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

SURREBUTTAL 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

May 27, 2026

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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. Are you the same Geoff Marke who filed rebuttal testimony in this docket?**

6 A. I am.

7 **Q. What is the purpose of your surrebuttal testimony?**

8 A. I will be responding to the rebuttal testimony of Renew Missouri Advocates (“Renew”) witness
9 Philip A. Fracica

10 **II. RESPONSE TO RENEW MISSOURI**

11 **Q. Please summarize the testimony of Renew’s witness Mr. Fracica.**

12 A. Mr. Fracica’s testimony consists of six parts that he articulates as follows:

13 1.) Discuss the growing role battery energy storage systems (“BESS”) can play in
14 supporting reliability and resource adequacy within the Southwest Power Pool
15 (“SPP”).

16 2.) Explain why The Empire District Electric Company d/b/a Liberty’s (“Liberty”
17 or the “Company”) proposed reliance on natural gas generation resources may
18 expose customers to unnecessary long-term cost and regulatory risk;

19 3.) Evaluate whether the Company adequately considered demand-side management
20 (“DSM”), distributed energy resources, and non-wires alternatives in its preferred
21 resource plan;

1 4.) Describe how demand-side resources, battery storage, and energy efficiency
2 programs can contribute to winter reliability and reduce customer costs;

3 5.) Discuss the impacts the proposed project may have on low-income customers
4 and customer affordability; and

5 6.) Recommend the Commission require the Company to more thoroughly evaluate
6 diversified resource alternatives in future filings.¹

7 I will respond briefly to all of these points.

8 **Q. Do you agree with Renew that battery storage should play a greater role in the SPP**
9 **markets?**

10 A. I believe batteries will play a greater role in the future; however, today, utility-scale storage is
11 largely too cost-prohibitive, does not provide longer-duration dispatch capacity, and will be
12 subject to future SPP de-ratings based on future Effective Load Carrying Capability (“ELCC”)
13 curves due to its intermittent classification and diminishing returns as more storage
14 proliferates.² Moreover, extended winter cold snaps and (to a lesser extent) prolonged
15 heatwaves will drain battery units more rapidly and will pose reliability risks without
16 recharging. In contrast, simple-cycle gas turbines require no self-charging constraints, which
17 will provide more certainty for both SPP compliance audits and actual extreme weather
18 performance. This is especially true for winter accreditation for a winter peaking utility like
19 Liberty.

¹ Case No. EA-2025-0299 Rebuttal Testimony of Philip A. Fracica p. 2, 10-22.

² Mr. Fracica’s testimony notes the 2026 accreditation of battery storage at 100% in the summer and 98% in the winter. This is true, but it falsely assumes those numbers will be the same in subsequent years. These numbers will be subject to ELCC performance standards and be adjusted based on actual historical performance moving forward.

1 **Q. Do you agree with Renew that the selection of a simple-cycle natural gas plant exposes**
2 **customers to more regulatory risk?**

3 A. I concur with Mr. Fracica that the selection of the natural gas unit is not without risk. However,
4 I disagree that some combination of demand-side resources and battery energy storage systems
5 could provide a meaningful substitute given the Company's operational performance to date.

6 **Q. What do you mean?**

7 A. As the Commission is well aware, Liberty has struggled to correctly bill its customers for
8 its service for approximately two years now. Moreover, Liberty's comparatively small size
9 (1/10 that of Ameren Missouri) and largely rural customer base make any combination of
10 demand-side management techniques (energy efficiency, demand response, and time-of-use
11 rates) ineffective.

12 Simply put, if Liberty cannot correctly bill customers or accurately display consumption
13 patterns on its customer portal, then I struggle to see how coordinated demand-side
14 management activities would properly work or result in a more cost-effective alternative.

15 Although I am skeptical about DSM being scaled to a level that would meaningfully offset
16 the proposed gas unit, I am positive that Liberty, specifically, cannot make that happen,
17 given its billing performance and customer relations to date.

18 **Q. Mr. Fracica suggests that Liberty did not accurately consider DSM and non-wires**
19 **alternatives. Do you agree?**

20 A. I believe it is a moot point given Liberty's inability to provide basic billing services to its
21 customers. That being said, even if Liberty was billing its customers correctly and even if
22 Liberty customers had a favorable view of the Company (they do not), a DSM substitute for
23 the gas plant is not practical given the largely rural service territory make-up. Look no
24 further than the fact that Liberty/Empire has never had a full MEEIA approval throughout
25 the existence of the MEEIA statute as evidence that DSM programs are a challenge for this
26 utility.

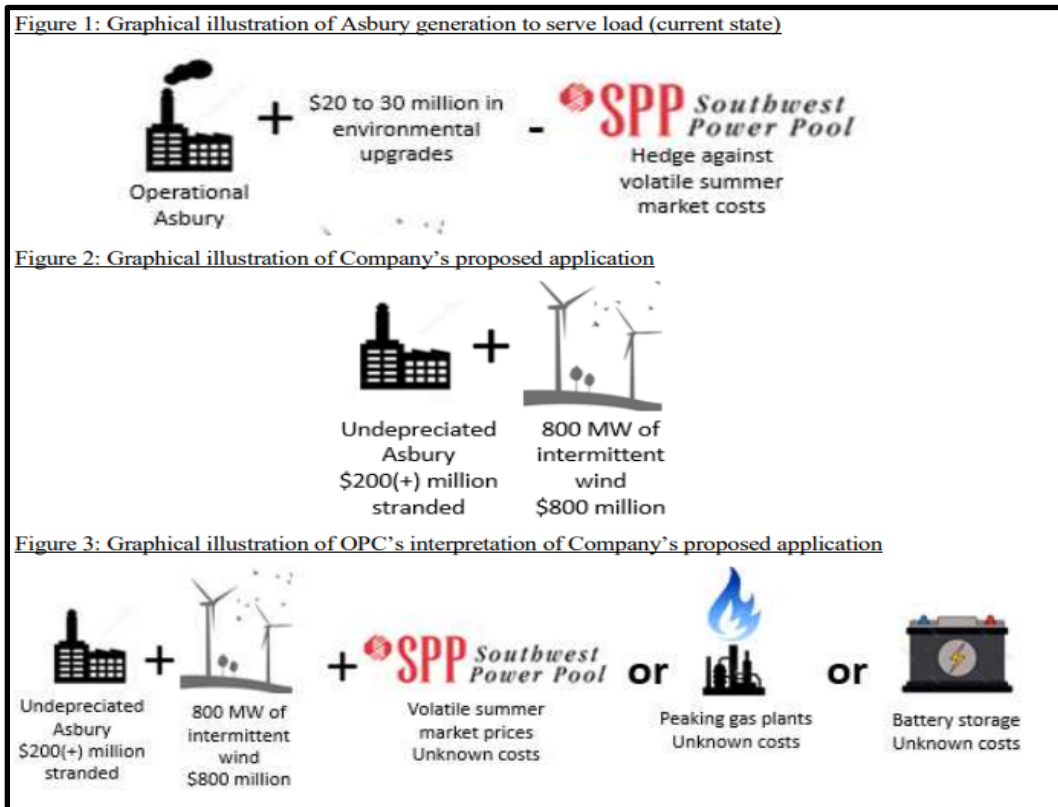
1 **Q. Mr. Fracica raises concerns around the impact of affordability from this application.**
2 **What is your response?**

3 A. I agree with his assessment. I would also take this opportunity to point out that the
4 challenges that Liberty currently finds itself in—unaffordable rates and a deficiency in its
5 resource adequacy—can be directly linked to the Company’s decision to prematurely retire
6 its Asbury Power Plant immediately after it invested in scrubbers to extend its useful life.

7 **Q. What do you mean?**

8 A. On February 7th, 2018 in docket EO-2018-0092, I submitted the following graphical
9 representations that predicted how the Company’s unfortunately named “Customer’s
10 Savings Plan” would burden ratepayers with excessive costs well into the future.

11 Figure 1: How rates became (in part) unaffordable for Liberty Customers from EA-2018-0092³



12

³ Case No. EO-2018-0092 Rebuttal Testimony of Geoff Marke p. 4.

1 **Q. Please explain the graph you are referring to.**

2 A. The first figure depicts a 2018 operational Asbury unit with \$20 to \$30 million in expected
3 environmental upgrades over the next decade. The unit was operational, comparatively
4 “clean”, and provided a necessary hedge against volatile SPP market prices.

5 The second figure depicts what Liberty was proposing in the 2018 case—to prematurely
6 retire Asbury (but continue to collect a profit from it) and bring on 800MW of wind
7 generation.

8 The third figure depicts what I predicted would and is happening—Asbury would be
9 prematurely retired, the wind assets would be built but would not offset risk exposure to
10 volatile market prices (see also Storm Uri), and will have to result in either building out an
11 equivalent gas plant (what Liberty is proposing in this docket), or battery storage unit (what
12 Renew is proposing—along with some other combination of DSM options).

13 **Q. What should the Commission note from this?**

14 A. That this is how rates become unaffordable.

15 Although not demonstrably the only reason why Liberty’s rates are unaffordable (see also
16 the equally disappointingly named “Customer First” billing software program), the decision
17 to prematurely strand Asbury well before the end of its useful life has been an ongoing
18 money-making exercise for Liberty’s shareholders and continues to put severe economic
19 constraints on Southwest Missouri.

20 **Q. Mr. Fracica recommends that the Commission require Liberty to evaluate more
21 diversified resources in the future. Do you agree?**

22 A. Sure. I suppose reasonable minds can differ as to whether or not Liberty is already
23 performing this, I take no issue with Renew’s recommendation that Liberty provide more
24 meaningful options or at least be better prepared than what it currently appears to be. A
25 well-publicized, transparent, open-sourced request for proposals (“RFP”) should go a long

1 way to accomplishing that. At a minimum, there is no reason why Liberty should not have
2 a contingency plan in place if this project falls apart.

3 **Q. Does Liberty have a contingency plan in place if this investment doesn't materialize?**

4 A. Not that I have identified.

5 Moreover, Liberty's affiliate in Lake Tahoe has been subject to national headlines after NV
6 Energy (Liberty's energy supplier) informed the Lake Tahoe affiliate it would no longer
7 provide long-term energy service to the utility in favor of a data center.⁴ The list of
8 "challenging" managerial decisions and inactions by this company continues to accumulate
9 across its affiliates with no relief for its customers in sight.

10 This raises serious questions about the long-term ability of this Company to provide safe
11 and reliable service at just and reasonable rates.

12 **Q. What are your recommendations?**

13 A. I maintain my recommendations from rebuttal testimony that stated if the Commission
14 approves this CCN, that approval be conditioned on clear, explicit termination provisions
15 throughout the contract, given the long-lead time for actual construction (e.g., out to 2030)
16 and the uncertainty surrounding data centers' long-term energy needs.

17 I support Renew's position that Liberty needs to be more conscious of the risk and economic
18 hardships it is placing on its customers and undergo a more thorough review of available
19 resource acquisitions and options for future filings.

20 I continue to recommend that the Commission reject Construction Work In Progress
21 ("CWIP") recovery as the Company explicitly failed to inform the public it was requesting
22 CWIP and instead appears to have mislead its customers by saying:

⁴ Winter, E. (2026) Will Lake Tahoe communities lose power due to data centers? We investigated. *Snopes*.
<https://www.snopes.com/fact-check/lake-tahoe-power-data-center/>

1 Doll said costs for the new generator is not clear yet because the company hasn't
2 gone through the bid process or picked a supplier to provide and build the generator.

3 Costs will eventually be passed on to the consumer, he said, but that won't happen
4 until the generator is running, and Liberty will have to be in its regular rate change
5 cycle with the PSC.

6 That means consumers won't see the cost until after 2030.⁵

7 All approvals of CWIP, but especially the first one approved by a Commission, should, at a
8 minimum, be contingent on publicly telling customers that the utility is electing to bill its
9 customers before its generation resource is used and useful. At the very least the Company
10 should not be publicly saying one thing and filing requests with the Commission saying
11 something else entirely.

12 To summarize, I do not believe I am asking for heaven and earth when I recommend that
13 the Commission hold Liberty to at least a bare-bone standard that requires the following:

- 14 • To the extent that the Commission approves CWIP in this case, Liberty should be required
15 to actually inform the public it intends to bill customers for this gas plant before it is used
16 and useful;
- 17 • Have a contingency plan in place if the gas turbine does not materialize;
- 18 • Stop stranding assets before the end of their useful life;
- 19 • Undergo a transparent, open-sourced RFP as part of its IRP process; and
- 20 • Bill customers correctly for their service.

21 The inability of Liberty to meet the five aforementioned bullet points severely calls into
22 question the continued ability of Liberty to provide safe and adequate service moving forward,
23 let alone achieve any level of satisfaction from its customer base.

⁵ 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

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

2 A. Yes.

**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)

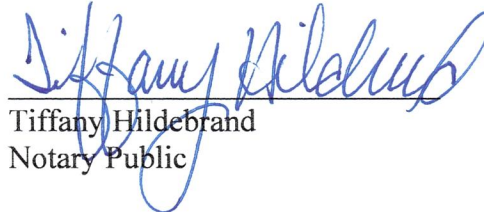
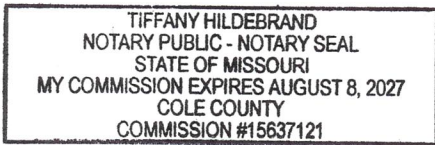
Geoff Marke, of lawful age and being first duly sworn, deposes and states:

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 surrebuttal testimony.
3. I hereby swear and affirm that my statements contained in the attached testimony are true and correct to the best of my knowledge and belief.



Geoff Marke
Chief Economist

Subscribed and sworn to me this 27th day of May 2026.



Tiffany Hildebrand
Notary Public

My Commission expires August 8, 2027.