

**Exhibit No.:** \_\_\_\_\_  
**Issue(s):** Customer and Rate Impact Concerns  
**Witness/Type of Exhibit:** Marke/Rebuttal  
**Sponsoring Party:** Public Counsel  
**Case No.:** EA-2025-0299

**REBUTTAL TESTIMONY**

**OF**

**GEOFF MARKE**

Submitted on Behalf of the Office of the Public Counsel

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

FILE NO. EA-2025-0299

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May 7, 2026

**PUBLIC**

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**REBUTTAL TESTIMONY**

**OF**

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

**CASE NO.: EA-2025-0299**

1 **I. INTRODUCTION**

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

3 A. Geoff Marke, PhD, Chief Economist, Office of the Public Counsel (OPC or Public Counsel),  
4 P.O. Box 2230, Jefferson City, Missouri 65102.

5 **Q. What are your qualifications and experience?**

6 A. I have been in my present position with OPC since 2014 where I am responsible for economic  
7 analysis and policy research in electric, gas, water, and sewer utility operations.

8 **Q. What is the purpose of your rebuttal testimony?**

9 A. I am responding to the direct and supplemental direct testimony filed by Liberty Utilities  
10 (“Liberty”, “Empire”, and whose parent company is at times referred to as “Algonquin” or  
11 “APUC”) regarding its application to build a combustion turbine generating facility to meet  
12 pending Southwest Power Pool (“SPP”) resource adequacy requirements.

13 My testimony will specifically focus on Liberty’s public disclosure of the investment, local  
14 public hearings, and the conflicting responses Liberty has given the public regarding its  
15 Construction Work in Progress (“CWIP”) cost recovery request. I will also address the need  
16 for explicit exit terminations with any signed contract. Further prudency concerns around cost  
17 and permit uncertainty are addressed in OPC witnesses Robinett and Wade’s rebuttal  
18 testimonies.

19 My silence in regard to any issue should not be construed as an endorsement of Liberty’s  
20 position.

1 **II. CUSTOMER EXPERIENCE**

2 **Q. What has Liberty stated publicly about cost recovery?**

3 A. In an October 29<sup>th</sup>, 2025 *Joplin Globe* article titled “Liberty seeks PSC approval for new  
4 generator at State Line Power Station” the following information was conveyed:

5 Aaron Doll, senior director of energy strategy for Liberty Central Region, said years  
6 of planning influenced by changing capacity requirements in the Southwest Power  
7 Pool, the electric grid for states such as Missouri, Kansas, Oklahoma and Arkansas  
8 went into preparing the proposal.

9 “I think this particular generator is very specific to our integrated resource plan,”  
10 Doll said. “That plan is a very robust plan. We evaluated it on what we call a  
11 scorecard approach. And so, when we evaluate all technologies, the No. 1 criteria  
12 we have is affordability, and we do that through a variety of calculations, long-term  
13 and short-term net present value revenue requirements, etc., and we assess it for  
14 reliability scores, resiliency scores. We take that score card approach that this  
15 generator performed better, when it came to both affordability and reliability, than  
16 any other potential generation option out there.”

17 Doll said cost for the new generator is not clear yet because the company hasn’t gone  
18 through the bid process or picked a supplier to provide and build the generator.

19 **Costs will eventually be passed on to the consumer, he said, but that won’t**  
20 **happen until the generator is running, and Liberty will have to be in its regular**  
21 **rate change cycle with the PSC.**

22 **That means consumers won’t see the cost until after 2030.**<sup>1</sup> (emphasis added)

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<sup>1</sup> Hacker, J. (2025) Liberty seeks PSC approval for new generator at State Line Power Station. *Joplin Globe*.  
[https://www.joplinglobe.com/news/local\\_news/liberty-seeks-psc-approval-for-new-generator-at-state-line-power-station/article\\_48e91f2e-46f4-43e0-a3cf-4e26e6c1c64a.html](https://www.joplinglobe.com/news/local_news/liberty-seeks-psc-approval-for-new-generator-at-state-line-power-station/article_48e91f2e-46f4-43e0-a3cf-4e26e6c1c64a.html) see also GM-2.

1 **Q. Is this affirmation consistent with what has been filed?**

2 A. No. On March 12, 2026, Liberty witness Shaen T. Rooney filed Supplemental Direct  
3 Testimony stating

4 Yes, the Company is requesting that the Commission establish the Project costs and  
5 timeline for purposes of potential consideration of CWIP recovery in a future rate  
6 proceeding under Section 393.135, subject to Commission review and approval at that  
7 time. The cost information provided in this supplemental testimony reflects the level  
8 of Project spending approved by Company management for execution of the Project  
9 through completion.<sup>2</sup>

10 **Q. Does that mean Liberty will be in a position to collect costs from ratepayers before 2030  
11 and before the new unit is “used and useful?”**

12 A. Possibly. It will ultimately be up to the Commission to approve that request in a future rate  
13 case. It is my understanding that the Commission will need to determine the amount of CWIP  
14 that *may be* included in rate base in this case. But this does not guarantee cost recovery or even  
15 a charge until the conclusion of Liberty’s next rate case and specific approval from the  
16 Commission.

17 **Q. What is your position on the use of CWIP accounting for this project?**

18 A. Approval of CWIP would immediately raise rates for consumers, minimize risk for utilities,  
19 and lock in this fossil fuel investment with a company that has a track record in investing in  
20 fossil-fuel plants and retiring them before the end of their useful life (see also the Asbury  
21 Energy Center and subsequent Asbury securitization charge on customers’ bills). Whether or  
22 not CWIP is in the best interest of ratepayers will be dependent on the overall capital costs,  
23 rate case timing, interest rates/financing costs as well as risk-mitigation offsets such as a  
24 reduced return on equity that recognizes that CWIP forces ratepayers to become “involuntary  
25 investors” with increased attendant risks. Much of these points are beyond the scope of this

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<sup>2</sup> Case No. EA-2025-0299 Supplemental Direct Testimony of Shaen T. Rooney, p. 9, 16-21.

1 proceeding; therefore, I support the recommendations made by OPC witness John Robinett in  
2 this proceeding.

3 **Q. If this is a topic for a future docket, why are you bringing it up now?**

4 A. For two primary reasons.

5 First, this testimony and the complementary testimony filed by OPC in rebuttal serve as a  
6 placeholder for the Commission and for Liberty’s consideration as it weighs the  
7 appropriateness of moving forward with this investment. This is especially important as it  
8 comes at a time when costs are seemingly in flux and future demand for data centers can still  
9 accurately be characterized as speculative, given the uncertainty surrounding the industry’s  
10 inability to operate at a profit to date.<sup>3</sup>

11 Second, I reference this issue to highlight the challenges and problems Liberty has had with  
12 conveying accurate and reliable communications with its customer base. Restated, Liberty has  
13 told the public one thing “it won’t start paying for costs until after 2030” and is now walking  
14 back that declaration entirely in Mr. Rooney’s Supplemental Direct Testimony.

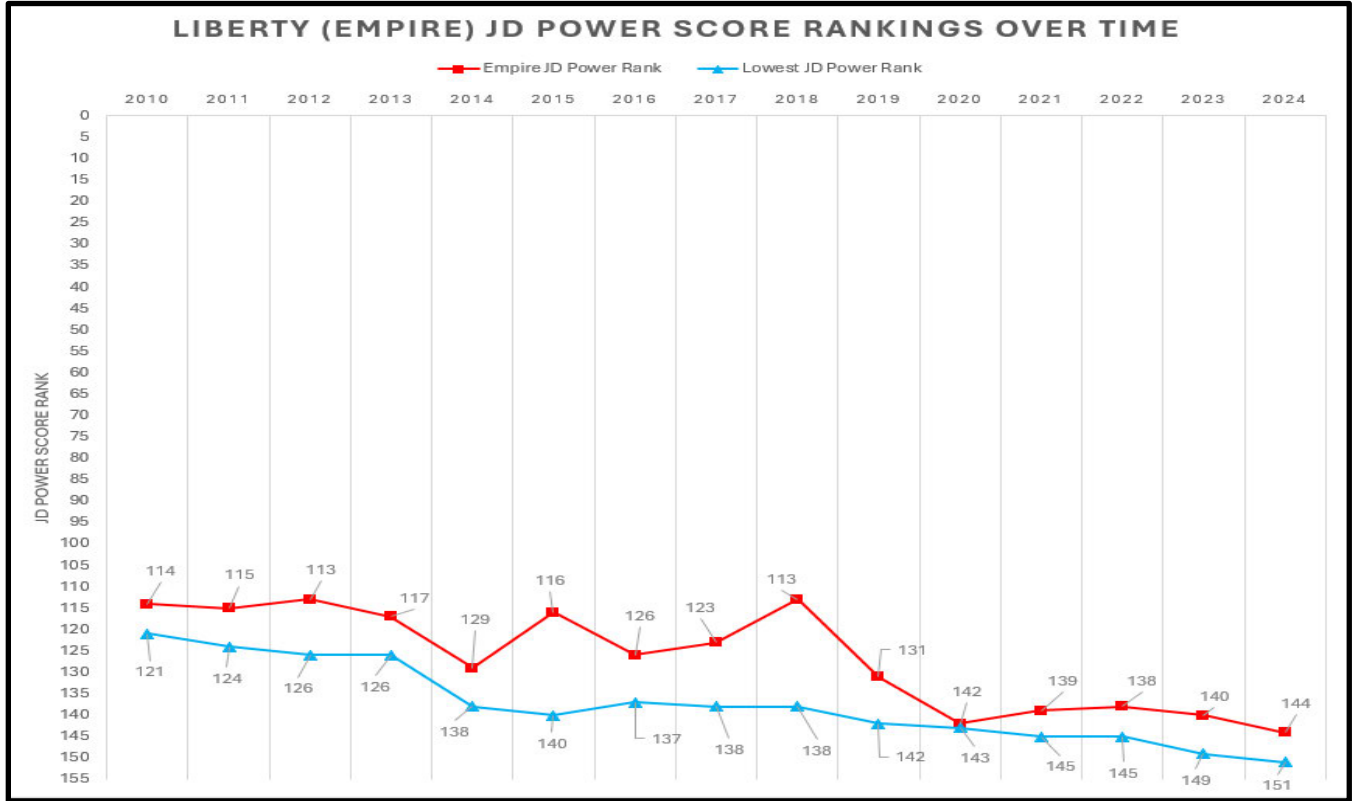
15 Such activity is not endearing to stakeholders or the public Liberty serves.

16 As the Commission is well aware, Liberty has experienced prolonged operational challenges  
17 related to its customer-facing software and billing platforms for over a year. As articulated in  
18 my testimony in ER-2024-0261, Liberty has ranked in the bottom 5% of all electric utilities in  
19 the United States for the better part of a decade as seen in Figure 1. Liberty was also recently  
20 cited by the *Energy & Policy Institute* as the #1 ranked most profitable utility (out of 110  
21 analyzed) as a percentage of total monthly bill in the United States as seen in Figure 2.

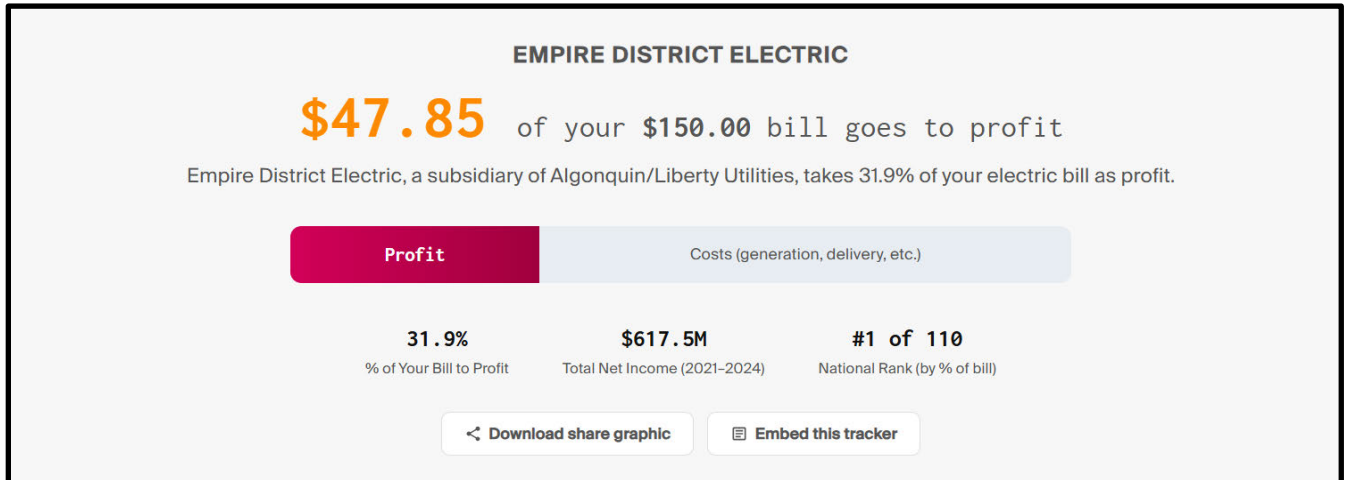
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<sup>3</sup> Cassidy, J. (2026) The A.I. Industry is booming. When will it actually make money? *The New Yorker*.  
<https://www.newyorker.com/news/the-financial-page/the-ai-industry-is-booming-when-will-it-actually-make-money>

1 Figure 1: Liberty/Empire JD Power Scores relative to other US Utilities 2010-2024



2  
 3 Figure 1: Energy & Policy Institute “How much do utilities Profit from your electric bill?”<sup>4</sup>



4 Green, S., Sturgis, S & D. Tait (2026) How much do utilities profit from your electric bill?” *Energy & Policy Institute* <https://energypolicy.org/utilityprofittracker/?utility=empire-district-electric&bill=150>

1 Liberty's categorical change in cost recovery shifts risks to consumers and raises serious  
2 questions around the Company's obligation to inform the public around changes in its filing.  
3 Compounding these concerns is the fact that no in-person local public hearing occurred for this  
4 docket. A fact that I believe has limited public participation in voicing their opinions on the  
5 filing.

6 **Q. Do you have some specific examples?**

7 A. Yes. I have included the following comments from customers in this docket regarding:

8 Brett Johnson of Joplin, Missouri filed comments expressing concern over the lack of in-person  
9 public hearings. Mr. Johnson stated:

10 I also would request that this virtual hearing be supplemented with a traditional in-  
11 person attendance option. The rationale behind this is that a virtual only public hearing  
12 is by its nature not "local" - as the notification letter heading states. There isn't an  
13 explanation of why the opportunity for public commentary has been reduced to one  
14 virtual meeting between the public, the utility, and those meant to regulate it. I contend  
15 that this surreptitious redefinition of the word local undercuts the spirit behind having  
16 these hearings through the following methods:

17 1) The flattening of emotional impact inherent to the depersonalization of  
18 telemeetings. Communication is not a verbal-only medium and a public hearing in  
19 particular does not function as "your words, my words, repeat" type script. It requires  
20 a venue with more dynamism than is allowed by the Mute All Others button.

21 2) This gatekeeps commentary of those unfamiliar with or without access to the  
22 required technology.

23 3) To be a public forum participants must be able to recognize common cause in others  
24 AND have the opportunity to connect/discuss/organize with each other while at the

1 forum. This format blocks our capacity to operate within community by narrowing  
2 and distancing our speech.<sup>5</sup>

3 Mr. Kenan Klien of Joplin, Missouri filed comments that expressed concerns around placing  
4 additional cost burdens on customers given the Company's performance to date. Mr. Klien  
5 states:

6 Additionally, recent findings from the Missouri Public Service Commission raise  
7 further concern. A year-long investigation identified widespread deficiencies in Liberty  
8 Utilities' billing and customer service, affecting tens of thousands of customers. At one  
9 point, nearly half of electric customers experienced delayed billing, with some  
10 receiving multiple months of charges at once. The report also documented billing  
11 errors, overcharges, and violations of commission rules.

12 In this context, it is difficult to justify placing additional financial burden on customers  
13 when current service and systems have not yet been stabilized or improved.

14 Costs continue to rise, while service quality and customer experience have not  
15 consistently improved. This has led to growing frustration and a loss of trust among  
16 customers.

17 In a competitive environment, customers would have the option to seek better service  
18 elsewhere. However, as a regulated monopoly, customers do not have that choice. Over  
19 time, this dynamic risks making communities like Joplin and Jasper County less  
20 attractive compared to nearby areas where utility costs and service reliability may be  
21 more favorable.

22 I respectfully ask the Commission to consider the following:

- 23
- 24 • What protections are in place for customers during the multi-year gap before  
this project is operational?
  - 25 • How will customers be protected from cost overruns or project delays?
  - 26 • To what extent is Liberty Utilities sharing in the financial risk?

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<sup>5</sup> See GM-3.

- 1                   • How is prior customer feedback from 2025 being meaningfully addressed in  
2                   this proposal?

3                   Customers should not be placed in a position where they are funding long-term  
4                   infrastructure while current service issues remain unresolved.<sup>6</sup>

5                   Mr. Robert Barchak of Joplin, Missouri wrote about his frustrations surrounding managerial  
6                   decisions to strand a coal plant of the same size as the gas plant they are seeking approval for.

7                   Mr. Barachak states:

8                   Although I agree that Liberty Utilities (former Empire District) needs to increase their  
9                   baseload capacity to make up for destroying the former Asbury Generating Station that  
10                  provided as much electricity as their planned gas turbine at the State Line Plant, I  
11                  believe that they should not receive any increase in rates because of the construction of  
12                  said gas plant. They should only be able to receive rates that would pay personnel and  
13                  fuel and maintenance of the planned gas plant. The MO PSC should also retract the  
14                  customer expense related to the destruction of the Asbury coal plant and the cold  
15                  weather power purchases required because of the destruction of said Asbury Plant.  
16                  Their Wind & Solar plants are not baseload reliable systems.<sup>7</sup>

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

18                  A. I share these concerns and strongly recommend that Liberty respond to them in surrebuttal  
19                  testimony.

20                  **Q. Do you have any recommendations?**

21                  A. Moving forward, I recommend that the Commission hold in-person local public hearings  
22                  over Certificates of Convenience and Necessity applications unless all parties agree that it  
23                  is not a good use of resources. Given Liberty’s performance track record and high rates,  
24                  there should always be a local public hearing for input—especially given the estimated costs  
25                  associated with this investment.

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<sup>6</sup> See GM-4.

<sup>7</sup> See P202601122 4/16/2026 10:38AM <https://efis.psc.mo.gov/Case/LinkedPublicCommentDisplay/97077>

1 **III. EXIT PROVISIONS**

2 **Q. What do you mean by exit provisions?**

3 A. Exit provisions in a contract are terms that define how parties can end their contractual  
4 relationship, either early or upon completion, setting out specific procedures for notice,  
5 obligations, and penalties to minimize disputes. These clauses provide flexibility and, in  
6 cases of complex agreements, outline a structured process for an orderly transition of  
7 services.

8 **Q. Why are explicit exit provisions a critical element for a contract with a third-party  
9 moving forward?**

10 A. Exit provisions are critical today because of the high capital costs and unpredictable energy  
11 transition risk. Having robust exit provisions throughout the contract that would allow  
12 Liberty to cancel its investment can minimize financial penalties if the project becomes  
13 uneconomic.

14 **Q. How could this investment become uneconomic?**

15 A. If demand does not materialize as expected. If SPP reduces its resource adequacy needs. If  
16 costs continue to increase for the turbine and alternative options materialize.

17 **Q. Do you know if Liberty has exit provisions in place with this application?**

18 A. I issued OPC DR-2005 with the following question and received the following response:

19 Request: Please articulate any and all termination clauses, exit provisions,  
20 disengagement terms or other “off ramps” embedded in the contract with the  
21 company supplying the gas turbine. If no such provisions exist—please explain why  
22 and whether such provisions can be included moving forward.

23 \*\*\* \_\_\_\_\_

24 \_\_\_\_\_

25 \_\_\_\_\_

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9 \_\_\_\_\_ \*\*\*<sup>8</sup>

10 **Q. Do those provisions satisfy your concerns?**

11 A. In part. My larger concern centers on securing specific exit provisions within the final  
12 Engineering, Procurement Contract (“EPC”) if this investment moves forward. Restated,  
13 the final contract has not been entered into; therefore, the terms related to possible exit  
14 provisions and deliverable dates have not been agreed upon.

15 **Q. What is your recommendation?**

16 A. If the Commission approves this CCN, I recommend that approval be conditioned on clear,  
17 explicit termination provisions throughout the contract, given the long-lead time for actual  
18 construction (e.g., out to 2030) and the uncertainty surrounding data centers' long-term  
19 energy needs.

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

21 A. Yes.

\_\_\_\_\_  
<sup>8</sup> See also GM-6.

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

In the Matter of the Application of The     )  
Empire District Electric Company d/b/a     )  
Liberty for a Certificate of                 ) Case No. EA-2025-0299  
Convenience and Necessity to Support     )  
Resource Adequacy                             )

**AFFIDAVIT OF GEOFF MARKE**

**STATE OF MISSOURI**     )  
   ) **ss**  
**COUNTY OF COLE**     )

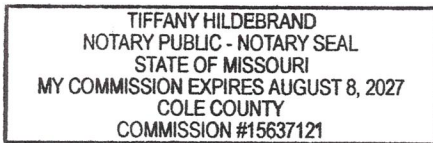
Geoff Marke, of lawful age and being first duly sworn, deposes and states:

1. My name is Geoff Marke. I am a Chief Economist for the Office of the Public Counsel.
2. Attached hereto and made a part hereof for all purposes is my rebuttal testimony.
3. I hereby swear and affirm that my statements contained in the attached testimony are true and correct to the best of my knowledge and belief.



\_\_\_\_\_  
Geoff Marke  
Chief Economist

Subscribed and sworn to me this 6<sup>th</sup> day of May 2026.



\_\_\_\_\_  
Tiffany Hildebrand  
Notary Public

My Commission expires August 8, 2027.