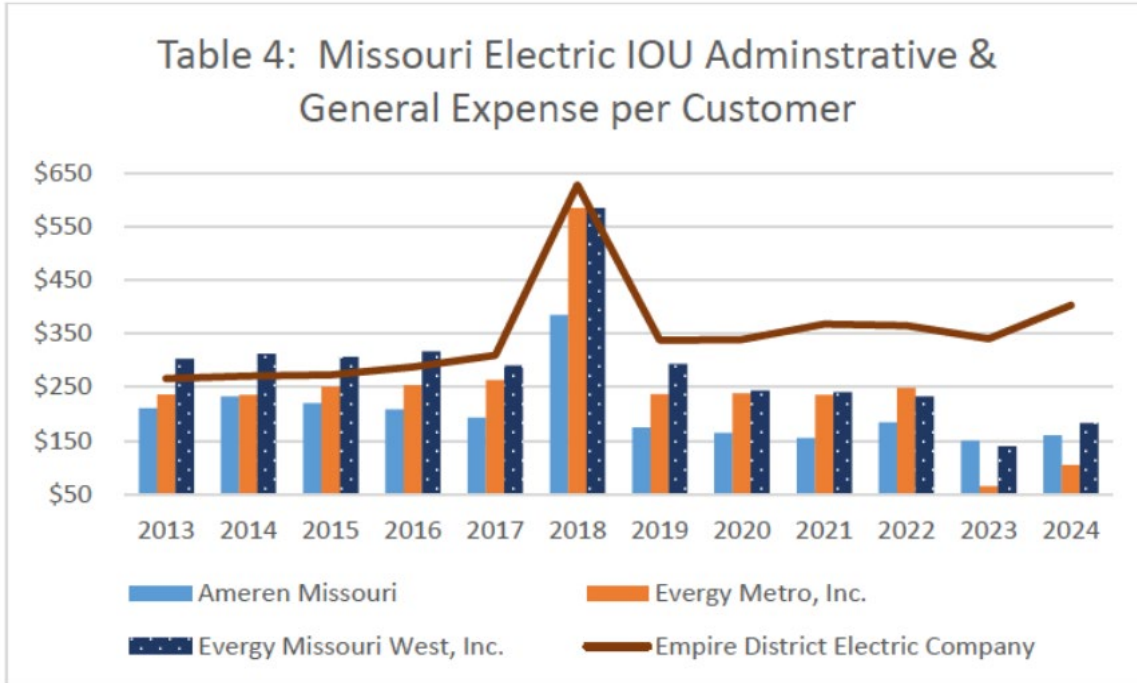
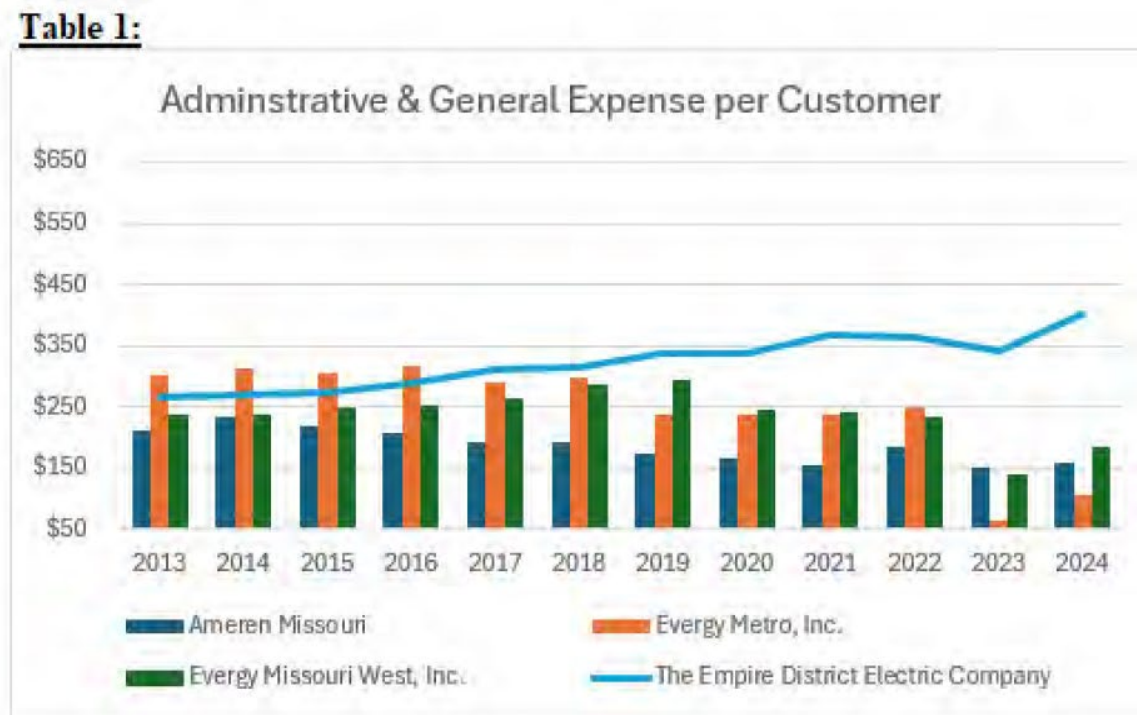


Table 1 from the Rebuttal Testimony of Angela Schaben (Ex. 219, p. 68)



Given all of the issues with Ms. Schaben's testimony, her adjustment to A&G expenses should be rejected.

Riverton 10 and 11 (Issues 2h, 22, 47, and 88)

Issue 2h) Should Empire recover the cost of repairs to Riverton 10?

Issue 22) Should Empire's PISA assets be reduced for deferred costs related to Riverton 10 repairs?

Issue 47) What is the appropriate level of depreciation and amortization expense of plant to include in the cost of service for Riverton 10 and 11?

Issue 88). Riverton 10 Repairs. A. Were the Riverton 10 repair costs prudently incurred? B. What amount of the Riverton 10 repairs capital cost should be included in rate base?

OPC improperly seeks to apply the benefit of hindsight in recommending that Liberty should not recover the costs of repairing Riverton 10. In reviewing a management decision, “. . . the Commission will not rely on hindsight. The Commission will assess management decisions at the time they were made and ask the question, 'Given all the surrounding circumstances existing at the time, did management use due diligence to address all relevant factors and information known or available to it when it assessed the situation?’”⁵⁷

The Company made the prudent decision to repair Riverton Unit 10 based on the appropriate balance between cost, safety, and reliability as known at the time of its decision. Ex. 2, Berkstresser Rebuttal: p. 2, line 1 through p.4, line 4. OPC is effectively advocating that Liberty should have recklessly bypassed both the Integrated Resource Planning process and the technology

⁵⁷ *In the Matter of Union Electric Company, d/b/a Ameren Missouri's Tariff to Increase Its Annual Revenues for Electric Service*, File No. ER-2011-0028, 2011 Mo. PSC LEXIS 954, *54 (Issued July 13, 2011), quoting *In the matter of the determination of in-service criteria for the Union Electric Company's Callaway Nuclear Plant and Callaway rate base and related issues. And In the matter of Union Electric Company of St. Louis, Missouri, for authority to file tariffs increasing rates for electric service provided to customers in the Missouri service area of the company*. 27 Mo. P.S.C. (N.S.) 183, 194 (1985).

review process against customers' interests. Ex. 11, Doll True-Up Rebuttal: p. 2, lines 6 through p. 3, line 24 & True-Up Rebuttal Schedule AJD-1.

Various Rate Base Items (Issues 2-3)

Issue 2h) Should Empire recover the cost of repairs to Riverton 10?

See the Riverton 10 and 11 Issues above.

Issue 2i) Should the Commission order OPC's recommended disallowance of 2% of the rate base inclusion of transmission and distribution projects since Empire's last rate case over \$1 million?

No. In its initial brief, OPC continues to fail to identify a single distribution or transmission project that was imprudently selected, poorly executed, or failed to meet its intended purpose, and instead, persists in arbitrarily proposing to disallow 2% of all distribution and transmission investments. Moreover, OPC continues to improperly conflate short-term reliability outcomes with the prudence of capital investment. OPC's recommended disallowance should be completely disregarded.

Issue 89. Ozark Beach Crane Extension Costs

Contrary to OPC's perplexing allegation that the Ozark Beach Crane Extension project was a "solution in search of a problem," the prudent project actually accomplished three purposes at a reasonable cost and under-budget: mitigation of environmental risks and safety and efficiency improvement. Indeed, Company witness Brian Berkstresser had the following exchange with Commissioner Kolkmeier during the October 16, 2025 evidentiary hearing:

BY COMMISSIONER KOLKMEYER:

Q. Is this a much safer way to operate there? Versus putting the stuff on the water, it can stay on a truck and get right to the dam?

A. Absolutely.

Q. Is that the way I'm understanding it?

A. Safer and faster and more efficient.

Further confounding, OPC then tries to lodge the “same criticisms” against Liberty’s investments in substations and transmission lines. Tellingly, OPC still fails to identify any specific substation or transmission line project, and rather, arbitrarily criticizes investments made to address safety, reliability, and/or resiliency for Liberty customers. See also discussion of Issue 2i above.

Customer Programs (Issue 115-122)

The Customer Programs are addressed most appropriately in paragraphs 29-32 of the Base Stipulation.

Issue 118) Should the customer charge be waived for income-eligible residential customers as proposed by OPC witness Dr. Marke?

Both CCM⁵⁸ and OPC⁵⁹ suggests that customer charges should be waived for income-eligible residential customers (every customer eligible for the federal Low-Income Home Energy Assistance Program (“LIHEAP”)).

Liberty’s Fresh Start program would also synchronize eligibility requirements with LIHEAP. Liberty is open to continued discussions with stakeholders regarding program design, to include credits that may be appropriate. Ex. 27, Hackney Reb., pp. 3-5. However, those customer charges are currently assumed in the billing determinants to be utilized in setting rates.

If new rates are ordered in this case, regardless of the circumstances, it would be impossible to both waive these customer charges and set appropriate rates without knowing how many customers will qualify and what portion of the revenue requirement would need to be recovered

⁵⁸ CCM Brief, pp. 7-8.

⁵⁹ OPC Brief, pp. 78-79.

from other customers. In the absence of a rate increase in this case, any requirement to waive customer charges would represent an unlawful taking of Liberty's existing rates.

CCM and OPC both suggest that such waiver would be consistent with an income-eligible rate design approved by the Commission for Spire in Case No. GR-2025-0107. Of course, that program was agreed to by the parties to the case and included a funding cap of \$6,000,000.⁶⁰ No such funding mechanism has been proposed or agreed to in this case. This is an issue best left to the Low-Income Pilot Program proposed in the Base Stipulation (para. 30) as suggested by Liberty witness Hackney.

Opt Out Tariff (Issue 169)

Issue 169) Should Empire's tariffs be modified to allow a self-read option for customers who opt out of AMI meters as a result of this case?

Both Staff⁶¹ and OPC⁶² seem to suggest that changes to Liberty's tariff should be made in regard to a self-read option.

The Company's current billing practices provide a procedure for customers to manually read and report their electric usage. If a customer does not report usage, the Company will obtain a meter reading at least annually. Customers are notified if usage is not reported regularly, and if access to the meter is denied after a written request, service may be discontinued in accordance with Commission Rule 20 CSR 4240-13.050. Ex. 18, Emery Reb., p. 59, ln. 11-15.

The recommendations do not cite evidence that the Company's current opt-out fees are unjust, unreasonable, or inconsistent with Commission precedent. Rather, the proposal is based on anticipated statutory changes resulting from Section 386.820, RSMo. Ex. 18, Emery Reb., p. 58, ln. 17-21.

⁶⁰ Full and Unanimous Stipulation and Agreement, Case No. GR-2025-0107, EFIS Item No. 179, para. 21.

⁶¹ Staff Brief, p. 104-105.

⁶² OPC Brief, p. 100.

Section 386.820, RSMo, requires the Commission to promulgate rules and for utilities to provide an opt-out option by July 1, 2026. The Company is fully committed to complying with Senate Bill 4 once it becomes effective. Further, the Commission's proposed rule addressing these opt-outs appeared in the October 1, 2025 Missouri Register, a hearing was held on November 13, 2025 concerning the new Rule, and the Rule is also not yet effective. This process should be allowed to run its course before a tariff change is required for Liberty. Ex. 18, Emery Reb., p. 58-59.

WHEREFORE, Liberty respectfully requests an order of the Commission approving the three partial settlement agreements that may be treated as unanimous and approving the terms of the Global Settlement, in total and without modification, as the just and reasonable resolution of each remaining contested issue in this proceeding. Liberty requests such further relief as is just and proper under the circumstances.

**ATTORNEYS FOR THE EMPIRE DISTRICT
ELECTRIC COMPANY d/b/a LIBERTY**

/s/ Dean L. Cooper

Dean L. Cooper MBE #36592
Brydon, Swearingen & England, P.C.
312 East Capital Avenue
P.O. Box 456
Jefferson City, Missouri 65702
Phone: (573) 635-7166
E-Mail: dcooper@brydonlaw.com

Jermaine Grubbs MBE #68970
602 S. Joplin Ave.
Joplin, Missouri 64801
Cell Phone: 417-317-9024
E-Mail:
Jermaine.Grubbs@LibertyUtilities.com

James G. Flaherty, #11177
ANDERSON & BYRD, LLP
216 S. Hickory ~ P.O. Box 17
Ottawa, Kansas 66067
(785) 242-1234, telephone
(785) 242-1279, facsimile
jflaherty@andersonbyrd.com

CERTIFICATE OF SERVICE

I hereby certify that the above document was filed in EFIS on this 23rd day of December, 2025, with notification of the same being sent to all counsel of record, and I further certify that the above document was sent by electronic transmission to all counsel of record.

/s/ Dean L. Cooper