BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

EVIDENTIARY HEARING

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

WEDNESDAY, OCTOBER 15, 2025
9:00 a.m.

Governor Office Building
200 Madison Street
Jefferson City, MO 65101
and WebEx

VOLUME 12

CHARLES HATCHER, Presiding
SENIOR REGULATORY LAW JUDGE

KAYLA HAHN, Chair,
MAIDA J. COLEMAN,
GLEN KOLKMEYER,
JOHN MITCHELL,
COMMISSIONERS

REPORTED BY:
Tracy Taylor, CCR No. 939

A P P E A R A N C E S

JERMAINE GRUBBS
601 S. Joplin Ave.
Joplin, Missouri 64801
jermaine.grubbs@libertyutilities.com
FOR: Liberty (Empire)

DEAN COOPER
Brydon, Swearengen & England, PC
312 East Capitol Avenue
Jefferson City, Missouri 65102-0456
dcooper@brydonlaw.com
FOR: Liberty (Empire)

DIANA C. CARTER
428 E. Capitol Avenue, Suite 303
Jefferson City, Missouri 65101
diana.carter@LibertyUtilities.com
FOR: Liberty (Empire)

JAMES G. FLAHERTY
Anderson & Byrd, LLP
216 S. Hickory
Ottawa, Kansas 66067
jflaherty@andersonbyrd.com
FOR: Liberty (Empire)

JOHN COFFMAN
871 Tuxedo Boulevard
St. Louis, Missouri 63119
john@johncoffman.net
FOR: Consumers Council of Missouri

TIMOTHY OPITZ
Opitz Law Firm, LLC
308 E. High Street, Suite B101
Jefferson City, Missouri 65101
tim.opitz@opitzlawfirm.com
FOR: Midwest Energy Consumers Group

NATHAN WILLIAMS
Department of Commerce & Insurance
200 Madison Street, Suite 650
PO Box 2230
Jefferson City, Missouri 65102
nathan.williams@opc.mo.gov
FOR: Office of the Public Counsel (OPC)

A P P E A R A N C E S (Cont'd)

MARK JOHNSON
TRAVIS PRINGLE
PAUL GRAHAM
ERIC VANDERGRIFF
ANDREA HANSEN
TRACY JOHNSON
ALEXANDRA KLAUS
Department of Economic Development
200 Madison Street, Suite 800
PO Box 360
Jefferson City, Missouri 65102-0360
staffcounselservice@psc.mo.gov
FOR: Staff of the Missouri Public Service Commission

JUDGE HATCHER: All right. Good morning all. It is 9:00 a.m. We will be starting day two of our evidentiary hearing in the general rate case of the Empire District Electric Company, doing business as Liberty. This is Case Number ER-2024-0261.

Today we are moving on to our schedule, which will be first, Issue 1, Capital Structure, ROE, and Cost of Debt. Following that, we will go to our other issues, which are designated as non-cross-examination issues.

I have sent an e-mail to the parties indicating that the Commission will have questions on Issue 5, Materials, Supplies, and Inventory; and also the first instance of Regulatory Assets and Liabilities that is Issues 9 through 14.

With that set, I believe we are starting with opening statements or mini opening statements for this issue, so I believe that will be the Company. If you'd like to go ahead, the floor is yours.

MR. FLAHERTY: Thank you, Judge. Good morning, Judge, Commissioners. May it please the Commission. James G. Flaherty, appearing on behalf of the applicant, Empire.

This is the first and perhaps the last time I will get a chance to speak to you directly, so

I wanted to take the opportunity to thank you for allowing me to appear before you in this rate case. I have been doing this for over 40 years, mostly before the Kansas Corporation Commission, so it is a pleasure to get to appear before another regulatory body.

You should be proud of your staff. They've been both professional and cordial to me, especially given the fact that I am from Kansas.

As -- as in all rate cases, the Commission is asked to determine the appropriate authorized rate of return. The authorized rate of return is the profit that a utility is allowed an opportunity to earn a rate of return on, the investment it has made so it can provide utility service to customers.

As you know, a part of making that determination is for you to approve the capital structure. The capital structure, in simple terms, is how the utility funds itself.

A utility funds itself just like other businesses do. It uses a mix of borrowed money that is referred to debt, and investor funding that is referred to as equity. Each utility will fund itself using a percentage of debt and a percentage of equity. The Commission is asked to determine what those percentages are for the utility as part of the rate-making process.

In this case, the Company, Staff, MECG, Renew Missouri and the Union have agreed that the filed global settlement is the proper resolution of this case, including the cost-of-capital issues.

However, before the global settlement was reached in this case, Empire and Staff both agreed in their pre-filed testimony that the Commission should use Empire's actual percentage of debt and actual percentage of equity in the capital structure to be used by the Commission to set rates in this case. The -- those percentages are 53 percent equity and 47 percent debt.

It is important to point out that in 19 -- or I'm sorry, in 2016 when Empire was acquired by Algonquin Power and Utility Corporate, or APUC, and Empire was going to be funded going forward indirectly by APUC and directly by APUC'S entity that owns Empire and a number of other US utilities called LUCo, that APUC agreed in setting rates going forward, that whichever entity, Empire, LUCo or APUC, had the most economical capital structure, it would be that capital structure that would be used to set rates.

In this case, Empire and Staff reviewed

the capital structures of Empire, APUC and LUCo and both determined that Empire's capital structure was the most economical.

In the absence of the global settlement, once you determine the proper percentage of debt and equity, the next step is to determine the cost of debt and the cost of the equity.

In their pre-filed testimony, the cost of the debt used by Empire and Staff was the actual cost of Empire's debt. As of the end of the test year and the September 30th, 2024 update period, Empire's cost of debt was 4.22 percent. In its true-up filing, Empire included a planned 2025 debt issuance that would increase Empire's overall cost of debt to 4.53 percent.

As you know from other rate cases, the more difficult task for you is to determine the proper cost of equity. It is -- it is more difficult in determining the cost of equity because in determining the cost of equity, the Commission must set a return on equity at a level where it believes, based upon the evidence in the record, where investors or shareholders will want to continue to fund the utility.

As you know from other rate cases, the

utility, Staff and OPC usually differ on what the proper cost of equity should be for the utility, and this case is no different.

Empire's expert, Mr. Dane, who you will have available to ask questions about this important issue during this hearing, has pre-filed testimony recommending that the cost of equity, or what is typically referred to as a return on equity, should be somewhere between 9.75 percent and 11 percent and his specific recommendation is 10 percent.

Staff's expert, Mr. Walters, has pre-filed testimony recommending a return on equity of 9.5 percent.

OPC's expert, Mr. Murray, is recommending a return on equity of 9.25 percent.

Once the Commission determines the percentage of equity and percentage of debt and the cost of the return on equity and the cost of debt, then in order to determine the overall authorized rate of return, you must weigh the percentages with the respective cost.

Brian, if I could have you turn to the next slide. And I have handed out to the Judge, the Commissioners and the parties a copy of this -- actually one-page slide presentation for you.

This slide shows a page in Staff Witness's Walters' true-up rebuttal testimony at page two.  And Mr. Walters' true-up rebuttal testimony has been premarked and admitted into the record as Exhibit 178.

In Mr. Walters' table he shows Staff's recommended overall rate of return and how it was calculated using the steps that I just went through. Under the Description column, he shows how Empire is funded using common equity and long-term debt.

Under his Weight column, he shows the percentage of equity and percentage of debt in Empire's capital structure; 53 percent from equity and 47 percent from debt.

Under the Cost column, Mr. Walters shows his recommended cost of equity of 9.5 percent and Empire's cost of debt of 4.53 percent, which is the debt cost included in Mr. Dane's true-up testimony and accepted by the Staff.

Then under the final column, he shows the weighted cost of the capital in order to calculate the overall rate of return for Empire.  In order to get the weighted cost of equity, you take the percentage of equity in the capital structure of 53 percent, or .53, and multiply that by Mr. Walters' recommended cost of equity of 9.5 percent to get 5.04 percent.

In order to get the weighted cost of debt, you take the percentage of debt in the capital structure of 47 percent, or .47, and multiply that by the cost of debt of 4.53 to get 2.14 percent after rounding.

Finally, to get the overall rate of return for Empire, you add the weighted cost of equity of 5.04 percent, plus the weighted cost of debt of 2.13 percent to get 7.16 percent, and that is Mr. Walters' recommendation in this case.

If I were to show you that calculation using Mr. Dane's recommendation, there would be a change in the cost of equity, his 10 percent instead of Mr. Walters' 9.5 percent, change in the weighted cost of equity, and the overall rate of return would have gone up from 7.16 percent to the 7.43 percent that Mr. Dane is recommending in this case.

Now, I used Mr. Walters' recommendation so I could compare that to the stated overall rate of return for applicable mechanisms and/or processes that require the utilization of an overall rate of return that is included in paragraph five of the Non-Unanimous Global Stipulation and Agreement.

I do want to make it clear, and the

stipulation makes it clear that -- and specifically states in that paragraph five that the parties were unable to agree on an overall rate of return in arriving at the agreed-upon revenue requirement.

However, where Empire is required to use an overall rate of return for mechanisms like PISA between when this rate case decision is made and when the next rate case decision is made, the rate of return agreed to by the parties will be 7.1 -- I'm sorry, 7.01 percent if the stipulation is approved. This is below the 7.16 percent rate of return that was recommended by Staff in this case.

One last point with respect to the cost-of-capital issues. The stipulation that nearly all the parties have entered into and presented to you for consideration reasonably addresses the Customer First issues in both a constructive and very focused manner. It provides Empire the necessary opportunity to recover its investment and expenses in Customer First upon a showing that the issues have been resolved.

However, OPC's recommendation in this case is neither constructive nor focused and would not have resulted in a reasonable remedy. Arbitrarily allowing the rate -- no rate increase, and that is what OPC is recommending in this case, is not a reasonable remedy and would likely have the opposite result of making sure customers receive efficient and sufficient service and what is in the public interest.

I'd be happy to answer any questions with respect to the cost-of-capital issues. We also have Mr. Dane who can answer those questions as well.

Again, thank you for allowing me the opportunity to appear before you and be part of this case.

JUDGE HATCHER: Thank you for your opening.

Before I ask for Commissioner questions, I did want to make sure and announce for the record the attendance of those Commissioners. With us today we have Chair Kayla Hahn and Commissioner Maida Coleman. Also on our WebEx, we have Commissioner Mitchell. And on his way in is Commissioner Kolkmeyer and he'll be joining us shortly.

Are there any Commissioner questions on the opening statement of Empire? Speaking of Commissioner Kolkmeyer, he has joined us right at this moment. Thank you, sir.

Hearing no questions, we'll move on. Opening statement of Staff.

MR. VANDERGRIFF: May it please the Commission. Commissioners, Judge, I am Eric Vandergriff. Judge today -- here today with Tracy Johnson, Staff's representatives for the Capital Structure, Cost of Debt and Rate of Return issues.

Staff's original revenue requirement -- or excuse me, original recommendation was 7.16 percent. However, we fully support the global stipulation 7.01 percent recommendation. Staff's Witness is Chris Walters. Please refer your Capital Structure questions to him.

If you have questions about the global stipulation, our witness is Kimberly Bolin. Please direct your questions to her.

Do you have any questions?

JUDGE HATCHER: Thank you, Counsel.

Are there any questions for Mr. Vandergriff? Hearing none, thank you. I appreciate that.

Next, Public Counsel.

MR. WILLIAMS: Thank you. May it please the Commission.

I feel compelled to respond to the Company's opening about Public Counsel's position that the Commission should not increase rates until

Liberty's service is adequate.

That's not an arbitrary decision. I think it's a very forceful message to the Company to get your ducks in a row before you come in and ask for a rate increase.

As to the rate-of-return issues, the Company's position and Staff's for cost of debt and capital structure are both based on a hypothetical promissory note between an af- -- affiliates -- between Empire and one of its affiliates that as of this date, to my knowledge, has never been executed.

What Public Counsel has done is relied on the debt issuances that Empire's immediate parent, Liberty Utilities, has put out there -- hang on a minute -- we're recommending an embedded cost of debt of 4.03 percent, which is based on all third-party debt Liberty Utilities guarantees and the regulated subsidiary debt it consolidates on its balance sheet.

So it's based on debt information. It's not a manipulation that's done by how much debt is ingested into Empire itself through affiliate transactions.

As to the capital structure, we're recommending one that's based on what Algonquin has communicated to the investor community that it targets.

And Mr. Murray, as he's done in past cases, has done an analysis of cost of equity and then based his recommendation for return on equity in th- -- this case on that analysis. And that's what we're recommending the Commission adopt in this case. Thank you.

JUDGE HATCHER: Thank you, Mr. Williams.

Are there any questions on the opening statement of Public Counsel? Hearing none, we'll move on. Our next opening statement will be Midwest Energy Consumers Group, MECG.

MR. OPITZ: Just bri- -- briefly, Your Honor. May I give my statement from a seated position?

MECG is a signatory to the Non-Unanimous Stipulation. The terms contained therein are a reasonable result in this case with a path forward and benefits for all customers.

Contained within that I believe is a resolution of this issue on ROE and on capital structure within our revenue requirement increase. And I ask the Commission to issue an order along the lines of approving that Non-Unanimous Stipulation agreement. Thank you.

JUDGE HATCHER:  Thank you.

And are there any questions for Mr. Opitz?  Hearing none, we will go to our clean-up hitter, Mr. Coffman.

MR. COFFMAN:  Thank you, Your Honor.  I really don't have anything else to add.  Consumers Council supports the position of Public Counsel on this issue.  Thanks.

JUDGE HATCHER:  Thank you.

Are there any questions for Mr. Coffman?

All right.  We will move on to the calling of witnesses.  I have Dan Dane as the first witness.

MR. FLAHERTY:  Yes, Your Honor.

JUDGE HATCHER:  All right.  Mr. Dane, if you'd raise your right hand.

(Witness sworn.)

JUDGE HATCHER:  Thank you.  If you'll please state and spell your name for our court reporter.

THE WITNESS:  Sure.  Daniel Dane, D-a-n-i-e-l, Dane, D-a-n-e.

JUDGE HATCHER:  Thank you.

Empire, your witness.

MR. FLAHERTY:  Thank you, Judge.

DANIEL DANE,

being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. FLAHERTY:

Q. Mr. Dane, who is your employer?

A. My employer is Concentric Energy Advisors.

Q. What is your position with Concentric?

A. I'm the president of the company.

Q. And you pre-filed testimony and schedules that have been marked as Exhibits 4, 5-P, 5-C, 6-P, 6-C and 17 and previously admitted into the record, correct?

A. Yes, that's correct.

Q. And is it your understanding that the Company has modified its positions as outlined in the Global Non-Unanimous Stipulation and Agreement filed with the Commission on October 6th, 2025?

A. Yes.

MR. FLAHERTY: Judge, I'd tender Mr. Dane for cross-examination.

JUDGE HATCHER: Thank you.

And for our listeners joining us today, I'm going to take a second just to review the procedures that we're going to be using on cross-examination today.

Specifically as mentioned, we do have a filed Non-Unanimous Stipulation. The signatories to that agreement have agreed to not cross-examine each other's witnesses. So for that reason, we will be skipping those parties on the initial round of cross-examination and they will get to ask questions if we go back for recross-examination.

So with Empire witness, we will be skipping MECG, we'll be skipping Staff, and we will go to Consumers Council for questions.

MR. COFFMAN: No, thank you. I have no questions.

JUDGE HATCHER: Thank you, sir.

And Public Counsel.

MR. WILLIAMS: Thank you. No questions.

JUDGE HATCHER: Thank you.

That will move us to Commissioner questions. Are there any Commissioner questions for the Empire witness, Mr. Dane? And if you are on the phone, that is *6 to unmute.

All right. Hearing none, I don't have any questions for Mr. Dane either. Did we have any -- we didn't have any cross, so we don't have any redirect. Thank you, Mr. Dane. I appreciate you making the -- the trip out today.

THE WITNESS: Thank you.

JUDGE HATCHER: Staff, your witness.

MS. JOHNSON: Staff calls Chris Walters.

JUDGE HATCHER: Mr. Walters, please raise your right hand.

(Witness sworn.)

JUDGE HATCHER: Thank you. Would you please state and spell your name for our court reporter.

THE WITNESS: My name is Christopher Walters, C-h-r-i-s-t-o-p-h-e-r, Walters is W-a-l-t-e-r-s.

JUDGE HATCHER: Staff, your witness.

MS. JOHNSON: Thank you, Judge.

CHRISTOPHER WALTERS,

being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. JOHNSON:

Q. Good morning, Mr. Walters.

A. Good morning.

Q. Can you tell me who your employer is?

A. Yes. My employer is the firm Brubaker and Associates, Incorporated.

Q. And what's your role there?

A. I am a principle of the firm.

Q. And what is your role in this case supporting Staff?

A. Staff engaged me to assess the Company's overall cost of equity and make a recommendation based on my analysis.

Q. And have you supported Staff of this Commission in that way before?

A. On multiple engagements I have, yes.

Q. And is there a listing of that available within your pre-filed testimony?

A. Maybe.

Q. It should be in one of your schedules. They've already been pre-admitted so I'll just verify for you. Is it your understanding that your testimony's been entered into the record as Staff's Exhibit 121, 149, 173 and 178?

A. Yes. That's my understanding.

Q. And are the recommendations in your testimony effectively modified to support the Non-Unanimous Global Stip and Agreement that has been filed in this case?

A. Yes.

MS. JOHNSON: Tender the witness for questions.

JUDGE HATCHER: Thank you.

And as discussed, we'll go directly to Consumers Council.

MR. COFFMAN: And I have no questions. Thank you.

JUDGE HATCHER: Thank you.

And Mr. Williams with Public Counsel.

MR. WILLIAMS: No questions, thank you.

JUDGE HATCHER: Thank you.

That brings us to Commissioner questions. Are there any Commissioner questions for Mr. Dane, Staff's witness?

MS. JOHNSON: Judge, this is Mr. Walters.

JUDGE HATCHER: Mr. Walters. Thank you.

Hearing none, thank you, Mr. Walters

THE WITNESS: Thank you.

JUDGE HATCHER: That will move us to Mr. Murray.

(Witness sworn.)

JUDGE HATCHER: Thank you, sir. Please have a seat and state and spell your name for our court reporter.

THE WITNESS: My name is David Murray, last name spelled M-u-r-r-a-y.

JUDGE HATCHER: Thank you.

Mr. Williams, your witness.

DAVID MURRAY,

being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. WILLIAMS:

Q. Mr. Murray, did you cause and prepare to be filed direct, rebuttal and surrebuttal testimony that has been marked for identification and already admitted into the record as Exhibits 209, 210 and 2011 [as said]?

A. I did. And let me just clarify. The surrebuttal included some true-up testimony.

Q. All right. Do you have any corrections to any of those testimonies?

A. I do. On -- in my direct testimony, and I believe we filed this this morning in the case, but I'll just go over them real quick.

On page eight of my direct, line 24, instead of "low end," it should say "high end."

And then my rebuttal testimony, page 40, line three, that really isn't a sentence. It says: Empire's rate base of at least 2.5 billion.

It -- I think a proper way to write that is to say: Empire's rate base was at least 2.5 billion as of September 30th, 2024.

Q. Are those all of the corrections?
A. Yes.
MR. WILLIAMS: I tender the witness for examination by others.
JUDGE HATCHER: Thank you, Mr. Williams.
I believe our cross-examination will go first to Consumers Council.
MR. COFFMAN: No questions.
JUDGE HATCHER: Thank you.
And next, Mr. Opitz.
MR. OPITZ: No, thank you, Your Honor.
JUDGE HATCHER: Thank you.
Then Staff.
MS. JOHNSON: Nothing.
JUDGE HATCHER: And Empire, the Company.
MR. FLAHERTY: Yes, Judge. No questions. I did want to publicly thank Mr. Murray. He helped me in with my bags this morning. So, thank you.
THE WITNESS: My pleasure. It was good to see you this morning.
JUDGE HATCHER: Thank you.
And that will take to us Commissioner questions. Are there any Commissioner questions for Mr. Murray?

QUESTIONS

BY JUDGE HATCHER:

Q. All right. The Bench does have a question. If the Commission approves OPC's recommendation for a zero increase in the Company's revenue requirement, is your recommended rate -- return on equity or rate of return still valid? And please explain that answer.

A. If the Commission adopts a zero increase, I think that's based on a variety of factors, which actually if you went position by position where OPC's taken a -- you know, has -- has filed testimony, you know, our -- our revenue requirement would be above zero.

So you're basically not con- -- you're just considering all the difficulties that Empire's had and -- and OPC's position that -- that those issues are severe enough to warrant a rejection of the requested rate increase. So no, it -- you cannot reconcile that to any of the components.

Q. I want to make sure that I understood, because I got a little lost in your answer.

A. Sorry.

Q. If the Commission approves OPC's zero increase, what will be the rate of return or the return on equity? What would those numbers be?

A. I have not done that calculation to know what's -- what would be embedded -- or implied, I should say.

Q. All right. Thank you.

A. Thank you.

JUDGE HATCHER: I'll ask once again since we stopped for Bench questions. Any other Commissioner questions for Mr. Murray?

Okay. We will go to recross-examination and that will start with Consumers Council.

MR. COFFMAN: No, Thank you.

JUDGE HATCHER: And then Mr. Opitz.

MR. OPITZ: No, thank you, Your Honor.

JUDGE HATCHER: Ms. Johnson.

MS. JOHNSON: Nothing from Staff.

JUDGE HATCHER: And the Company.

MR. FLAHERTY: No questions, thank you.

JUDGE HATCHER: Thank you, Mr. Murray. I appreciate you being here today.

THE WITNESS: Thank you.

MR. WILLIAMS: No redirect either.

JUDGE HATCHER: Thank you. I always forget that one.

THE WITNESS: Thank you.

JUDGE HATCHER: Thank you, Mr. Murray.

Thank you, Mr. Williams.

Okay. I know that we have the two areas where we are going to have Commissioner questions. However, I'd rather just go ahead and stay in the order that we have. So that would start out with Billing Determinants and Rate Design.

So let's go ahead and go to Billing Determinants and Rate Design. Those were Issues 107, 108, and 109. Are there any Commissioner questions on Billing Determinants and Rate Design, Issues 107, 108 and 109? I'll give the Commissioners a second to think about that.

And I will explain to our listeners that because of the Non-Unanimous Global Stipulation, some of the issues the parties have agreed to submit to the Commission without cross-examination. This is a separate agreement from the signatories agreeing not to cross-examine each other's witnesses. So for these following issues, we will go directly to Commissioner questions.

Last call. Commissioner questions on Billing Determinants and Rate Designs, Issues 107 to 109. Hearing none, we will move on.

Next is Cash Working Capital, this is Issue 3. Are there any Commissioner questions on Cash

Working Capital, Issue 3?

Hearing none, we will move onto Prepayments, Issue 4. Are there any Commissioner questions on Prepayments, Issue 4?

Okay. Hearing none, we'll move onto our next issue. That is Materials, Supplies and Inventory. Charlotte Emery, please go ahead and come on up. Materials, Supplies and Inventory. And Lindsey Smith will be our second witness after Ms. Emery. I am aware that we do have Commissioner or Bench questions.

MS. CARTER: We are grabbing Ms. Emery from the hallway.

JUDGE HATCHER: If she needs a minute, we can go out of order and take Ms. Smith next.

MS. CARTER: I imagine she's right in the hallway.

JUDGE HATCHER: And they're both out. Not a problem. Don't -- don't -- don't rush them. That's fine. We can move on. We will circle back. We will circle back to Materials, Supplies and Inventories.

Customer Deposits/Customer Advances. This is Issues 7, 8 and 75. Are there any Commissioner questions on Customer Deposits/Customer

Advances, Issues 7, 8 or 75?  Hearing none, we will move on.

Can one of the counsel that knows the ladies give me a head nod if they're in the room? They are?  Excellent.  Thank you.

Let's go ahead and call Ms. Emery to the stand.  Sorry to surprise you.

THE WITNESS:  No surprise.

JUDGE HATCHER:  This is going to be on the issue of Materials, Supplies and Inventory.  And Lindsey Smith of Staff will be going next.

Correct me if I'm wrong.  Were you sworn in yesterday?

THE WITNESS:  I was, yes.

JUDGE HATCHER:  Thank you.  That still applies.  You may have a seat.

THE WITNESS:  Okay.  Thank you.

JUDGE HATCHER:  Let us jump in.  Are there any questions for Charlotte Emery on Issue 5, Materials, Supplies and Inventory?  Any Commissioner questions?

CHARLOTTE EMERY,

having been previously sworn, testified as follows:

QUESTIONS

BY JUDGE HATCHER:

Q. Okay. The Bench does have a couple questions. Do -- I'm really sorry to jump right in there.

A. That's okay.

Q. Do clearing account entries come from work orders?

A. I can validate for you, but it is my understanding that they do, yes.

Q. Second question. Can you give an example of why materials and supplies are posted to clearing accounts?

A. Uh-huh. It's my understanding that there are instances where there are balances that need to be allocated amongst many projects. And so then they come into the -- this holding clearing account and then they wait til the end of the month.

And then the accounting team will go in and de- -- determine which projects were open or closed, you know, that -- that those costs relate to and then they perform an allocation out to -- out to those balances.

Q. Thank you.

JUDGE HATCHER: That was all the questions from the Bench so I'll ask again, any Commissioner questions for Ms. Emery?

Hearing none, that will take us through recross-examination. As this is an Empire witness, that would go to MECG first.

MR. OPITZ: No, thank you, Your Honor.

JUDGE HATCHER: And Staff.

MS. JOHNSON: No, thank you.

JUDGE HATCHER: Consumers Council.

MR. COFFMAN: No questions.

JUDGE HATCHER: And Office of Public Counsel.

MR. WILLIAMS: No questions, thank you.

JUDGE HATCHER: And redirect from Empire.

MR. FLAHERTY: No redirect, Judge. Thank you.

JUDGE HATCHER: Thank you.

Thank you, Ms. Emery. I appreciate you being here today. You're excused from our stand for this issue.

Yes?

MR. WILLIAMS: I think she's on the next issue.

JUDGE HATCHER: I think so, but I want to keep it together. If you can go ahead and -- and take a seat. We'll call you back up in a minute.

THE WITNESS: Is it okay if I leave my

stuff?

JUDGE HATCHER:  Yes, that's fine.

Lindsey Smith of Staff.  If you'd raise your right hand.

(Witness sworn.)

JUDGE HATCHER:  Thank you.  Please have a seat and then state and spell your name for our court reporter, please.

THE WITNESS:  Lindsey Smith, L-i-n-d-s-e-y S-m-i-t-h.

JUDGE HATCHER:  We'll go directly to Commissioner questions.  Are there any Commissioner questions for Ms. Smith in the area of Materials, Supplies and Inventory?

LINDSEY SMITH,

being first duly sworn, testified as follows:

QUESTIONS

BY JUDGE HATCHER:

Q.    Okay.  The Bench does have one question for you.  If materials are taken out of inventory and used in a capital project, would you expect Empire to replenish its inventory by ordering more of those materials?  And please explain that answer.

A.    Yes, I would expect them to replenish those and use it for other materials.  Because, I mean, if they're using the materials in a capital expenditure, then they're going to be booked in another account then the accounts that are included in materials and supplies. So if they're using them, then they need to be replenished in another account --

Q. Okay.

A. -- in another way.

Q. Thank you very much.

JUDGE HATCHER: That was fairly short on my part. I only had the one question. So I'll ask again, are there any Commissioner questions?

Hearing none, we will go to our recross-examination. This is a Staff witness, so we -- we start again with MECG.

MR. OPITZ: No, thank you, Your Honor.

JUDGE HATCHER: Consumers Council.

MR. COFFMAN: No questions.

JUDGE HATCHER: Empire.

MR. FLAHERTY: No questions.

JUDGE HATCHER: OPC.

MR. WILLIAMS: No questions, thank you.

JUDGE HATCHER: And redirect.

MS. JOHNSON: Nothing from Staff.

JUDGE HATCHER: Thank you all.

Ms. Smith, I think you might be on one

more, but you are excused from the stand for this issue. I appreciate that.

Okay. Our next issue we have is Regulatory Assets and Liabilities, Issues 9 through 14. There are two topics called Regulatory Assets, so please make sure these are only Issues 9 through 14.

Do any Commissioners have any questions on Regulatory Assets or Liabilities, Issues 9 through 14?

Okay. The Bench does have questions. Can I get Nat- -- no, can I get Angela Schaben of Public Counsel?

MR. FLAHERTY: Your Honor, I think it's Ms. Emery back up again to answer those Issues 9 through 14.

JUDGE HATCHER: I agree Ms. Emery would be up, but I don't have any questions for her and I just called for questions from the Commissioners. I didn't hear any, but there might be some misunderstanding about that.

My intent would be to call the one witness that -- that I have questions for. That is Angela Schaben. So I will ask again, we have Charlotte Emery on this issue, as well as Nathan Bailey. Well, I --

MR. WILLIAMS: Judge, are you -- do you have questions on the Allocations issue, which is the following one since you said Angela Schaben?

JUDGE HATCHER: The -- the question I was given is listed under Regulatory Assets/Liabilities, Issues 9 through 14.

MR. WILLIAMS: I think I could get Angela down here, but we did not sponsor testimony on that issue or those -- those issues.

JUDGE HATCHER: It's a -- it's mistaken. I -- I'm going to wait for Allocations, and that is Issues 73 to 74 and 84. Yeah. Okay. I am sorry. My mistake. Yep, that's -- that's the next one.

Okay. Regulatory Assets/Liabilities, Issues 9 through 14. Are there any Commissioner questions?

Okay. Hearing none, we will move on to the next issue, which is Allocations, Allocators and CAM. On that issue we have witnesses Charlotte Emery, Peter Eichler, Angela Niemeier and Angela Schaben.

The only questions I have are for Ms. Schaben, so if she would make her way downstairs. And while she's coming downstairs, I'll ask if there's any Commissioner questions on this issue, Allocations, Allocators and CAM. This is Issues 73, 74 and 84. In general, the issues discuss the January 2025 CAM allocators, the appropriate level of A&G expense, and the appropriate jurisdictional allocations.

Are there any Commissioner questions on Allocations, Allocators or CAM issues?

Okay. And the Bench does have questions of Ms. Schaben, if Ms. Schaben would please come onto the stand. And if this takes more than a minute, we will skip to the next issue and then circle back to this.

MR. WILLIAMS: I suggest you do that.

JUDGE HATCHER: Okay.

MR. WILLIAMS: I've -- I've texted requesting her presence, but I don't see her yet.

JUDGE HATCHER: Not a problem. I understand. And -- and again, this is no parties' fault. This is one of those instances of litigation where timelines don't mesh very well.

Let's move onto our second instance of Regulatory Assets and Liabilities. This covers a larger issue set, Issues 17 to 24, Issue 29, Issue 34 and Issue 35. Regulatory Assets and Liabilities, Issues 17 to 24, Issue 29, Issue 34 and Issue 35.

Commissioners, this is on page 16 of your memo. This includes solar initiatives, Riverton 12 tracker, Riverton 12 O&M authorizations, PISA regulatory assets, Riverton environmental costs, as well as others.  Any questions on those?

Hearing none, we will move to Customer Programs.  Commissioners, this is page 21 of your memo.  For the parties, this is Issues 15 and 118. Issue 15 is the Appropriate Rate-Base Amount and Amor- -- Amortization Expense for Low-income Pilot Program.  And Issue 118 is the Waiver of the Customer Charge for Income-Eligible Residential Customers.

Are there any Commissioner questions on either of those two issues, the topic of Customer Programs?

Hearing none, those issues are submitted on their pre-filed testimony.

MR. COFFMAN:  So to clarify, Your Honor, the -- so everyone under -- all Customer Program issues are completed and those witnesses are excused?

JUDGE HATCHER:  Yes.

MR. COFFMAN:  Thank you.

JUDGE HATCHER:  There will be briefing on those issues, but yes.

MR. COFFMAN:  Excellent.  Thank you.

MR. WILLIAMS:  Do you want to take a short break while I try to track down Ms. Schaben?

JUDGE HATCHER: I'm trying to consider if we want to move this issue to tomorrow and take it up then, or if we would like to break for 10 or 15 minutes and come back to finish what might be only a single question for Ms. Schaben.

Okay. Let's take -- let's take a 10-minute break. Let's go off the record. Let's come back -- let's call it 15-minute break. Let's come back at 10:00 on the hour. Ten o'clock. We are at recess and off the record.

(A recess was taken.)

JUDGE HATCHER: Okay. Let's go back on the record. Before we begin with Ms. Schaben on the issue of Allocations, I would like to discuss with counsel what we will be doing for the rest of today.

The schedule that's provided by the parties sets up a litigated issue or two per day. And the remaining issues that are scheduled for this day have been agreed by the parties to be submitted on the pre-filed testimony but for any Commissioner questions.

Because we are likely to end much earlier than we expected today, the Commission would like to take this opportunity to move some of those issues that have been agreed to have no cross-examination to this afternoon.

I understand that this places the witnesses in an even more awkward position than they have been this week. And again, this is just a litigation issue that is no party's particular fault. It is just due to the timing that we have to deal with with this hearing.

So just to give everyone a heads-up, after we finish with Ms. Schaben's testimony on Allocations, my intent is to go to the schedule for tomorrow. I will not be calling the issues that are ready to be litigated by the parties. Those would be the continuation of Customer Experience and FAC.

What I will be calling is the next issue, Riverton 10. I will begin by asking the Commissioners if they have any questions on Riverton 10. I will then go to Miscellaneous issues and then Pensions and OPEB issues.

We will follow the same format we've had thus far. We will start with Commissioner questions. If there are none, we will consider the issue submitted. If there are, we'll go through our cross-examination.

Mr. Vandergriff.

MR. VANDERGRIFF: Your Honor, I have a

different question unrelated to what you've mentioned before.

Yesterday we had a lot of questions about the Non-Unanimous Global Stipulation and the impacts on customers' bills. Our expert, Sarah Lange, came up with the numbers, everything is supported by evidence. But I wanted to show -- I mean to provide this as a demonstrative. I understand that I need to show this to all the other counsel, if I -- if I have time to do that? May I?

JUDGE HATCHER: I'm not sure where you're headed with this, but it brings up a point of discussion. I have several questions that I would like to ask on the stipulation. And I don't have a good place to put those because they don't -- they don't correspond easily to an issue. I thought you were going to ask if we could have a special presentation on the stipulation.

MR. VANDERGRIFF: May we have a presentation on the stipulation?

JUDGE HATCHER: Yes.

Let's put that one on hold. Let's finish my scheduling concern, because I want to finish up with the question and I want to throw it out to the counsel.

Do any of the counselors have any concerns, input, suggestions on my proposal for the rest of today? My proposal extends to the issues included for Friday and Monday as well. Not the litigated issues.

There's an Ozark Beach something or other, that one is to be litigated. But the other issues that have the agreement for the non-cross-examination if we go through it this fast, we might finish all of them today.

So, Counsel, do we have any questions for my very sharp left turn in our schedule?

MR. WILLIAMS: Judge, I don't have any problem with it. And I'd also add in we'd waive cross on John Reed.

JUDGE HATCHER: Any other input, thoughts? Okay. We will proceed with that. Everyone has been given fair warning.

Let's turn back to Mr. Vandergriff's suggestion that I may have given him. I have questions about the stipulation. Would it be acceptable to all the counsel if we just tack that on as a Friday issue? We'll tack that on at the end on Friday?

I -- I -- I hesitate to move our Friday

issues -- the live, litigated issues up to Thursday, because I'm not sure about the witness availability for that, so tacking this on to the end of the schedule. Do I have any objections to amending our hearing schedule to add on a segment for witness testimony on the stipulation, question mark?

MR. WILLIAMS: I'm not going to object. I think the Commission can conduct its hearing as it chooses, so.

JUDGE HATCHER: Well, input. Any input from counsel? Is this a wrong direction are we headed or is everybody okay with this?

MR. WILLIAMS: Go for it.

MR. COFFMAN: No objection.

MS. CARTER: Judge, we have no objection to that. Also, I think for our witnesses for the litigated issues on Friday, they will be here on Thursday, if we wanted to go ahead and do those on Thursday.

JUDGE HATCHER: We will keep that open as option.

Okay. Consider the stipulation testimony added onto the end of the schedule. I will really try and issue out an order in writing so that everyone is made aware. Other than that, let's return to our issue.

Does Empire have any other questions or input?

Okay. Let's move on to Allocations, Allocators and CAM. Ms. Schaben, if you would come up to our witness stand, please.

Commissioners, this is page 14 of your table. This is Issues 73, 74 and 84.

Angela Schaben, please raise your right hand.

(Witness sworn.)

JUDGE HATCHER: Thank you. Please go ahead and have a seat. Would you state and spell your name for our court reporter.

THE WITNESS: Angela, A-n-g-e-l-a, Schaben, S-c-h-a-b, as in boy, e-n.

JUDGE HATCHER: Thank you.

And again to remind everyone, this is an issue where the parties have agreed not to cross-examination, so we begin with Commissioners questions. Are there any Commissioner questions for Ms. Schaben?

Hearing none, the Bench does have a question -- couple questions.

ANGELA SCHABEN,

being first duly sworn, testified as follows:

QUESTIONS

BY JUDGE HATCHER:

Q. On page two of your direct testimony, in footnote one, it indicates that your actual amounts used for your O&M and A&G comparisons come from FERC Form 1 annual reports. Why did you not use the Missouri-Specific Annual Report information submitted to the Commission?

A. I used the FERC Form 1s as a general comparison between all of the Missouri investor-owned utilities in order -- because I knew like exactly what was in it, if that makes sense. Like a benchmark kind of.

Q. Okay. Thank you. Do you know if the FERC Form 1 used to gather the Liberty information included its utilities in Kansas, Arkansas and Oklahoma?

A. It did. And then that's in my -- in the position statement, I broke out the amount based on jurisdictional factors.

Q. Did you break it out in your testimony? Because the position statement isn't evidence.

A. I apologize. I did not. Sorry.

Q. Okay. That's all right.

A. But I did -- in order to -- because the amounts were constantly changing, like, in the case. So by the end of the case, you couldn't really go off of the 2024 numbers anymore because the test year ended in March 2025.

But -- so I used the jurisdictional factors that Staff came up with at the very end. I didn't -- but I did not get to put that in my surrebuttal testimony. Apologies.

Q. Okay. Do your amounts for O&M and A&G costs used in your analysis include employee wages and related payroll costs?

A. Yes. It would include anything that's considered administrative in general.

Q. And I think this is my last question. Do your amounts for A&G include FERC USOA Accounts 920 to 931?

A. I can't say for sure off the top of my head, sorry, without having it in front of me. But -- 920 through 931?

Q. Right.

A. Those should be considered administrative in general, I would think. If they're administrative in general accounts, then yes, that would be included in the administrative in general line on the FERC

Form 1.

Q. Okay. Thank you. That was all the questions I had.

JUDGE HATCHER: I'll ask again for any Commissioner questions before we move on to recross-examination. Are there any Commissioner questions for Ms. Schaben?

All right. Hearing none, we will go to our recross. Consumers Council.

MR. COFFMAN: No questions.

JUDGE HATCHER: MECG.

MR. OPITZ: No, thank you, Your Honor.

JUDGE HATCHER: Staff.

MR. PRINGLE: No, thank you, Judge.

JUDGE HATCHER: Empire.

MR. FLAHERTY: Yes. Just a few questions, Your Honor.

JUDGE HATCHER: Go ahead.

RECROSS-EXAMINATION

BY MR. FLAHERTY:

Q. Good morning, Ms. Schaben.

A. Good morning.

Q. My name is Jim Flaherty, and I represent Empire. I just have a couple questions based upon the Judge's questions relating to -- I think he pointed you to page two of your direct testimony and a question about the sources that were used to fill out your Table 1. Are you with me?

A. Yes.

Q. So did you normalize any of the numbers in the FERC Form Number 1 that are included in Table 1?

A. Table 1 is based on actuals.

Q. Did you normalize any of the numbers in Table 1?

A. Well, no, because they're actuals.

Q. Okay. And did you normalize any of the -- well, let me ask you this: When I say "normalize," what -- what do you -- what do you think that term means?

A. Normalizing is like when you have to average over a period of years to get a normalized amount.

Q. So in -- in accounting terms, would you agree that the term "normalized" refers to adjusting a company's financial statements to remove or account for nonrecurring or unusual or discretionary items?

A. That's a fair assessment.

Q. And you didn't do that in -- in Table 1? For example, if there were -- you didn't look at year

2018 and determine if there were any nonrecurring, unusual or discretionary items that needed to be taken out?

A. No, because it's based on actuals.

Q. Okay. And is it fair to say that in a your tables, that you didn't normalize any of the numbers that are included in those tables?

A. That's true.

Q. Thank you.

MR. FLAHERTY: That's all I have. Thank you, Judge.

JUDGE HATCHER: Thank you, Mr. Flaherty.

And redirect.

MR. WILLIAMS: Thank you.

REDIRECT EXAMINATION

BY MR. WILLIAMS:

Q. I'm going to start with Table 1, your O&M and A&G that you used actuals. Do you have any reason to think that there would be any outliers in the numbers that you saw?

A. In Table 1, no.

Q. Yes.

A. They're fairly consistent.

Q. And then the Bench asked you about a break-out of some of the information. You said that you -- it shows up in position statements, but not in your testimony. Do you recall that?

A. Yes.

Q. Do you know what that break-out is?

A. Yes. So we had -- like our position in the end, the -- we're reducing Staff's number by 17 million. Staff had $41,643,800 for Empire's A&G expense in their EMS runs -- the final -- final EMS run. So I reduced that by $17,159,938. And that's with the jurisdictional factor of approximately 88 percent.

Q. Thank you. No further questions.

JUDGE HATCHER: Thank you, Mr. Williams. Thank you, Ms. Schaben. I appreciate you being here today. You are excused from our witness stand.

THE WITNESS: Thank you.

JUDGE HATCHER: Okay. As we discussed, we are going to move into the scheduled issues for day three. Just to make everyone aware and repeat myself a little bit, there are five issue topics scheduled for day three.

The continuation of Customer Experience and FAC are the first two. Those are issues to be litigated by the parties. We will not be calling those today.

We will move on to the remaining three issues. These are three -- all three have the agreement of the parties to not cross-examine, which means each of these three begin with customer [as said] questions: Riverton 10, Miscellaneous issues -- Miscellaneous issues and Pension OPEB issues. So I will go ahead and begin calling that.

Commissioners, this is going to be on your day three memo. Riverton starts at page 11. Are there any Commissioner questions on the issue of Riverton 10? This is Issue Number 2-H and 88.

And the questions can be summarized as whether Empire should recover the cost of repairs to Riverton 10 and were the Riverton 10 repair costs prudently incurred. Are there any Commissioner questions on Riverton 10?

Hearing none and the Bench has no questions, we will consider that issue submitted.

Next is going to be a slightly larger topic area. This is titled Miscellaneous issues.

Commissioners, this begins on page 14 of your table. This is Issues 6, 132, 133, 134 and 135. Since this is a relatively short topic area, I'll summarize those issues.

Issue 6 is the amount of fuel inventory, 132 is system energy loss factor, 133 is jur- -- jurisdictional allocation factors for demand and energy, 134 is determining gas transportation costs, 135 is gas -- gas transportation costs calculated using the new rates established.

Are there any Commissioner questions on any of those issues under the topic of Miscellaneous issues?

Hearing none, we will consider that topic area submitted on its pre-filed testimonies.

Next, we will go to Pension and OPEB issues. Commissioners, this is page 16 of your table. Pension and OPEB issues address Issues 16, 62, 63, 64, and 65.

Sixteen is the appropriate rate-base balance for the prepaid pension asset, pension tracker and OPEB tracker -- OPEB tracker, 62 is the expense amount to be included in the revenue requirement for the FAS 87 costs, 63 is the expense amount for FAS 88 costs, 64 is the expense amount for FAS 106, and 65 is the expense amount reflected for SERP.

Are there any Commissioner questions in the topic area covering Pensions and OPEB issues?

Hearing none, we will consider that issue submitted on its pre-filed testimony.

That takes care of all of the issues for tomorrow except for the two issues to be litigated, the continuation of Consumer -- Customer Experience and FAC.

We will move on in the same vein to the remainder of the issues. These are the issues scheduled for Friday and Monday. We have two live issues to be litigated by the parties for Friday. This is the Ozark Beach crane extension and Additional issues. We will not bring those issues up today. We might move those to Thursday depending on how Thursday's schedule works out.

MR. WILLIAMS: Judge?

JUDGE HATCHER: Yes.

MR. WILLIAMS: With regard to that, I believe Geoff Marke is not available Thursday.

JUDGE HATCHER: Okay. Good to know. Thank you. And like I said, I will bend over backwards to make sure that all of our witnesses get to be heard. Go ahead.

MR. WILLIAMS: I understand. I just wanted to point that out because you were talking about moving it to a date that I think he's unavailable.

JUDGE HATCHER: Understandable. We've

had a change in scheduling coming just a few days before this hearing and then, in addition, my changes to the scheduling happening now, I am very aware that that is -- is throwing some witness schedule into -- into confusion so I want to be very aware of that.

Is Dr. Marke available today?

MR. WILLIAMS: Yes.

JUDGE HATCHER: Let's circle back to that issue. Which issue was he testifying on? Beach crane -- Ozark Beach crane extension?

MR. WILLIAMS: Both that and the 169.

JUDGE HATCHER: Okay.

MR. WILLIAMS: I think both are relatively sh- -- I expect they'll be short.

JUDGE HATCHER: While I call the four non-cross issues, if counsel for the other parties would inquire if their witnesses for Ozark Beach crane extension and Additional issues, which is Issue 169, if those witnesses are available today?

MR. PRINGLE: I can actually let you know right now, Judge, when it comes to Additional Issues, Coty King, he is not available today.

JUDGE HATCHER: Okay. So we might be splitting that one up and do that over two days. That's not my preference, but if that's how it works out.

Company.

MS. CARTER: Judge, we would also need to be tomorrow on those issues.

JUDGE HATCHER: Okay. Let me think about that. Let's go ahead and go to our non-cross-examine issues scheduled for Friday and Monday.

Before I call them, I'll name those four topic areas. This is going to be Plant and Accumulated Depreciation -- Depreciation, Tax Matters and Cybersecurity. So I'm going to call those four issues now. Again, each of those have waived cross-exam by the parties.

We start with Commissioner questions. Plant and Accumulated Depreciation, this is Issues 2, A through G and I through J. The missing H we covered with the previous day's issue on -- I think it was Riverton 10. So Plant and Accumulated Depreciation. This is Issues 2, A through G and I through J.

Commissioners, this is page three of your days' four and five memo. Are there any Commissioner questions on Plant and Accumulated Depreciation, Issues 2, A through G and I through J? Okay.

The Bench does have questions, but they are only for Mr. Young. Is Staff Witness Matthew

Young available? If he could come on up to the stand.

MR. PRINGLE: Yeah, he's sitting back there.

JUDGE HATCHER: Before you come up, Mr. Young, do you have a copy of the true-up accounting schedule?

THE WITNESS: I do not.

JUDGE HATCHER: Does someone down -- if someone could give -- excellent. Thank you.

And, Mr. Young, do you have your surrebuttal/true-up direct testimony with you?

THE WITNESS: Yes, I do.

JUDGE HATCHER: Excellent. You were sworn in yesterday, if I recall correctly?

THE WITNESS: Yes, I was.

JUDGE HATCHER: That still applies to today. Please go ahead and take your seat. I trust that the accounting schedule is making its way to the witness stand momentarily. I'll go ahead and start my question.

MATTHEW YOUNG,

having been previously sworn, testified as follows:

QUESTIONS

BY JUDGE HATCHER:

Q. The true-up accounting schedule entries to adjust reserve for environmental cost do not total the $7,348,995 amount Liberty recommends for Iatan/PCB offsets.  Staff adjustments total over eight million dollars.  Your surrebuttal/true-up direct testimony on page two appears to be in agreement with Liberty. Here's my question --

A.    Okay.

Q.    -- which is the correct amount?  Staff's or Liberty's that should be the offset to the accumulated reserve balance, and why?

A.    It's my understanding -- and after I leave here, I'll go verify.

It's my understanding that Empire and Staff are aligned for this adjustment.  The only difference that might show up would be the amount of the -- the adjustment that was allocated to Missouri. Staff and Empire might have a different percentage in our revenue requirement models.

So -- so the total company might sync, right, but the amount that shows up in the accounting schedules, you know, Staff might have used 88 percent where Empire used 87 percent of the total company adjustment.  I suspect if there's a difference, that's what's causing it.

Q.    Okay.  Thank you.

But thank you for bringing those down. I appreciate the effort.

That was my only question.

JUDGE HATCHER: I'll ask again for any Commissioner questions since that was so short. Are there any Commissioner questions for Staff Witness Young on the issue of Plant and Accumulated Depreciation?

Hearing none, we will go to recross-examination. This is a Staff witness. That will start us with MECG.

MR. OPITZ: No, thank you, Your Honor.

JUDGE HATCHER: Consumers Council.

MR. COFFMAN: No questions.

JUDGE HATCHER: Empire.

MS. CARTER: No questions.

JUDGE HATCHER: Public Counsel.

MR. WILLIAMS: No questions, thank you.

JUDGE HATCHER: And redirect.

MR. VANDERGRIFF: No, thank you, Your Honor.

JUDGE HATCHER: Mr. Young, I appreciate you being here today. You are excused from our witness stand.

Next, we will move to Depreciation. This is Issue 80.

Commissioners, this is page nine of your table. The issue reads: What are the appropriate -- appropriate depreciation rates to be ordered by the Commission?

MR. PRINGLE: And, Judge, this is Travis Pringle for Staff. Just one clarification matter for you. Staff Witness Malachi Bowman, the depreciation rate schedule to his direct testimony, the stip embraced his recommended rates. The stip has the correct schedule, but when we were in talks, we realized that his direct schedule had an error in it.

So just want to see how you would prefer us to handle it. Again, the -- the correct schedule is attached to the stip and on EFIS. Just we discovered during talks that his schedule attached to his direct had errors in it.

JUDGE HATCHER: Let's take an errata sheet. I've directed an errata sheet for every other witness correction, and in this case a single last name. So let's go with an errata sheet to correct that. Yeah, I think that would do it.

MR. PRINGLE: All right. Thank you, Judge.

JUDGE HATCHER: Okay. Depreciation,

Issue 80. Are there any Bench questions on Depreciation, Issue 80?

Okay. Hearing none, we will consider that issue submitted on a pre-filed testimony.

The next issue is a little weightier and I do have questions specifically for Michel McCuen of Empire and Matthew Young. Thank you, Mr. Young, for sticking around in the room.

This is Tax Matters, Issues 31 through 33, 36, 37, 77, 82 and 87. Commissioners, this begins on page 10 of your table. And this is rather lengthy, so please review those issues. I will not summarize them.

This is Issues 31 through 33, 36, 37, 77, 82 and 87. Are there any Commissioner questions on any of those issues?

Mr. McCuen, if you can go ahead and make your way up to the witness stand.

MR. FLAHERTY: Yeah. Mr. McCuen's not here. He was scheduled for next Monday, so.

JUDGE HATCHER: Right.

MR. FLAHERTY: We can try to get him virtually if that would work, but it would probably take us some time to see if he -- what his availability is.

JUDGE HATCHER: Great. But that will be today?

MR. FLAHERTY: We will try, yes, Your Honor.

JUDGE HATCHER: Let's go ahead and have somebody text, e-mail him, contact. Let's find his earliest availability to appear by WebEx. And once I get a time back from you all, we'll try and rearrange the schedule to fit that.

MR. FLAHERTY: Okay. Thank you, Your Honor.

JUDGE HATCHER: Let's move to Mr. Young who -- who just walked out, right? Okay. No, no, no.

MS. LANGE: He'll be right back. He needed to...

JUDGE HATCHER: Let's hold off on Tax Matters since, again, I'm only going to have maybe a single question.

Let's move to our last issue, Cybersecurity. This is the last no cross-examinations issue that we have. We will come back to -- to Mr. Young and Tax Matters.

This is Cybersecurity, Issue 72. Commissioners, this is page 14 of your memo. This is only one singular issue. And the issue is Number 72:

What level of cybersecurity expense should the Commission recognize in Empire's revenue requirement?

Commissioners, are there any Commissioner questions on cybersecurity?

Hearing none, we will consider that issue submitted on its pre-filed testimony.

Let's go ahead and call back up Mr. Young. We will return to our Tax Matters topic area. Again, this covers numerous issues, Issues 31 through 33, 36, 37, 77, 82, and 87. Are there any Commissioners' questions on any of those issues?

Hearing none, I'll circle back and ask again.

MATTHEW YOUNG,

having been previously sworn, testified as follows:

QUESTIONS

BY JUDGE HATCHER:

Q. I do have one question from the Bench. OPC Witness Riley cites to an IRS private -- I'm sorry, yes, that's right.

OPC Witness Riley cites to an IRS private under -- ruling, which states that the use of the, quote, "with or without," end quote, methodology requires net operating loss carry forwards be attributed to accelerated depreciation first. Do you agree?

A. It's been a few days since I've read Mr. Riley's testimony. I don't recall exactly what his argument was there.

The IRS's with or without method does relate to the NOL utilities have in the rate base for sure. Only to the extent that if the Commission -- well, I think the -- the PLRs, the private letter rulings, they generally constrict the Commission from excluding the NOL in a utility's rate base if it is caused by accelerated depreciation. So -- so that -- that -- that causes a normalation violation -- normalization violation with the IRS and that has serious consequences.

In this case, Empire's net operating loss on its books, however, did not relate to accelerated depreciation. And so the with or without method I'm not sure is applicable to -- to the rate base we're considering in this case.

Q. Thank you, Mr. Young. I appreciate that.

JUDGE HATCHER: As promised, I'll ask the Commissioners once again before I go to cross-examination. Are there any Commissioner questions for Mr. Young?

Okay. Hearing none, we'll go through our recross-examination schedule. First, we will go to Mr. Opitz.

MR. OPITZ: No, thank you, Your Honor.

JUDGE HATCHER: And Mr. Coffman.

MR. COFFMAN: No questions.

JUDGE HATCHER: And Empire.

MR. FLAHERTY: No questions.

JUDGE HATCHER: Public Counsel.

MR. WILLIAMS: Thank you.

RECROSS-EXAMINATION

BY MR. WILLIAMS:

Q. Mr. Young, what's the effect of a private letter ruling with the IRS?

A. A private letter ruling is a -- is a -- it's specific to the taxpayer that is requesting a ruling from the IRS. It's a -- it's a taxpayer that has a tax question and they ask the IRS to give them guidance on how to appropriately handle the -- the issue in their tax returns.

And so those that are not specific to -- well, I guess they're not a broad rule to every taxpayer. But I think the general impression the Commission has found in the past is that the -- the Commission can rely on a series of -- of PLRs to -- to get a concept of how the IRS feels a tax matter should be approached.

Q. Is a private letter ruling binding on the IRS as to the taxpayer who's been issued the private letter ruling, do you know?

A. I don't know.

Q. Are private letter rulings looked to for guidance generally?

A. Yes. That is the purpose of --

Q. Thank you.

A. -- a PLR.

JUDGE HATCHER: Thank you, Mr. Williams. Redirect.

MR. VANDERGRIFF: No redirect, Your Honor.

JUDGE HATCHER: Thank you. That would conclude the testimony on Tax Matters. Mr. Young, thank you. You're excused from the witness stand.

MR. FLAHERTY: Your Honor, Mr. McCuen is available on WebEx now.

JUDGE HATCHER: Remind me which issue.

MR. FLAHERTY: On the Tax Matters that we just had.

JUDGE HATCHER: Excellent. Thank you. I appreciate that.

Brian, if you could help me and -- and

pin Mr. McCuen up to the board. Mr. McCuen, can you hear me? Mr. McCuen, can you go ahead and speak up?

THE WITNESS: I -- can you hear me?

JUDGE HATCHER: Yes, thank you.

THE WITNESS: Perfect.

JUDGE HATCHER: Mr. McCuen, we're having a slightly altered hearing process today. We are going to jump right in with Commissioner questions.

Normally your testimony would be to come to the witness stand, either physically or -- or here on -- on the WebEx, and then we would proceed with a recitation of your pre-filed testimony.

The parties have stipulated that that's already been admitted. So we are going to swear you in and then I have a couple questions for you. So if you would raise your right hand, please.

(Witness sworn.)

JUDGE HATCHER: Thank you. If you would please state and spell your name for the record.

THE WITNESS: Michael McCuen, M-i-c-h-a-e-l, last name McCuen, M-c-C-u-e-n.

JUDGE HATCHER: Thank you, Mr. McCuen.

Are there any Commissioner questions for Mr. McCuen? Okay. I'll go ahead and start and I will re-call the Commissioner questions at the end.

QUESTIONS

BY JUDGE HATCHER:

Q. This is the same question -- I don't know if you were online, but this is the same question that I just asked Mr. Young of the Staff witness.

OPC Witness Riley cites an IRS private letter ruling that refers to the use of the with or the without methodology. Does Liberty use the with or without methodology?

A. So thank you for the question. I agree that a pr- -- so the answer is no. However, the private letter rulings that you're referring to from Mr. Riley, I agree that the IRS has ruled that the only thing protected that's required to be in rate base regarding NOLs is that that's associated with method/life, and the IRS suggests that you use a with or without computation. So I agree with that.

Liberty's argument was not just that -- using the with or without; however, that in a fairness principle and also under the securitization statute, that the NOL that we have is directly related to Storm Uri costs. And we believe that the securitization statute kind of required us to move all deferred taxes -- both the deferred tax liability and the associated deferred tax asset into the general rate case.

Q. Okay. Thank you. I appreciate that.

JUDGE HATCHER: Okay. Are there any Commissioner questions for McCuen?

All right. Thank you. That will go to cross-exam. So, Mr. McCuen, you're going to be on the stand for just a few more minutes.

THE WITNESS: Sure.

JUDGE HATCHER: First, we'll go to MECG.

MR. OPITZ: No, thank you, Your Honor.

JUDGE HATCHER: Then Staff.

MR. VANDERGRIFF: No, thank you, Your Honor.

JUDGE HATCHER: Consumers Council.

MR. COFFMAN: No questions.

JUDGE HATCHER: Public Counsel.

MR. WILLIAMS: No questions. Thank you.

JUDGE HATCHER: And then redirect by the Company.

MR. FLAHERTY: No redirect, Your Honor.

JUDGE HATCHER: Thank you.

Mr. McCuen, I appreciate you being here. I am happy that this was a short experience for you. You can go back to the rest of your workday.

THE WITNESS: All right. Thank you very

much.

JUDGE HATCHER: Thank you.

Okay. Let us review where we have been and where we are going. We have finished day one of our hearing, which addressed Customer Experience.

Day two addressed -- this is day two, which addressed Capital Structure/ROE and Cost of Debt as the litigated issues on those two days. We also had a number of issues that would be submitted on their pre-filed testimony unless there were Bench questions.

And to that end, we have finished all of our issues that have been indicated as not needing cross-examination by the parties.

So I am left with two days of hearings left. Tomorrow we have the continuation of Customer Experience. And let's pause there to wrap that up. We continued Customer Experience because Company Witness John Reed needed to appear on Thursday.

Public Counsel has indicated that since the amount that Mr. Reed was paid has been entered into the record, that they were waiving cross-examination.

Does that indicate that that issue is now finished with its cross-examination by the parties?

Does any other party wish to examine John Reed?

Okay. I'm going to -- I will try and check to see if I have any Bench questions for Mr. Reed by the end of the day, but let's continue on with our schedule.

So tomorrow we would presumably be doing Customer Experience, the continuation with Mr. Reed; and then FAC. Friday we then have the --

MS. CARTER: And, Judge?

JUDGE HATCHER: Yes.

MS. CARTER: I'm sorry. I would just note that Mr. Reed is also on FAC.

JUDGE HATCHER: Okay.

MS. CARTER: So if you're checking about whether he's here or not --

JUDGE HATCHER: Thank you.

MS. CARTER: -- if we could combine those two together.

JUDGE HATCHER: That -- yes, that's where I was driving at. Thank you. I appreciate that.

MS. CARTER: Thank you.

JUDGE HATCHER: So Friday we would potentially have two issues to litigate; Ozark Beach crane extension and Additional issues, which is Issue 169. And Issue 169 is the question of the

Self-read Option.

We have -- the time is currently 10:48. We have plenty of daylight left today. We are now down to the remaining four issues to be litigated. I recall a conversation that Dr. Marke was available and that he was going to be testifying on -- is it Ozark Beach or was that the Self-read?

MR. WILLIAMS: Both.

JUDGE HATCHER: Both. Ozark Beach other witnesses are Brian Berkstresser; Charlotte Emery, who is here; Staff is Brodrick Niemeier. Is Brian Berkstresser available today if we would move this forward?

MS. CARTER: He is in the process of getting here so he could be here tomorrow morning. We could, this afternoon, go ahead and do Issue 169. I don't have my materials with me yet for that one -- oh, no, Coty is not here.

MR. PRINGLE: Yes. Staff witness is not here for 169.

MS. CARTER: But Ms. Emery is here, so.

MR. WILLIAMS: Judge, I'm not sure, but I suspect that 169 probably -- if the Commission has no questions, Public Counsel would be willing to waive cross and just submit it.

I'll also point out, Diana mentioned on the FAC issues John Reed's a witness. We'd waive cross on him as well for that issue.

JUDGE HATCHER: Am I understanding correctly that on Additional issues, the parties would agree to go directly to Commissioner questions?

MS. CARTER: That is fine with Liberty.

MR. VANDERGRIFF: Subject to Mr. King's availability, we're good.

MR. WILLIAMS: You're understanding correctly from our perspective.

JUDGE HATCHER: Right. And I'm asking generally who are we --

MR. PRINGLE: Yes. Just the Staff Witness Coty King is not available today. So if there were any Commission questions for him, we would have to take him tomorrow at the earliest.

MR. WILLIAMS: But is Staff willing to waive Geoff?

MR. VANDERGRIFF: We're willing to waive it.

MR. WILLIAMS: And Charlotte?

JUDGE HATCHER: Okay. Let's -- let's back into this. We'll go with Additional issues first.

That is, Commissioners, on your day four and five menu, page two -- memo, I'm sorry, Additional issues. This is Issue 169. The issue reads: Should Empire's tariffs be modified to allow a self-read option for customers who opt out of AMI meters?

Are there any Commissioner questions on Issue 169, the self-read option?

Okay. The Bench would like to call Sarah Lange to the stand on Issue 169, if she's still in the room. Thank you.

MR. PRINGLE: Just to note, Staff did not have Ms. Lange listed as a witness on this issue. It's only Mr. Coty King for 169.

JUDGE HATCHER: You had her listed on the original schedule. Sarah Lange, Justin Tevie, Randall Jennings.

MR. PRINGLE: None of them, yeah, for -- are for this Self-read issue. It's simply Coty King.

JUDGE HATCHER: And he's here tomorrow? Okay. We -- we must have a --

MR. PRINGLE: Big determinants, yes. Those are the witnesses for Billing Determinants and Rate Design, which was --

JUDGE HATCHER: No, okay. Let's kick 169 to tomorrow. We do want to ask Coty King some questions.

MR. PRINGLE: Okay.

MR. WILLIAMS: Judge, Geoff Marke is also a witness and he's not available tomorrow, if the Commission's going to -- I said we'd waive if the Commission had no questions.

JUDGE HATCHER: Dr. Marke, come on down. You volunteered one too many times. You've been sworn in.

THE WITNESS: I have.

JUDGE HATCHER: Awesome. That still applies. Go ahead and have a seat.

Does somebody have an intern who's keeping track of where we are in the schedule? Okay.

Yeah, just -- just to remind everyone before I start with this issue, we have four issues remaining; the continuation of Customer Experience, FAC, Ozark Beach crane extension, and the Self-read.

It sounds like we're going to perhaps split Self-read into two days. We might have all the questions answered and it might be just today.

MR. PRINGLE: And Staff does have, I guess, an unorthodox suggestion for how to maybe get this issue wrapped up today, is Ms. Claire Eubanks, Coty King's manager, she could possibly take the stand

and see if she can handle any Commission questions, if that's an approach you want to try out.

JUDGE HATCHER: Sold.

MR. PRINGLE: All right.

JUDGE HATCHER: Dr. Marke, you have already been sworn in. That still applies.

Are there any Commissioner questions for Dr. Marke on Issue 169 the Self-read option? Chair, go ahead.

GEOFF MARKE,

having been previously sworn, testified as follows:

QUESTIONS

BY CHAIR HAHN:

Q. Lucky you. Thank you.

So OPC's position is that there should be a self-read option. This is not addressed in the stipulation. Do you recall the provisions of Senate Bill 4 that deal with AMI meters?

A. I do.

Q. And I -- does it have -- does it specify about self-read option or not in the statute, or do you recall?

A. I believe it does. I know that that was a subject of discussion to try to minimize cost.

Q. I think I recall the same. Do we have --

I don't know if we have -- do we have any tariffs in place yet for any utility companies that allow for AMI opt-out self-read at the new Senate Bill 4?  And I could also ask the Staff witness.

A.    Ms. Eubanks might remember.  If we did, I think it would have been for Evergy West would probably be the only rate case that would have -- it applied to.

Q.    Okay.  I think I might ask Ms. Eubanks. Okay.  Thank you.

A.    Okay.

JUDGE HATCHER:  Any other Commissioner questions for Dr. Marke?

COMMISSIONER KOLKMEYER:  Yes.

JUDGE HATCHER:  Yes.  Commissioner Kolkmeyer, go ahead.

COMMISSIONER KOLKMEYER:  Thank you, Judge.

QUESTIONS

BY COMMISSIONER KOLKMEYER:

Q.    Good morning.

A.    Good morning.

Q.    How many customers do you think that this would apply to?

A.    That's a -- that's a great question.

I -- the -- the short answer is we don't know yet. We have gotten -- we've received a fair amount of inquiries about the -- the issue. I think the concern here is that it might be larger than it otherwise would be in light of the -- the Customer First experience.

Q. So then do you think there would be a charge? Because there's a charge to opt out.

A. There is. There -- so there's a one-time charge and then there would be a reoccurring charge in terms of -- of a meter reader actually coming to the premise to read it.

Now, what we've -- we've proposed to mitigate that is -- is a self-read. So customers would report that on their own. And then we've thrown out, you know, the idea of either a biannual or an annual read from an actual meter reader just to verify those -- those usage numbers.

And, you know, if they're off, then the customer would pay for that; if they've paid more, then they would be credited that.

Q. We hear quite often --

A. Right.

Q. -- about this opt-out charge, so yes. I was even thinking maybe quarterly --

A. Right.
Q. -- you know, but okay. Thank you.
A. Uh-huh.
JUDGE HATCHER: And Commissioner Coleman.
COMMISSIONER COLEMAN: Thank you.
QUESTIONS
BY COMMISSIONER COLEMAN:
Q. Dr. Marke, would you respond again to that question Commissioner Kolkmeyer just asked? I was reviewing something with the Judge and missed it.
A. Sure, Commissioner. So Commissioner Kolkmeyer asked if he believed -- whether or not I thought that the numbers would be large moving forward.
And I think my response was, you know, it's a good question. There's a concern that it could be quite large given just the feedback that we received from the town halls and the local public hearings regarding meters and -- and just the skepticism, I guess, over the billing numbers.
And then the follow-up question was around the charges themselves. So right now there's -- there's a charge for customers to opt out and then there's a charge effectively for a future meter reader. So, you know, absent having an AMI and

being able to do it remotely, somebody would need to go out there and read the meter.

What we have proposed in other filings to mitigate those costs is to have customers self-read and report that to the utility.  And then do, you know, a -- a periodic check-up from a meter reader. So instead of having 12 payments, maybe, you know, two or three or four just to verify that they are paying what they're supposed to be paying.

Q.    But there is no penalty for misreading. Just charges could go up or charges could go down?

A.    That -- that's a good question.  I mean, as far as a penalty, I think the penal- -- so if a customer self-read and they -- they recorded the wrong amount, whenever a meter reader did show up on that premise to verify the usage, than that could be charged to that customer.

So if they've been misreporting it, they'll be caught, you know, effectively when that meter reader shows up.

Q.    What type of questions or information have you gotten back from those possible consumers as far as notification?  Are we -- when we talk about opting out, I know that Empire has stated that there will be a notification in the Missouri Register.  Is that enough?

A. No. The customers would need to be notified through the traditional channels as well. I wouldn't put a lot of faith in customers checking out the Missouri Register on a periodic basis.

Q. Thank you.

COMMISSIONER COLEMAN: Thank you, Judge.

JUDGE HATCHER: Thank you, Commissioner.

Are there any other Commissioner questions for Dr. Marke?

Okay. Hearing none, we'll go -- no, no, no. We got to go through our recross-examination.

THE WITNESS: Yeah.

JUDGE HATCHER: Yeah, I forget that all the time too.

Okay. Consumers Council.

MR. COFFMAN: No questions.

JUDGE HATCHER: MECG.

MR. OPITZ: No, thank you, Your Honor.

JUDGE HATCHER: Staff.

MR. VANDERGRIFF: No, thank you, Your Honor.

JUDGE HATCHER: Empire.

MS. CARTER: Yes. Thank you.

RECROSS-EXAMINATION

BY MS. CARTER:

Q. Dr. Marke, currently we have -- Liberty has -- Empire here in Missouri -- has an opt-out provision, for example, right?

A. That's correct.

Q. And the rate for the opt-out was approved by the Commission in a rate case, correct?

A. Correct.

Q. And there was plenty of communication when we were switching to AMI to let our customers know they could opt out, correct?

A. There was communication, yes.

Q. Every comm- -- every customer was sent a letter letting them know they could opt out?

A. I believe that's correct.

Q. And currently the percentage of customers opting out of AMI is quite small; is that right?

A. I'll take your word for it.

Q. And at the local public hearings in this case, when it would come up about the new legislation and the, quote, new ability to opt out, you and the Company made it very clear at those local public hearings that customers already had that ability to opt out of AMI, correct?

A. We -- I -- I would say that is true. I think I qualified that statement. And I qualified that statement by saying the -- the issue today is that those customers would be charged more than what we are proposing moving forward, and that's that self-read option.

Q. Yes. Currently they're being charged the Commission --

A. That's right.

Q. -- approved rate?

A. Yeah.

Q. And there will be a rulemaking and new tariffs under the timeline provided by the new statute, correct?

A. That is correct.

Q. So then we would change our rate in compliance with that new statute, correct?

A. Correct.

Q. And currently Empire's tariff also has a self-read option, right?

A. Yes.

Q. Thank you. Those are all my questions.

JUDGE HATCHER: Thank you.

And redirect.

MR. WILLIAMS: I think there's no need. Thank you.

JUDGE HATCHER: Thank you, Dr. Marke. You are excused from our witness stand.

MR. PRINGLE: We do have Ms. Eubanks here.

JUDGE HATCHER: Thank you. I was just looking at what I was doing next.

Ms. Eubanks, come on down. If you'd please raise your right hand.

(Witness sworn.)

JUDGE HATCHER: Thank you. Please have a seat and state and spell your name for our court reporter.

THE WITNESS: Claire Eubanks, C-l-a-i-r-e E-u-b-a-n-k-s.

JUDGE HATCHER: Thank you.

And are there any Commissioner questions for the witness? Chair.

QUESTIONS

BY CHAIR HAHN:

Q. Good morning, Ms. Eubanks.

A. Good morning.

Q. Are there any other investor-owned utilities with tariffs already in place in compliance with the new Senate Bill 4 requirement for meter opt-out with the new lower rate?

A. I believe that it was an issue in one of the water cases recently. So off the top of my head, I -- I don't know, but I do think that it was -- it was raised in another case recently.

Q. Okay. Thank you.

A. You're welcome.

Q. Thank you.

JUDGE HATCHER: Are there any other Commissioner questions? Commissioner Kolkmeyer.

COMMISSIONER KOLKMEYER: Thank you, Judge.

QUESTIONS

BY COMMISSIONER KOLKMEYER:

Q. I don't know how to phrase it other than what is in -- the new language in the bill, what is that proposed amount? Do you know what that is?

A. So there is a -- there is a monthly fee in the statute is my recollection. It's been a couple weeks since I've looked at it, so.

Q. Okay.

A. I -- I want to say -- I want to say there's a $15 fee and then there's another fee, but off the top of --

Q. To sign on to it probably? To get on to the program.

A. Yeah. Typ- -- like typically the way the programs have worked historically is that there is a meter -- a meter-related fee to -- if they had an existing AMI meter and they're going to replace it with a standard meter, that typically there's a fee there. And then there's also a monthly fee for all the costs that go into meter reading.

Q. Okay. The -- the -- so the proposed is in the statute --

A. It -- it is in the statute.

Q. -- the 15 -- do you know what --

A. That's my recollection. I really would have to probably bring it up and verify.

Q. That's fine.

A. Yeah.

Q. Do you know what Empire's currently charging?

A. I believe that those values are in the direct testimony of Coty King.

Q. Okay. Thank you.

JUDGE HATCHER: Any other Commissioner questions for Ms. Eubanks?

QUESTIONS

BY JUDGE HATCHER:

Q. The Bench does have one. I wanted to

follow-up specifically on this self-read option. Are any other utilities in Missouri -- do they have a self-read option?

A. Yes. Yes. Other -- other utilities in Missouri offer, within their AMI opt-out program, an opportunity for the customer to do self-reads.

Evergy Missouri West in the more recent electric rate case, in that stipulation there was language around that, to my recollection. And specifically there was a cap on the number of customers that could do that.

So that is something, you know, that I think in redirect of Mr. Marke -- Dr. Marke -- I'm sorry, it was the Company's cross-examination of Dr. Marke talked about the -- the upcoming rulemaking. I believe that rulemaking hearing is next month or maybe this month, so we'll be talking about it again here in a couple of weeks, I believe.

And, you know, there is -- there will be both the rulemaking and then also tariff filings. So while, you know, we didn't address it in the stipulation and agreement, there is still a requirement for the tariffs to be filed by a date certain in the statute is my recollection, so.

Q. West is the only -- Evergy West is the

only utility you're aware of in Missouri?
A. I believe -- I want to say Spire also.
Q. Okay. Okay. Thank you very much.
JUDGE HATCHER: That takes us to recross. MECG.
MR. OPITZ: No, thank you, Your Honor.
JUDGE HATCHER: Consumers Council.
MR. COFFMAN: No questions.
JUDGE HATCHER: Empire.
MS. CARTER: Yes, just one.

RECROSS-EXAMINATION

BY MS. CARTER:
Q. Ms. Eubanks, but Empire also has a self-read option currently, as Dr. Marke affirmed while he was on the stand?
A. I don't recall.
Q. Okay.
JUDGE HATCHER: Public Counsel.
MR. WILLIAMS: Thank you, no.
JUDGE HATCHER: And redirect?
MS. KLAUS: Thank you. Briefly. Alexandra Klaus on behalf of Staff.

REDIRECT EXAMINATION

BY MS. KLAUS:
Q. Good morning, Ms. Eubanks.

A. Good morning.
Q. I had to check what time it was.
You've gotten some questions on a few topics. I'd like to address a couple. You were asked about other utilities using advanced meter opt-outs. Do you remember that question?
A. I do.
Q. And I think you had said that Coty King had some testimony on this topic and wanted to see if you might have been thinking of a chart that Mr. King had included at page three of his direct testimony?
A. Yes.
Q. And just for clarity sake, that does identify Evergy Missouri West; Spire Missouri, Inc.; Empire Water; Liberty Utilities; Missouri Water; and Ameren Missouri in that chart, correct?
A. That's my recollection, yes.
Q. Thank you. You were also asked about fees and Senate Bill 4.
A. Yes.
Q. Do you remember those questions?
A. I did -- I do.
Q. All right. Pardon me. Do you have a copy of Mr. King's testimony with you?
A. I do not.

Q. That's quite all right.
MS. KLAUS: One moment, please.
BY MS. KLAUS:
Q. Well, I have a copy in front of me here. And I'm looking at page two, footnote two. And Mr. King has cited to Senate Bill 4 and it including new provisions, specifically at Section 386.820.2, sub two.
Would it -- would it sound correct to you to say that that statute's going to say that the one-time fee cannot exceed $125?
A. That sounds right, yes.
Q. And does it sound right that the monthly fee may not exceed $15?
A. Yes.
MS. KLAUS: No further questions. Thank you.
JUDGE HATCHER: Thank you, Ms. Klaus. Good to have you back.
I think -- I think that's it. Thank you. I appreciate you being here and filling in today.
THE WITNESS: Absolutely. Thank you.
JUDGE HATCHER: You're excused from our witness stand.
Counsel, here is -- here is my

inclination on what to do next. We are down to three issues, plus the stipulation testimony, whatever we want to talk -- however we want to describe that.

My thought is to adjourn for a long lunch, the beginning of which myself and the counsels will stay in the room to discuss what the schedule looks like over the next day or two days.

I will send all the Commissioners to their lunch and then either e-mail the Commissioners that we are done for the day or e-mail the Commissioners that we're heading back at one o'clock to take care of X, Y and Z issue and finish it up today.

I'm looking for some input because this is just me doing my own thinking.

COMMISSIONER KOLKMEYER: Finish it.

JUDGE HATCHER: Okay. Let's have the discussion on the record about what we want to do next then.

And, Madam Court Reporter, how are you doing on needing a break?

THE COURT REPORTER: I'm fine. Thank you.

JUDGE HATCHER: Okay. Counsel, parties, we are left with four items to discuss. They are the continuation of Customer Experience, FAC, Ozark Beach crane extension, and questions on the stipulation.

You all are more familiar with your witnesses and who is assigned to which than I am. Are any of your witnesses available to take those issues up today? Again, Customer -- well, John Reed, we -- we should mark that one off. He's coming in tomorrow.

So FAC, Ozark Beach crane extension, or stipulation questions.

MR. WILLIAMS: Public Counsel's witnesses are all available today. Geoff Marke is not available tomorrow.

JUDGE HATCHER: Okay. So that leans towards maybe splitting up some of these issues to it today and we get Dr. Marke done for his part.

Any other parties want to chime in? Mr. Vandergriff, thank you.

MR. VANDERGRIFF: Our witnesses are available.

MS. CARTER: So Todd Tarter and Aaron Doll are not available until tomorrow. And Brian Berkstresser.

JUDGE HATCHER: Okay. We -- so it sounds like FAC might be tomorrow. Because Dr. Marke is not on FAC; is that correct?

MR. WILLIAMS: That is correct.

JUDGE HATCHER: Okay. Let's put that on tomorrow just for the moment. Customer Experience is on tomorrow because that's when John Reed is available.

Ozark Bre- -- Ozark Beach crane extension has Dr. Marke. Yep. Let's go with Ozark Beach crane extension and we will take up Mr. Berkstresser tomorrow. And we can -- we can add in anybody that needs to by WebEx.

MS. CARTER: I'm sorry, Judge, I did not hear that.

JUDGE HATCHER: No, I was just -- I was waiting for the eye contact. We're good?

MS. CARTER: Yes. Ms. Grubbs?

MS. GRUBBS: Since opening statements have not been waived on the Ozark Beach crane expansion project, are we planning on having mini openings or not?

MR. WILLIAMS: I could waive. If everybody else is willing to waive, I'll waive.

MS. GRUBBS: That works for the Company. Just wanted to clarify.

JUDGE HATCHER: I appreciate that. Thank you, Ms. Gibbs [as said].

MR. PRINGLE:  Then as a Staff follow-up, are we still doing mini openings for the FAC issue?

MR. WILLIAMS:  We can waive that.

JUDGE HATCHER:  Yeah, let's not decide that now.  That's -- that's tomorrow's problem.

MR. PRINGLE:  Happy to kick it.

JUDGE HATCHER:  Let's go with Ozark Beach crane extension.  This is to be a litigated issue, which means we will not be beginning with Commissioner questions.  This will go through a more normal process.

We will not need to introduce the witness testimony that's already been admitted and we will skip the signatories to the agreement cross-examination of co-signatories.  Other than that, this will go forward as a normal issue.  You have just heard all the parties agree to waive opening statements.

So we will begin with the Company witnesses with the notation that Brian Berkstresser is going to testify tomorrow.  That will be Thursday.

Company, go ahead and call your witness.

MS. GRUBBS:  Would we be able to push this til after lunch so that we can get copies of testimony?  Or at least take a 15-minute break, if possible?

JUDGE HATCHER: Why do you need copies?

MS. GRUBBS: To take up to the stand.

JUDGE HATCHER: For her to reference or to hand out?

MS. GRUBBS: To reference.

MR. WILLIAMS: Judge, if it helps, Public Counsel will waive cross of Ms. Emery. It's Mr. Berkstresser that we have questions for.

JUDGE HATCHER: Does that solve the Company's concern?

MS. GRUBBS: Yes.

JUDGE HATCHER: Perfect. Ms. Emery, come on down. You've already been sworn in. Go ahead and have a seat. And go ahead with the -- with your questions, Empire. Ms. Grubbs.

CHARLOTTE EMERY,

having been previously sworn, testified as follows:

DIRECT EXAMINATION

BY MS. GRUBBS:

Q. All right. Are you the same Charlotte Emery who testified earlier in this proceeding?

A. I am.

Q. All right. Do you have a copy with you then of your testimonies? You filed direct testimony, rebuttal testimony, surrebuttal/true-up direct testimony, and true-up rebuttal testimony, Exhibits 17 through 20 that have previously been admitted.

A. I do.

Q. Okay. And you acknowledge that the Company has modified its positions as outlined in the Non-Unanimous Global Settlement that was filed on October 6th, 2025?

A. Yes.

MS. GRUBBS: Ms. Emery is tendered for questioning. Thank you.

JUDGE HATCHER: Thank you very much.

And we will first go to Mr. Opitz of MECG.

MR. OPITZ: No, thank you, Your Honor.

JUDGE HATCHER: And then Staff.

MR. GRAHAM: No, thank you, Your Honor.

JUDGE HATCHER: Consumers Council.

MR. COFFMAN: No questions.

JUDGE HATCHER: OPC.

MR. WILLIAMS: No questions, thank you.

JUDGE HATCHER: Are there any Commissioner questions for Ms. Emery on the topic of the Ozark Beach crane extension?

Hearing none -- yeah, that's it. Thank

you. You're dismissed from our witness stand, Ms. Emery. I appreciate you being here today and filling in on several issues.

THE WITNESS: Yes.

JUDGE HATCHER: And again, for the record, we will be calling Brian Berkstresser tomorrow to testify on this issue. In the meantime, let's go to Staff. Please go ahead and call your witness.

MR. GRAHAM: Brodrick Niemeier.

JUDGE HATCHER: Mr. Niemeier, please raise your right hand.

(Witness sworn.)

JUDGE HATCHER: Thank you. Please state and spell your name for our court reporter.

THE WITNESS: Brodrick Niemeier, B-r-o-d-r-i-c-k N-i-e-m-e-i-e-r. Did you get that?

JUDGE HATCHER: All right. And we'll go ahead with questions. Staff, your witness.

MR. GRAHAM: Thank you, Your Honor.

BRODRICK NIEMEIER,

being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. GRAHAM:

Q. Brodrick, what is the nature of your current employment?

A. I am employed as an Associate Engineer in the Engineering Analysis Department of the Missouri Public Service Commission.

Q. And in connection with that employment, did you prepare some direct testimony in this case; namely, Exhibits 115 and 115-C?

A. Yes.

Q. Okay. And it's your understanding that those exhibits have been admitted into evidence.

A. Yes.

Q. And you are aware of a Global Non-Unanimous Stipulation that's been reached in this case.

A. Yes.

Q. And do you understand that any positions or commission -- or do you agree that any positions or opinions that you've expressed in the pre-filed testimony that I just mentioned will be deemed to be in accord with the Staff's position; that is, that this stipulation be approved?

A. Yes.

MR. GRAHAM: I'll tender the witness.

JUDGE HATCHER: Thank you. And we will go to MECG.

MR. OPITZ: No, thank you, Your Honor.

JUDGE HATCHER:  Consumers Council.
MR. COFFMAN:  No questions.
JUDGE HATCHER:  Empire.
MS. GRUBBS:  No questions.
JUDGE HATCHER:  Public Counsel.
MR. WILLIAMS:  Thank you.

CROSS-EXAMINATION

BY MR. WILLIAMS:
Q.    Good morning, Mr. Niemeier.
A.    Good morning.
Q.    Do you know when the dam at Ozark Beach was built?
A.    Not off the top of my head.
Q.    More than -- or about 100 years ago?
A.    That sounds about right.
Q.    Do you know when the crane was built on the dam?
A.    I do not know.
Q.    Do you have any idea?  I mean, has it been there for decades or was it something that was built the past 20 years?
MR. GRAHAM:  Objection, asked and answered.  He's calling for conjecture now and speculation.  The witness said he didn't know.
MR. WILLIAMS:  He said he didn't know a

specific date. I'm just trying to find out if he has any idea.

MR. GRAHAM: Stand on the objection as the question was originally asked.

JUDGE HATCHER: Thank you. I'll overrule it and allow a little bit. But let's move forward.

THE WITNESS: I do not know the date when it was -- when the crane was added.

BY MR. WILLIAMS:

Q. Have you observed the crane?

A. I have seen pictures of the crane. I have not been to the Ozark Beach site.

Q. Do you know when the extension was done?

A. The extension was complete in 2023.

Q. No further questions.

JUDGE HATCHER: Thank you, Mr. Williams.

Then we'll go to Commissioner questions. Are there any Commissioner questions for Mr. Niemeier?

Hearing none, we will go back to recross-examination. No, just redirect. My mistake. Redirect, Staff.

MR. GRAHAM: No, thank you.

JUDGE HATCHER: Thank you, Mr. Niemeier. Appreciate you being here today, especially on short notice as we move things around.

THE WITNESS:  Yeah.

JUDGE HATCHER:  By my schedule, that takes us to Dr. Marke.  And, Dr. Marke, you've already been sworn in, so please go ahead and have a seat. And your -- your swearing in still counts for your testimony now.

Public Counsel, your witness.

MR. WILLIAMS:  Tender him for cross-examination and questions from the Bench.

JUDGE HATCHER:  Okay.  Consumers Council.

MR. COFFMAN:  No questions.

JUDGE HATCHER:  And Mr. Opitz.

MR. OPITZ:  No, thank you, Your Honor.

JUDGE HATCHER:  Mr. Graham.

MR. GRAHAM:  No, thank you, Your Honor.

JUDGE HATCHER:  Empire.

MS. GRUBBS:  No questions.

JUDGE HATCHER:  Are there any questions from the Commissioners for Dr. Marke on the issue of the Ozark Beach crane extension?  Commissioner Kolkmeyer.

COMMISSIONER KOLKMEYER:  Briefly.  Thank you, Judge.

GEOFF MARKE,

having been previously sworn, testified as follows:

QUESTIONS

BY COMMISSIONER KOLKMEYER:

Q. What's OPC's objection to the crane?

A. So the -- this project was scheduled to be a 10,000 dollar project. It ended up being a 2.9 million dollar project. So it went, you know, 3000 percent over its planned budget.

The crane itself has been operational for over 100 years. Effectively you take a barge down the river to add on supplies. That method's worked for over 100 years. The Company pivoted and effectively created a road and a different set-up to -- to set up this crane.

The concern is two-fold. One, just the overall cost increase. We've been doing things for over 100 years, it didn't pose any significant risk or problem. So we -- we questioned why we needed to change course on that.

And the second issue that I raised was over statutory language directed over PISA investments. So this -- the SB 564, the statute that enables PISA, directs companies for projects that are over 10 million dollars, I believe is -- is the figure, to provide a cost-benefit study.

Empire, before that PISA legislation

was -- was agreed to, had agreed in a rate case that future CapEx investments over one million dollars would undergo a cost-benefit study. Now, we have effectively -- I say we. OPC and Staff have effectively waived that condition, in part -- for the last few years -- for the last four or five years now, in part, for two reasons.

One, out of request from the Company itself. It said they really just didn't have their -- their stuff together to provide that sort of analysis. The -- my point of contact with the com- -- with the Company was the name -- a man named Dmitry Balashov, who no longer works with the Company. He had filed testimony speaking about this, amongst other things, in the original filing. But that contact is no longer working for the Company.

We extended the pause not only for -- to allow the Company to get their stuff together, but to help inform a value-of-lost-load study. So we've got a concurrent docket open up right now that's looking at the value of lost load.

That input is -- is critically important for any cost-benefit analysis. It's basically how we justify moving with these investments. We expect that to be done by the end of the year.

So our objection to this was really it just -- it looks like an outlier, it didn't make sense. You've been doing things for -- one way for 100-plus years. We've had concerns from the public at large about this company focusing on CapEx investments as opposed to affordability.

We felt like this was a perfect example of that. An illustrative example of something that should have cost 10,000 dollars, but it ended up costing 2.9 million dollars.

Q. Thank you.

JUDGE HATCHER: Any further Commissioner questions for Dr. Mark? Okay. That will take us to recross-examination. And we begin with Consumers Council

MR. COFFMAN: No questions.

JUDGE HATCHER: MECG.

MR. OPITZ: No, thank you.

JUDGE HATCHER: Staff.

MR. GRAHAM: No, thank you.

JUDGE HATCHER: Empire.

MS. GRUBBS: Yes, Your Honor.

RECROSS-EXAMINATION

BY MS. GRUBBS:

Q. Good afternoon -- or I guess we're still

in morning, huh?  It's flying by.
Dr. Marke, have you reviewed the surrebuttal testimony of Company Witness Brian Berkstresser, which has been marked as Exhibit 3 in this docket?
A.    I believe I have.  I don't have a copy of that with me.
Q.    I can provide you one if you'd like.
A.    Sure.
Q.    With the assistance of Mr. Vandergriff, thank you.
Does that refresh your recollection seeing it there, sir?
A.    Yes.
Q.    Okay.  So do you recall at pages one through three where Mr. Berk- -- Mr. Berkstresser explains that the original estimate reflected the cost of a feasibility study to assess whether the project was viable?  I'd call your attention to page one, lines 19 through 20, please.
A.    I see that.
Q.    And that -- the feasibility study, that evaluated whether the project was viable, but -- but also any benefits from that project, correct?
A.    That's what it says.

Q. And have you reviewed that feasibility study?

A. I have not had an opportunity to look at that feasibility study.

Q. So are you also familiar with Mr. Berkstresser's explanation of the estimate for the crane extension project being 3.5 million dollars, the final cost actually being over half a million dollars under budget at 2.9 million, and the project going into service in December 2022 and addressing safety issues at the dam? Do you recall that?

A. So I guess I take issue with -- so the initial estimate was $10,000.

Q. For a feasibility study, correct?

A. Could you point me to that in his testimony?

Q. Pages 19 through 20 on page 1.

A. I only have three pages.

Q. Page one, lines 19 through 20.

A. Oh, lines.

Q. I'm sorry, yes.

A. The initial estimate reflected the cost of feasibility study to assess whether the project was viable?

Q. Yes. So that approximate $10,000 that

you were referring to.
A. I guess I would have to verify this.
Q. So you -- you didn't verify it when you reviewed his surrebuttal testimony? Do you have any reason to question that representation?
A. I do. So I guess what I'm confused right now, is the Company suggesting that the cost was never $10,000?
Q. The cost -- if I may?
A. Please.
Q. I believe that the Company has described that that was for -- the initial estimate was for a feasibility study to determine whether it was a viable project. And then afterwards, there was a revised estimate.
A. So if -- if that's the case, then Mr. Niemeier's testimony was -- was -- is incorrect then. Because his testimony suggests that the study -- that the cost was $10,000.
Q. Well, I believe if you look at -- and I'll have to pull up Mr. Niemeier's testimony.
A. Okay.
Q. But a later round of testimony clarified that. If I may have just a moment to -- so I'm referring to -- I'm sorry. I don't have a copy of it

with you, but -- or with me.

But under Staff's Statement of Position in this case under Issue 89, the Ozark Beach crane extension for Issue A: Were the costs of the crane extension project at Ozark Beach prudently incurred? Staff's position is: Yes, the project was reasonable as Empire provided reasonable -- or provided reasonable safety concerns as justification for the project.

And then it footnotes Footnote 99 to page 9, lines 14 through 16 of Brodrick Niemeier's surrebuttal testimony.

I will have to ask for Staff if they have a copy of it. Pardon me.

A. Not a problem.

Q. Thanks again for the assistance from Staff.

May -- may I approach Mr. -- Dr. Marke?

MR. WILSON: She pointed me to page eight, line nine.

THE WITNESS: Okay.

MS. GRUBBS: Thank you for the assistance in walking the exhibit up.

BY MS. GRUBBS:

Q. If -- if I could call your attention, Dr. Marke, to the bottom of page eight of Mr. Niemeier's surrebuttal testimony and then following onto page nine. If you want a couple minutes to review that.

A. So I've reviewed it. Would you mind asking the question again? Just -- I want to be sure that I understand this fully.

Q. Sure. So I think -- I should actually circle back to one of my prior questions. That you are aware, as -- as Mr. Berkstresser explained in his surrebuttal testimony, that the original estimate reflected the cost of a feasibility study to assess whether the project was viable?

A. So I've got two testimonies in front of me. I've got the Company's witness who claims that this is just a misunderstanding, if I understand correctly. That the -- there's a $10,000 study. The $10,000 study suggested the project would cost 3.5 million dollars, it was actually 2.9 million dollars.

And then we've got Staff's supplemental direct or -- surrebuttal direct -- sorry, surrebuttal and true-up direct that -- and you can help me point this out. But I don't see anything in Mr. Niemeier's testimony that suggests anything about a feasibility study or the $10,000.

In fact, what I see is -- and I'll just quote it. Because the first part of Mr. Niemeier's testimony talks about whether or not this is a qualifying investment for PISA.

The second part says: Finally, Staff does not agree that a $3,000 cost overrun is inherently imprudent. And then it goes on about that.

But I -- I don't see anything that suggests that this is a $10,000 -- or that -- if -- if I'm to read Mr. Niemeier's testimony it was still over $3,000, not $600,000 less than what was planned.

Q. Sorry. Three -- are you saying 3.5 million instead of $3,000?

A. He says that the -- the Staff does not agree that a $3,000 -- 3000 percent cost overrun is inherently imprudent. So that's the disconnect that I've got. I'm relying, in part, on Staff's testimony identifying that this is a cost overrun and then defending that cost overrun.

What -- the new information that I've heard today is that, in fact, that there was never a cost overrun. In fact, the -- it -- it's a cost savings based off --

Q. Under budget.

A. Under budget, there you go. So this is new information to me. And I'm trying to reconcile that with -- with the Staff testimony that doesn't seem to support what you're saying.

Q. Okay. Well, so then you had reviewed Brian Berkstresser's surrebuttal testimony that describes that that was an initial feasibility estimate. There was a mis- --

A. I see that.

Q. -- a mischaracterization maybe of then what became the full project scope.

A. So at this point, if that is the case -- and my rebuttal testimony actually envisioned this as a potential issue. You know, I wrote down: As such, I'm recommending a 2.9 million dollar cost disallowance of expenditures. Further discovery and dialogue with parties is warranted, and my testimony can be adjusted accordingly.

I'm not against continuing that dialogue if that is truly the case, but I think we would need to get some confirmation that it was never a $10,000 budgeted estimate.

Q. And you -- you didn't seek clarification of that just after reading Mr. Berkstresser's surrebuttal testimony? I just want to clarify.

A. I did not. I mean, the --

Q. Okay.

A. -- the one-line sentence didn't call out the $10,000 study, so that -- that is --

Q. So it was that -- I think the way Mr. Niemeier described it, a 3,000 doll- -- or 3000 percent increase, that was your main concern. Not that it was addressing safety issues and that it ultimately was under budget by over half a million dollars compared to the full scope project costs?

A. So -- so to be clear, you know, my -- my concern is over -- over a perceived investment -- focus on CapEx investments for projects. We didn't have any assurance in terms of -- of a feasibility or cost-effective-benefit study to support it.

I relied on Staff's position that this was a cost overrun of orders of magnitude. We followed -- we raised this as an issue. The first time we are hearing -- the first time that I'm hearing now is -- is today that, in fact, it was never $10,000, it was 3.5 million dollars. And that number -- I'm trying to reconcile this through our discussion right now.

Q. Okay. On the PISA piece of it, I just want to clarify. Do -- do you recall reviewing the surrebuttal/true-up direct testimony of Company Witness Charlotte Emery, which has been admitted as Exhibit 19 that explains why the Company believes that it is PISA eligible?

A. Yes.

Q. Okay. No -- no concerns or disagreement there then that it is PISA eligible?

A. I would agree with that now.

Q. Okay. I believe those are all my questions. Thank you very much.

MS. GRUBBS: And appreciate again the assistance in getting copies from -- from Staff.

JUDGE HATCHER: Thank you.

That will take us to Commissioner questions for Dr. Marke on the Ozark crane extension issue. Are there any Commissioner questions for Dr. Marke?

All right. Hearing none, we will go back through recross. Consumers Council.

MR. COFFMAN: No questions.

JUDGE HATCHER: MECG is indicating no. Staff.

MR. GRAHAM: No.

JUDGE HATCHER: Empire.

MS. GRUBBS: No, Your Honor.

JUDGE HATCHER: We didn't need to do recross, did we? Doesn't matter, everybody said no. Redirect?

MR. WILLIAMS: Thank you, Judge.

REDIRECT EXAMINATION

BY MR. WILLIAMS:

Q. Given all of the information you've learned during the redirect -- earlier Commissioner Kolkmeyer asked you what Public Counsel's concerns were about the Ozark Beach crane extension.

Are they really two? Are they now whether or not it was a project that should have been undertaken at that time, if the safety reasons given really justified the project; and the other -- assuming the bookkeeping error was made as it's been stated in I guess Mr. Berkstresser's testimony, does that also cause a concern about recordkeeping at Empire?

A. It does. It does. That -- at this point I've got more questions than -- than I had answers before I started this.

Q. Are those sta- -- are both of those Public Counsel's concerns at this moment?

A. Yes.

MS. GRUBBS: Objection, this is beyond

the scope of what I discussed on -- on cross-examination.

JUDGE HATCHER: What was your question, Mr. Williams?

MR. WILLIAMS: I was asking if Public Counsel's tw- -- concerns currently are about Empire's bookkeeping and also whether or not there was really justification sufficient to warrant building the crane extension at the time it was done.

JUDGE HATCHER: Overruled. I'll -- I'd like the answer.

THE WITNESS: Yes.

MR. WILLIAMS: Thank you. No further questions.

JUDGE HATCHER: Okay. That, I believe, concludes the issue of the Ozark crane extension.

Dr. Marke, thank you. You are excused from the witness stand on this issue.

Counsel, before I break for lunch, I have an idea. We are down to three live issues, two of which have a number of witnesses that are only available tomorrow. That's Customer Experience and FAC. Our third issue was my add-on talking -- having some testimony about the stipulation. Yes, sir.

MR. WILLIAMS: We still have one witness

on Ozark Beach crane extension.

MS. GRUBBS: Yes, I was going to call that out. Mr. Berkstresser will need to appear tomorrow.

JUDGE HATCHER: Oh, right, right, right. Tomorrow. He's tomorrow. He's tomorrow. I've got that on my list for tomorrow. Yes.

The stipulation. Can we move that to after lunch today?

MR. WILLIAMS: I'm not going to object to that. I mean, I -- it's up to the Commission, so.

JUDGE HATCHER: Would you have a witness? I would presume it would be Dr. Marke, but I'm not sure. Well, let me back up.

MR. WILLIAMS: We didn't sign onto it so it depends on -- I'm not sure what you're looking for us from us or with regard to it.

JUDGE HATCHER: Fair enough. The Commission has questions on the stipulation. And we were talking earlier about adding that on as an issue in the case to have witnesses -- have some questions specifically by the Commissioners, perhaps in cross-examination as well.

My thought process would be -- I think I'm repeating this correctly. The Company said

Ms. Emery would be the main answerer on the stipulation. I believe Staff said or indicated -- or maybe I'm making it up -- that Sarah Lange would be the person?

MR. VANDERGRIFF: We have Sarah Lange, we have J Luebbert, we have Kim Bolin.

JUDGE HATCHER: Okay. Oh, that's right, Ms. Bolin.

MR. VANDERGRIFF: And Claire Eubanks.

JUDGE HATCHER: I am thinking let's break for lunch. And after lunch, let's come back with witnesses on the stipulation to answer -- I have about a handful -- maybe half a dozen questions. And then we'll go through the same cross-examination, et cetera.

I understand -- I understand that this isn't a real issue, that this is not something that the parties submitted for witnesses so this is a little ad hoc. So I'm looking for some feedback.

If OPC would like to call a witness, I would be amenable to that to kind of go around -- or some -- some latitude here is what I'm looking for. Mr. Williams.

MR. WILLIAMS: I -- at this point I don't know whether I'd want to call someone or not. I have no idea about what you're going to ask regarding the agreement, which is now change in positions.

JUDGE HATCHER: Yes. Ms. Carter.

MS. CARTER: Judge, I was going to say if you actually have a list of questions already, it would be super helpful if you could share those with us, and then let us have our lunch break and we'd make sure and have the answers.

It would also be helpful for us if OPC's going to put up a witness, then for the other parties to know how to handle that, if we're going to be cross-examining that witness. So the more information we could, get the better, in summary.

JUDGE HATCHER: Done. Sold. Let's break for lunch. We'll come back at 1:00. At 1:00. I will e-mail counsel for the parties the list of questions.

Mr. Williams, then after review of the questions, if you have a better idea of how Public Counsel wants to move forward, let us know at the beginning when we come back. Would that be sufficient?

MR. WILLIAMS: Sure.

JUDGE HATCHER: Okay. I think that sounds like a good plan. Let's try and wrap up questions on the stipulation today. We are at recess until one o'clock and we are off the record.

(A recess was taken.)

JUDGE HATCHER: Let's go back on the record. We are continuing the evidentiary hearing in general rate case ER-2024-0261. This is in the matter of the Empire District Electric Company, doing business as Liberty.

We have concluded several topics entered into the record. I would like to just review. For the next two days, we will be discussing four issues. Tomorrow will be the continuation of Customer Experience with the appearance of Witness John Reed. Tomorrow will also include FAC. And tomorrow will include Witness Berkstresser testifying on the Ozark crane issue.

Today we are going to finish off by discussing the stipulation. This is not a pending stipulation. It is a non-global, non- -- or it's a Global Non-Unanimous Stipulation that has been objected to by the parties. It has become a position statement of the parties. However, the Commissioners do have some questions about the various details contained in that document.

So to that end, let's start the issue of the stipulation. And we have been going with the

Company going first. Counsel.

MR. VANDERGRIFF: Your Honor, before we begin, I'd like to offer one additional document, as previously discussed earlier. It is the monthly bill impact for residential customers for the time-choice rate plan.

We could probably enter it into evidence as Exhibit 180 as a demonstrative exhibit. The stipulation itself resolves nearly all the contested issues is our position, but it does not lay out a single consolidated format for this agreement on a month-to-month basis and this is the exhibit to rectify that.

JUDGE HATCHER: What's the source of this exhibit?

MR. VANDERGRIFF: It was derived from using our -- the stipulation and agreement by our Staff Expert Sarah Lange, who is here today.

JUDGE HATCHER: Mr. Williams.

MR. WILLIAMS: I know it's demonstrative, at least that's the way he's put it forward, but I don't know that it has much meaning without some explanation.

JUDGE HATCHER: I -- I note that Ms. Lange is in the audience and she may be called to testify on the stipulation. Mr. Williams, would that address your initial concern that we would have some -- the person who produced this table on the stand to ask questions of?

MR. WILLIAMS: Potentially, sure.

JUDGE HATCHER: Let's hold off on 180 until we get to that point and then we will revisit the issue.

I do not have a list of witnesses, so Empire.

MS. CARTER: Judge, we would start with Charlotte Emery. She will be able to answer most of those questions you provided by e-mail. Candice Kelly, I am hoping is on WebEx, we caught her driving. And she would be needed to answer one of the questions.

JUDGE HATCHER: Okay. Ms. Emery, you've already been sworn in. That still applies. Please go ahead and take a seat.

THE WITNESS: Yes. Sorry.

JUDGE HATCHER: No, you're fine.

THE WITNESS: Okay.

JUDGE HATCHER: Go ahead. Or are we starting with Commissioner questions? I really hadn't --

MS. CARTER: That is my assumption.
JUDGE HATCHER: Yes. Yes. Let's do that. I'm seeing nodding heads. Let's go ahead and start with Commissioner questions. Chair.
CHARLOTTE EMERY,
having been previously sworn, testified as follows:
QUESTIONS
BY CHAIR HAHN:
Q. Good afternoon, Ms. Emery.
A. Good afternoon.
Q. Were you -- I assume you helped oversee the Liberty Water rate case; is that correct?
A. That's correct.
Q. Okay. In the Liberty Water rate case, I recalled I think yesterday that OPC was a signatory to that agreement. Is -- was OPC a signatory to that stipulation and agreement?
A. Yes, they were.
Q. Okay. And that stipulation and agreement did have phased-in rates, right?
A. Correct. Phase-in for Bolivar.
Q. And that phase-in did have a carrying cost associated -- or it did not?
A. It did not have a carrying cost associated with it.

Q. Okay. And this agreement similarly does not have a carrying cost associated with that phase-in?

A. Correct.

Q. Okay. Thank you for clarifying.

A. Yes.

Q. Number 28 of the stipulation and agreement is on arrearage forgiveness, the 8.5 million dollar customer program. Can you talk to me about what the funding source of that program is? If it's some shareholder dollars, some customer dollars or all of one or the other?

A. So how it -- it -- from my understanding of how it will work, it will be an 8.5 million dollar payment to -- to customer arrearages provided by shareholders. And -- yeah, so that's --

Q. So it's 100 percent shareholder funded?

A. Yeah.

Q. Thank you. Number 36 of the stipulation and agreement is on reliability. That Empire will collaborate with Staff and OPC to work to reduce the duration of outages.

Talk to me about what that means. I think we did hear various service issues throughout the local public hearing, but there's really not a lot of detail here. Can you --

A. Yeah. And I also maybe encourage on the -- on the Staff to their -- but I'll give you my understanding of it.

We did have several comments at local public hearings, and I am certain there were more comments filed informally as well within the -- within the case. Specifically there were also some very pointed data requests in regards to certain substations and areas where certain customers are getting -- had some reliability issues.

And so we have committed to being able to identify those worst-performing circuits associated with certain customers that keep experiencing -- I'm going to call them momentarily outages. I think that's -- or blinking of lights.

We have had several customers indicate that they lost food, appliances, various items. And so just needing to look further into that to make sure we better understand what might be occurring on our system.

Q. Okay. Yesterday I had asked Ms. Walt some questions about in-person Customer Service Centers and there's nothing in the stipulation and agreement about in-person Customer Service Centers. I continue to be concerned about that given the feedback from the local public hearings.

But are there any other efforts other than those just mentioned yesterday by Ms. Walt in her testimony about customer service that are not specifically laid out in the stipulation and agreement?

A. So I might circle back to the conversation you had with Ms. Walt. I -- I had a discussion with Ms. Walt directly through my supervisor, and we want to make sure that we communicate back to -- to you your concern.

We heard what was said yesterday and specifically in regards to complex billing issues where a customer needs to sit face-to-face in order to get those issues remedied.

And so while we are very hopeful that the -- the -- the issuances of -- of issues are declining and that will be less prevalent, we recognize that that is very much a service that we need to provide to our -- to our customers.

So in talking with Ms. Walt, we're going to have appointments available in our Aurora Service Center. So when customers in that Aurora area have issues that they need to come in and speak face-to-face with our customer service, that we will have folks there available for them.

And maybe even more importantly, we're going have the right folks. So when they make that appointment, that we know what issues that particular customer has so we can better serve them at that time.

Q. That is a -- much improved. Thank you very much.

A. You're welcome.

JUDGE HATCHER: Commissioner Kolkmeyer.

COMMISSIONER KOLKMEYER: Thank you, Judge.

QUESTIONS

BY COMMISSIONER KOLKMEYER:

Q. Good afternoon.

A. Good afternoon.

Q. I thought I heard yesterday that the Aurora Service Center was closed?

A. It is. It -- the customer service side there -- it doesn't take customer walk-ins, but it -- it is a service center for our operations.

Q. Operations only?

A. Yeah.

Q. Okay.

A. But we're going to -- by appointment, so we can make sure that we have the right folks there, we're going to commit to having customer service. And frankly, if we need a billing person there, if we need a meter person there, we're going to make sure that we have the right people there to address customer issues.

Q. Okay. Thank you.

A. Uh-huh.

JUDGE HATCHER: Are there any other Commissioner questions?

QUESTIONS

BY JUDGE HATCHER:

Q. Okay. I do have several Bench questions, and these are going to be the ones that I e-mailed earlier.

A. Okay.

Q. So the first one, paragraph ten cites to Exhibit A, the proposed depreciation rates. Paragraph ten states that there is good cause to adopt these rates and accounts in lieu of current Commission-approved FERC US of A -- USOA.

It -- is it the amortization of computer software that is in conflict with the USOA? If not, please identify all depreciation rates that are in conflict.

A. Yeah, it is not -- to my understanding, it's not related to the computer. But what it relates to is the fact that FERC Order 898 became effective in January of 2025, which further broke out depreciation rates for very specific functional property. And so we went ahead and are getting depreciation rates to comply with the FERC Order 898.

Q. And the second question is on paragraph 16, which refers to tax equity distribution. Can the Company or Staff provide a more detailed look about what this paragraph pertains to?

A. Yeah, I might defer more to the Staff witness on that. I -- I can, however, answer your -- what I think is going to be your second question.

Q. And then the next question --

A. Yeah.

Q. -- absolutely. Can Liberty provide more detail of when the tax equity partner distributions began in 2016 and how far ahead of that date Liberty will file its proposal for the rate-making treatment of those funds?

A. Sure. I checked with our tax accountants -- or accountants on this and they indicated that the actual equity distribution agreement that we have with our tax equity partner doesn't specify a specific date for those distributions, only that they occur in 2026.

Right now they're contemplating doing it on a quarterly basis, but I can also say we will commit -- the Company can commit to filing it 30 days before any distribution is made.

Q. Thank you. And I'll just move right down the list to question number three. This is on paragraph 20. This refers to ethics and capital- -- capitalization internal audits.

Now I'm reading the second part of the question: Can Staff provide more detail of what these audits are intended to provide? I think we'll skip that one. Thank you.

Question four, paragraph 23 refers to the discontinuance of excess EADIT tracker. This is Issue 129.

A. Uh-huh.

Q. Was this tracker specifically for unprotected property or also for protected property?

A. When it was initially authorized by the Commission, it was for protected and unprotected.

Q. How will the remaining protected excess EADIT be treated in future rate cases?

A. Yeah. So we've agreed to do the Reverse

South Georgia Method instead of the ARAM method for amortization. So we're just changing the type of amortization method on it, but we will continue to flow that through our revenue requirement as an adjustment. I believe it reduces tax expense.

Q. Okay. And there was testimony on that South Georgia method, right?

A. Yes. Company Witness Michel McCuen.

Q. Last two. Paragraph 26 refers to the revised tariff to reflect the new calculation method for budget billing. Whose testimony contains a description of the, quote, new method?

A. So I believe that is the -- the question that, unfortunately, I'm not able to answer. But I think Candice Kelly may be online to answer that one.

Q. Okay. We'll circle back around and catch her when she's online.

Last question. There's no exhibit that includes the agreed plant and accumulated depreciation reserve balances as of the true-up date, March 31st, 2025. Since there were issues related to both plant and reserve, will there be an exhibit that quantifies the plant and reserve balances as of the true-up date?

A. No, it's not our intention that it's needed. The 97 million was a -- just an agreed-upon rate -- rate revenue increase. We don't feel it's needed at this time.

Q. And that leads to the next question. Won't those amounts be needed going forward leading up to Liberty's next rate case?

A. I haven't had a need to use them. I can specifically say in our '21 rate case where we had a stipulation and agreement, there was no agreement needed that stipulated the specific plant in service and accumulated depreciation balances.

Q. Okay. Those are all the questions I have.

JUDGE HATCHER: I will ask the Commissioners one last time if there are any Commissioner questions?

Okay. Hearing none, we will go to our recross-examination. Mr. Opitz indicates he has no questions. Staff.

MR. VANDERGRIFF: No questions.

JUDGE HATCHER: Consumers Council.

MR. COFFMAN: No questions.

JUDGE HATCHER: Public Counsel.

MR. WILLIAMS: Thank you.

RECROSS-EXAMINATION

BY MR. WILLIAMS:

Q. And it relates to the phase-in. Was the Liberty Water case WR-2024-0 -- 0104? Is that the case number for that case?

A. Subject to check, Mr. Williams. I -- I don't have that number in front of me.

Q. And while no carrying costs are specified in the stipulation and agreement, there is a basing of the deferred amount for the phase-in of rates, is there not?

A. In which case are you referring --

Q. The current case.

A. -- in the -- the water case or the --

Q. No.

A. -- current electric case.

Q. This case.

A. Yes. Which is similar to how it was worded inside of our water case as well.

Q. So the water case includes a rate-basing of the deferred amounts?

A. Yes, it does.

Q. And that would be reflected in the docket in that case, correct?

A. I believe it's in the order.

Q. And in the water case, was not Bolivar a party in that case?

A. The City of Bolivar was a -- was a stakeholder, yes.

Q. And that rate case was about rates that apply in Bolivar. Is that not correct?

A. Bolivar and all of our service areas that Missouri Water serves, but yes.

Q. Was the phase-in applicable to the entirety of your water service area or only Bolivar?

A. Bolivar.

Q. Thank you.

A. Uh-huh.

JUDGE HATCHER: Thank you, Mr. Williams.

And then we'll go back to redirect.

MS. CARTER: I have no questions.

And -- and, Judge, I'd say Ms. Kelly is on the line.

JUDGE HATCHER: Perfect.

Ms. Emery, I appreciate you being here again today.

Let's go ahead and -- remind me the witness's name.

MS. CARTER: Candice Kelly.

JUDGE HATCHER: Candice Kelly, thank you.

MS. CARTER: And she was on the stand previously.

JUDGE HATCHER:  Ms. Kelly, can you speak up if you hear me?

THE WITNESS:  Good afternoon, Judge.  I am here.

JUDGE HATCHER:  Excellent.  Thank you.

I don't believe we have sworn in Ms. Kelly yet.

THE WITNESS:  Yesterday.

JUDGE HATCHER:  We did.  That's right, yesterday.  Thank you.

MS. CARTER:  Judge, she was, however, excused because she wasn't planning to be on the stand again, if you would like to swear her in again.

JUDGE HATCHER:  No, I think it --

MS. CARTER:  Okay.

JUDGE HATCHER:  -- it certainly applies since we're still in the same proceeding.

So, Ms. Kelly, we're going to ask you some questions about the stipulation and agreement.

Are there any Commissioner questions for Ms. Kelly?

Okay.  And the Bench does have one.  Let me find out where that went.  I'm going to look to the audience and maybe Ms. Emery, if they could give me the number.  Was it question five?  It was question five.  Thank you.

CANDICE KELLY,

having been previously sworn, testified as follows:

QUESTIONS

BY JUDGE HATCHER:

Q.    Ms. Kelly, my question is, paragraph 26 of the stipulation refers to the revised tariff to reflect the new calculation method for budget billing. Whose testimony contained the description of the new method?  And could you please explain in simple terms how the new method varies from the way the existing tariff requires budget bills to be calculated?

A.    Of course.  The testimony -- my testimony is where the budget billing tariff changes are -- are talked about.  However, the calculation is not mentioned in the testimony itself.

In the current tariff, the budget bill plan calculation is in amounts equal to 1/12th of the estimated annual cost of service to the customer.  And the difference between the customer's rate schedule billing and their contract billing is accumulated and the outstanding balance will be applied to the next year's budget bill plan.

The new tariff, the calculation is looking at the total charges for the previous

12 months for that customer or that location and dividing that by the total number of days in the billing cycle and then taking the daily average and multiplying it by 30 to come up with a new installment amount for budget bill plan.

Q. I'm going to repeat my understanding of those two methods and then I'm going to have a follow-up question. The original current budget billing is taking the total annual amount and then dividing it by 12; is that correct?

A. Yes, that is correct.

Q. And then the new method is going to be taking the total charges over the year, but then the difference is going to be in those denominators. We're going to divide by the number of days in the billing cycle and then get to our division into 12 monthly payments; is that correct? I know that that would not pass a math exam, but --

A. The first part is correct that we are taking the total charges for the previous 12 months and dividing that by the total number of days in the billing cycle, but then taking that daily average and multiplying it by 30 to come up with the new installment amount.

Q. Okay. That leads me to my follow-up

question. The second formula seems, on its face, more complicated. What benefits does the change have for the Company or for customers?

A. In the previous budget bill, it's looking just at a rolling 12 months average; whereas, we're getting a little deeper into the details with the daily average and taking that by 30.

Q. And what benefit does that provide to the Company or to customers?

A. That's a great question. I'm -- I'm not sure that there's really much difference either way.

JUDGE HATCHER: Commissioner Coleman.

COMMISSIONER COLEMAN: Thank you.

QUESTIONS

BY COMMISSIONER COLEMAN:

Q. Ms. Kelly, so I'm leaning somewhere toward the questions that Judge Hatcher had. I'm trying to determine if there is no real difference, what the reason is? There has to be a benefit to somebody, because nobody just creates additional math for no reason.

So I'm -- I really need some type of understanding why going from a general average, take, you know, the monthly amount divided by 12, that figures -- that's real simple. So why add a complication?  Thank you.

A.    Thank you for that question, Commissioner Coleman.  The -- currently the way the system is configured is the way I've described it in the second scenario where it is already set up to take that average.  So making a change to dividing it by 12 would be a system change as well.

Q.    So you're saying that it's always been set up that way, but you all were doing it differently?

A.    It's a new -- in the new CSI system, that is how it is set up, yes.

Q.    Okay.  New system.  Okay.  I've got to mull over that for a while.  Thank you.

FURTHER QUESTIONS

BY JUDGE HATCHER:

Q.    And, Ms. Kelly, just to nail that down a little bit further, when you say the new system, are we talking about the Customer First system?

A.    Yes.

JUDGE HATCHER:  Okay.  Any further Commissioner questions?  Chair.

FURTHER QUESTIONS

BY CHAIR HAHN:

Q.    What are we going to call Customer First?

A. Oh, I'm sorry. Commiss- -- Chair Hahn, was that question for me?

Q. Yeah. What are we going to call Customer First? I think the stipulation says we're not calling it Customer First anymore. Apparently in discussions folks must have felt like the name didn't match the outcomes. So what are we calling it?

A. That is also a great question, Chair Hahn. I'm not sure what we're going to call it. We are open to discussion. It was requested by parties to make that change.

MS. CARTER: Yes. Chair Hahn, I'm not sure if that was rhetorical or not, but that was a request from OPC that the -- that the name be changed.

CHAIR HAHN: Interesting.

JUDGE HATCHER: Any further Commissioner questions?

Okay. We will go through our recross-examination procedures. This is a Company witness, so we will go Mr. Opitz.

MR. OPITZ: No, thank you.

JUDGE HATCHER: He indicates no questions. Staff.

MR. VANDERGRIFF: No, thank you.

JUDGE HATCHER: Consumers Council.

MR. COFFMAN: Yes. Because I'm confused. I just would like to ask about the budget billing again.

RECROSS-EXAMINATION

BY MR. COFFMAN:

Q. Could you explain to me -- could you just -- could you restate what is changing in the calculation of budget billing again for me, if you don't mind?

A. Of course. The current tariff calculates budget bill by taking the customer's previous 12 months and dividing it by 12 to get the average amount going forward.

The revised tariff would have the budget bill plan calculated by taking the total number of days in the billing cycle -- sorry, by taking the total charges for the previous 12 months and dividing that by the total number of days in the billing cycle to get the daily average and then multiplying it by 30 to come up with the new installment amount.

Q. And you think that that will arrive at a different number?

A. I do.

Q. Will it be substantially similar?

A. I think it's on a case-by-case basis on

the customer's usage --
Q. Okay. But it --
A. -- and what their -- their pattern is.
Q. And -- but it's going to continue to be based on historical usage, not projection forward; is that right?
A. Correct.
Q. Okay.
A. That is correct.
Q. Okay. Thank you. That's all I have.
JUDGE HATCHER: And Public Counsel.
MR. WILLIAMS: No questions. Thank you.
JUDGE HATCHER: Before we go to redirect, we have another Commissioner question. We will go back through recross and then we will do the redirect. Commissioner Coleman.

FURTHER QUESTIONS

BY COMMISSIONER COLEMAN:
Q. Ms. Kelly, do you happen to know how many of your customers are on budget billing right now?
A. I do not have that answer right now, Commissioner Coleman. I believe that has been answered possibly in a -- in a data request that I could get for you, but I do not have that with me right now.

Q. All right. And do you know if historically those numbers have been a high percentage in the past or historically based on what they are currently and what might be projected?

A. I do not know that at this time.

Q. Okay. Thank you.

JUDGE HATCHER: Okay. We'll go back through our recross-examinations. Mr. Opitz --

MR. OPITZ: No, thank you --

JUDGE HATCHER: -- indicates no questions. Staff.

MR. VANDERGRIFF: No, thank you, Your Honor.

JUDGE HATCHER: Consumers Council.

MR. COFFMAN: No more, thank you.

JUDGE HATCHER: Public Counsel.

MR. WILLIAMS: No, thank you.

JUDGE HATCHER: And now redirect.

MS. CARTER: No, thank you.

JUDGE HATCHER: Thank you, Ms. Kelly. And we really appreciate you taking the item to call into the WebEx. I -- I know that the schedule got rearranged at the last minute and I appreciate your patience.

THE WITNESS: Absolutely. Thank you.

JUDGE HATCHER:  Does the Company have any further witnesses on the stipulation?

MS. CARTER:  Only if there are additional questions and we can try and find you the right witness.

JUDGE HATCHER:  Okay.  We'll go with that.

Staff.

MR. VANDERGRIFF:  Your Honor, we got the questions that you sent and we have -- I'll just give you a list.  We have Kim Bolin available for your first question, we have Matthew Young available for your second.

On your third question, you referred to paragraph 20 and we have Tyrone Thomason available. You did not mention paragraph 19 that asked about external audits, but we got Matthew Young available for that.  We have Matthew Young available for paragraph 32, that's your fourth question.  We have Tyrone Thomason available for your fifth.  And for your sixth question, we have Kimberly Bolin.

Chair Hahn asked two questions.  We have Kim Bolin available for that and we have Claire Eubanks available for Chair -- the Chair's question for paragraph 36, I believe.

One more. We have the Exhibit I tried to -- to move in a couple of times and we have Sarah Lange available for that.

JUDGE HATCHER: Only because it's -- only because it's with the exhibit, let's do that one last. I'm thinking let's do Ms. Bolin first to give us a better overview and then we can jump into the details as we go through. It looks like all of your named Staff members are here.

MR. VANDERGRIFF: I guess I'm going to change it up. I'm going to correct my first paragraph. It's going to be Claire Eubanks. Apologies. But Claire -- are we ready to call her?

JUDGE HATCHER: Yes. I was waiting for the coin flip.

Ms. Eubanks, you've already been sworn in. That still applies. Please go ahead and have a seat. We will jump right in with Commissioner questions.

Are there any Commissioner questions for Ms. Eubanks?

Okay. And, Mr. Vandergriff, would you remind me which questions I'm asking of Ms. Eubanks? It was number one and two?

MR. VANDERGRIFF: Just number one, Your

Honor.

JUDGE HATCHER: Just number one.

QUESTIONS

BY JUDGE HATCHER:

Q. Ms. Eubanks, paragraph 10 to Exhibit -- cites to Exhibit A, the proposed depreciation rates. Paragraph 10 states that there's good cause to adopt these rates and accounts in lieu of the current Commission-approved FERC US of A.

Is the amortization of computer software that is in conflict -- is it the amortization of computer software that is in conflict with the USOA? If not, please identify all depreciation rates that are in conflict with the USOA and why.

A. So the -- the Uniform System of Accounts is part of Commission rules. It's 20 CSR 4240-20.030. It's the 1992 version of the Uniform System of Accounts. FERC Order 898 had various changes. And Ms. Emery was up earlier, she talked about that it was -- the -- the account numbering and new accounts were established.

So the depreciation rates that are in the stipulation are reflective of the -- the account -- new account numbering system. So it is not the rates that are in conflict. It is what we used to call the account numbers. So that includes things like computer hardware and software, but also some of the wind and solar plant as well.

JUDGE HATCHER: Let me just check with Mr. Vandergriff real quick. Your -- the other answers are by other witnesses?

MR. VANDERGRIFF: They are, but I do want to clarify one more. The Chair did have a question with regards to paragraph 36, and Claire is our witness for that as well, if she wanted to ask her reliability question to Claire.

CHAIR HAHN: Thank you, Mr. Vandergriff.

QUESTIONS

BY CHAIR HAHN:

Q. Ms. Eubanks, would you like to expand on any improvements that the Staff would like to see in regard to reliability?

A. So this stipulation provision comes from my -- I believe my surrebuttal testimony. I talked about rebut -- reliability in my rebuttal testimony, and OPC had some concerns about some of the projects and also the reliability experience of customers.

So we don't have specific items that we're asking to be ordered. In this case the provision is a collaboration between Staff and OPC to toe address what I saw were supported by reliability metrics that are reported to the Commission, which related to the duration of outages and also worst-performing circuits.

The -- the Company is already required in their reliability reporting to address worst-performing circuits and propose improvements. So it's -- it's really just bringing Staff and OPC into that discussion is the intention.

Q. Thank you. Appreciate that.

JUDGE HATCHER: Thank you, Ms. Eubanks. I appreciate you being here again today.

Go ahead and call your next witness.

You are excused from the witness stand.

THE WITNESS: Do we have any questions from other parties?

MR. WILLIAMS: You want me to grill you for a while, Claire?

THE WITNESS: No, just --

JUDGE HATCHER: My apologies. We were mixing up everything today and I'm really trying some -- some interesting shortcuts apparently.

We have recross-examination to go through for all the parties. My apologies. My apologies for forgetting, not for the questions.

Let's see. This is a Staff witness. First we go to Mr. Opitz.

MR. OPITZ: No, thank you.

JUDGE HATCHER: Consumers Council.

MR. COFFMAN: No questions.

JUDGE HATCHER: Empire.

MS. CARTER: No, thank you.

JUDGE HATCHER: Public Counsel.

RECROSS-EXAMINATION

BY MR. WILLIAMS:

Q. One or two, I think. On The depreciation rates in the stipulation and agreement, Public Counsel did not object to the entirety of those depreciation rates. Is that not correct?

A. I don't believe so.

Q. You don't bel- --

A. I --

Q. Did Public Counsel object to all the depreciation rates or only a part of them?

A. Only a part of them is my understanding from the position statement.

Q. And Public Counsel has not objected to adopting the FERC 898 accounting -- USOA accounting break-out as opposed to what's required under the current Commission rule, correct?

A. Yes, that's my understanding.
Q. No further questions.
JUDGE HATCHER: Thank you.
And that goes to redirect.
MR. VANDERGRIFF: No redirect, Your Honor.
JUDGE HATCHER: Thank you.
And now.
THE WITNESS: Thank you.
MR. VANDERGRIFF: Our next witness is Mr. Matthew Young.
JUDGE HATCHER: Are we purposefully keeping Ms. Bolin waiting?
COMMISSIONER KOLKMEYER: She can't wait.
JUDGE HATCHER: Come on down. You've already been sworn. Please join our party. Thank you, Mr. Young.
Are there any Commissioner questions for Mr. Young? And I'm going to look meaningfully at Mr. Vandergriff. What questions on the list?
MR. VANDERGRIFF: So paragraph two is for tax equity distribution. Number two in paragraph 16.
JUDGE HATCHER: Thank you.
MATTHEW YOUNG,
having been previously sworn, testified as follows:

QUESTIONS

BY JUDGE HATCHER:

Q. Mr. Young, paragraph 16 refers to tax equity distribution. Can Staff provide more detail about what this paragraph pertains to?

A. I think there's been a -- some miscommunication. I'm going to defer that paragraph to -- to Ms. Bolin. I can -- I can speak to the number three and four on -- on the list of Commission questions.

Q. Well, let's -- let's do three and four. I apologize.

MR. VANDERGRIFF: And I apologize too. But just to reiterate, we had question 19 for external audits. You -- you didn't ask for that one, but you did ask for 20. So if you -- if you're asking about audits, that might be there as well.

JUDGE HATCHER: I'll see if anyone e-mails me.

BY JUDGE HATCHER:

Q. Let's move to three and four, Mr. Young. Number three says: Paragraph 20 refers to ethics and capitalization internal audits. Can Staff provide more detail of what these audits are intended to provide and the specific problems they address?

A. Sure. I tried my best to outline the current events and -- on pages 24 through 31 of my direct testimony. And I'd also like to note that in rebuttal testimony, Mr. Wilson from Empire agreed with the -- with the recommendations of that part of my direct.

The audits were brought about I think for two reasons. The first reason were a response to customer filings, customer comments from former Empire employees. My impression is that these employees were -- were long tenured, most of them very likely going back before Algonquin acquired Empire in 2017.

These customer comments generally accused Empire of basically capitalizing too much. They accused them of -- of diverting projects from -- from maintenance to capital projects by replacing perfectly good equipment or -- or doing some creative accounting to -- to inflate the -- the amount of capital spending they could come up with.

And there also were some concerns with how they interacted with the third-party contractors from both in the competitive bid process and -- and the gratuities accepted by employees.

So -- so I asked for all of Empire's policies in response to the -- the customers' input.

I -- I didn't want to do nothing with the information they provided. And I didn't find any evidence of impropriety, okay?

But the internal audits I think -- I would hope they would frame up a re-evaluation of how Empire controls its spending and ensures it's acting in the ratepayer's interest on a general and -- and specifically the -- the items mentioned in those -- those customer comments.

And the second part of -- of what is driving this audit is some things that -- that we came across -- we, as the auditors of the Staff Commission, came across during the audit. Where -- where we found that Empire was capitalizing some -- some cost items that had questionable relationship to construction.

So hopefully those -- those overhead-type of costs that are -- that are ending up in plant accounts will be included in what the Internal Audit Department examines.

Q. Mr. Vandergriff brought up external audits in paragraph 19 and my question was on paragraph 20, internal audits. Am I correct in concluding that the "internal" designation indicates that this will be an audit done by Liberty personnel?

A. Exactly, yes.

Q. Let's move on to question four on that list that we e-mailed. Paragraph 23 refers to the discontinuance of the excess EADIT tracker. Was this tracker specifically for unprotected property or also for protected property?

A. It is my understanding it was -- it is for both protected and unprotected. And I can cite to the Commission's order approving the stipulation and agreements they issued in ER-2021-0312.

That order approved the Non-unanimous Partial Stipulation and Agreement in that case, which contained paragraph six titled EADIT tracker.

Okay. That paragraph references a tracker that's going to capture the difference between protected EADIT return to customers as part of the revenue requirement and the actual amortization recorded by Empire using ARAM.

But it also mentions a three-year amortization period for non-stub period, unprotected EADIT balances. So that -- that stipulation the Commission approved addresses protected and unprotected.

JUDGE HATCHER: Mr. Vandergriff, was that -- those are the questions. Thank you.

Any further Commissioner questions for

Mr. Young before I start the recross examination?

Hearing none, we'll go to recross-examination. This is a Staff witness. We start with Mr. Opitz, who indicates no questions. Consumers Council indicates no questions. Empire indicates no questions. Public Counsel.

MR. WILLIAMS: No questions.

JUDGE HATCHER: And redirect by Staff.

MR. VANDERGRIFF: No redirect, Your Honor.

JUDGE HATCHER: Thank you.

Thank you for the third time today, Mr. Young. I appreciate you being here.

MR. VANDERGRIFF: We'll stop hiding Ms. Bolin. Please take the stand.

JUDGE HATCHER: Ms. Bolin, you've already been sworn in in this case.

THE WITNESS: Yes. Yes, I have.

JUDGE HATCHER: That still applies. Let's jump right in with Commissioner questions on question number --

MR. VANDERGRIFF: Two and six.

KIMBERLY BOLIN,

having been previously sworn, testified as follows:

QUESTIONS

BY JUDGE HATCHER:

Q. I'm going to be asking about number two and six. Question number two on the sheet I distributed to all the parties. Paragraph 16 refers to tax equity distribution. Can Staff provide more detail about what this paragraph pertains to?

A. Yes. This is with the tax equity partnership on the wind farms. There are cash distributions that Empire is sweeping before they start doing the cash distributions to the tax equity partners.

And we had a little confusion on exactly how the rate-making of those cash distributions are going to work in the future. So I think we just need more time and more understanding on this and that's what the stipulation is getting to. It has no current impact on the revenue requirement.

Q. So if there isn't an agreement by the time these payments start, there will be another case filing or --

A. Possibly.

Q. -- deal with it down the road?

A. I think -- I think we can figure the -- it just needs -- we need more time to understand what is going on here.

Q. Okay. I understand. Thank you.

A. And I think we need more detail.

Q. And my other question was number six. There is no exhibit that includes the agreed plant and accumulated depreciation reserve balances as of the true-up date, March 31st, 2025. Since there were issues related to both plant and reserve, will there be an exhibit that quantifies the plant and reserve balances as of the true-up date?

A. No, there was not. And there is not a need for one with the settlement. I'd like to point out we do have amortization balances attached as a schedule and those would be needed in the future.

Q. Okay. Thank you.

JUDGE HATCHER: I'll open that back up to other Commissioner questions. Chair Hahn.

QUESTIONS

BY CHAIR HAHN:

Q. Good afternoon, Ms. Bolin.

A. Good afternoon.

Q. Can you just give me a high level -- you've been involved in this case, previous Liberty cases and also you're involved in the investigation case. From your view, taking into account the billing considerations, do you think that this stipulation agreement results in just and reasonable rates?

A. Yes, I do. Staff's case, with all of our disallowances for Customer First matters and customer service matters was 128, almost 129 million dollars. This settlement is 97 million. We still have our investigation going where we can bring up more matters that need to be brought before the Commission on customer service so we can still handle that in the investigation.

Q. Thank you.

JUDGE HATCHER: Any further Commissioner questions for Ms. Bolin?

Hearing none, we will go back to our recross-examination. This is a Staff witness. MECG indicates no questions. Consumers Council indicates no questions.

MR. COFFMAN: No, I -- I do.

JUDGE HATCHER: Oh, I'm sorry. Consumer Council, go ahead.

RECROSS-EXAMINATION

BY MR. COFFMAN:

Q. And -- and this is a broad question, but I hope it will be allowed since the Chair did ask about kind of the high level of this Non-Unanimous Stipulation, which is now a Joint Position Statement of the signatories.

And my main focus is on the Customer First regulatory asset. And if you could just help me understand how this works mechanically. There is -- the -- the -- the first paragraph indicates that the -- 97 million dollar revenue requirement recommendation does not include Customer First. That there is -- it's recognized that that's not in the 97 million.

And then paragraph 7 describes a Customer First regulatory asset, which would then still be possible for the utility to recover if they met certain performance metrics on a monthly basis, correct?

A. That is correct.

Q. And so even though it's not included in the 97 million, there's the potential for this utility to have in a regulatory asset $1,145,863 in each month that they meet these metrics.

A. There is. And that would total to thirteen-thousand seventy-hundred fifty-thousand [as said] dollars a year.

Q. Okay.

A. Which still wouldn't get you to our 129.

Q. Okay. So as -- as you interpret

paragraph seven, what you're recommending to the Commission is that this regulatory asset not ever be more than 13 million?

A. That is correct. Well --

Q. So it doesn't roll over and -- like if it went on for two years?

A. If it went on for two years. But our amounts are annual in- -- amounts that get -- like the 128 million would be the increase so you would see the revenues increase by 128 million dollars.

Q. Okay. Okay. So it's a rate-base amount, not a revenue requirement amount?

A. This would be included in rate base, that's correct.

Q. Okay. And so then the rate -- so what -- and then the -- so what -- how high could this regulatory asset grow to be if -- if let's just say hypothetically the utility met the performance metrics in 24 of the months between now and the end of this period?

A. If they met them for 24 months --

Q. Uh-huh.

A. -- it would be roughly 27 million dollars.

Q. Okay. And then that 27 million dollars would then be reviewed by the Commission in another case two or three years from now?

A. Whenever they come back in. They cannot come in any sooner -- cannot file any sooner than two years, 24 months.

Q. But that -- yeah. That hypothetical amount, which could be 24 million or somewhere in that range, would be in addition to the 97 million dollars in this --

A. It would be --

Q. -- non-unanimous --

A. -- in the next rate case.

Q. Okay. But it could --

A. It would recover -- the recovery would be looked at in the next rate case.

Q. And how soon could that amount be addressed by the Commission given the year one, year two, year three? Would it -- would it necessarily be after the year three, 97 -- after -- after the revenue requirement had gone up 97 million or could it occur before that?

A. No, they cannot come in and file -- they cannot file a rate case for 24 months after the effective date of February 1st in this case. So a rate case takes 11 months.

Q. Right. Right. And so 24 -- 24 months from the Report and Order in this case, your recommendation would have the revenue requirement be at 97 million. That would be the year three -- year three would be 24 months after the ord- -- the effective dates in this case --

A. Correct.

Q. -- is that right?

A. Yes.

Q. Okay. And would -- would there be any carrying costs on this regulatory asset?

A. That is not addressed in this paragraph. The paragraph says the amounts are subject to review and recovery in a future rate case.

Q. So the -- and this is a separate regulatory asset from the deferred revenue regulatory asset, correct?

A. That is correct.

Q. So that -- that's in paragraph eight and that refers to the carrying cost over the -- the phase-in, the three different years; year one, year two, year three?

A. That is correct. That's that -- that asset there.

Q. And that specifically, in your

recommendation, would have a carrying cost of zero percent?

A. That is correct.

Q. But there -- but there is no such provision in paragraph seven?

A. That is correct.

Q. So this -- and it -- it won't be 24 million, but we're -- for purposes of our hypothetical, it's another -- it's another big chunk of change coming. And it -- your -- you would say that the Commission could consider carrying costs on that.

A. They could. But it is not spelled out here. The --

Q. Do you have an opinion about whether that would be reasonable or not?

A. I would not think carrying costs would be appropriate on that.

Q. Okay. And then one more question. These -- the performance metrics are not spelled out in the stipulation, which is now your recommendation. Is -- does Staff have an idea of what it would accept for performance metrics or is that just still to be determined?

A. I don't know that we have a formal

definition of metrics.  If you would want more information on metrics, Tyrone Thomason would be good -- best witness to approach on that.

Q.    Okay.  So that is -- and what happens if the -- the parties do not agree on performance metrics by the time that the Commission would then be reviewing this?  In other word -- well, when would the -- when would there have to be agreement on the performance metrics?  That would have to be right at the end of this case, wouldn't it, because --

A.    We -- the -- the stipulation says that the parties will confer on the appropriate and reasonable, achievable, monthly, normalized performance metrics and targets in a separate investigation and reach agreement by May 31st.

Q.    And what happens if there is not an agreement by May 31st?

A.    Then it would go in front of the Commission to make that determination.

Q.    That's what I thought.  I just wasn't clear.  So then that would be -- there would need to be -- so if -- if there is no agreement, you would expect then a filing at the Commission to have the Commission decide what --

A.    Yes.

Q. -- those performance metrics are?

And when would that -- when would there need to be a decision on that --

A. It is not spelled on --

Q. -- for this to work?

A. It's not spelled out in this stipulation.

Q. Would that need to be before May 31st in order for the -- for paragraph seven to be effective?

A. I'm not sure that it would need to be. This -- the agreement says that they will be reached by May 31st.

Q. Would it be your opinion that paragraph seven could not take place until there was an agreement or a determination about the performance metrics?

A. That is my understanding.

Q. Okay. All right. That helps. Thank you.

JUDGE HATCHER: Thank you, Mr. Coffman.

It goes to Empire.

MS. CARTER: Thank you.

RECROSS-EXAMINATION

BY MS. CARTER:

Q. Ms. Bolin, Mr. Coffman said there would be a big chunk of change coming from paragraph seven.

Just -- just to be clear, there would be nothing put into that regulatory asset unless -- unless and until there are agreed-upon performance metrics and the Company meets those performance metrics, correct?

A. That is correct.

Q. And there -- that's done on a month-by-month basis, correct?

A. Yes. You can meet it one month and then the following month not meet it.

Q. So nothing is put into that regulatory asset unless the Company is showing that it is -- I -- I'll let you use your words instead of me trying to put the words in your mouth. But what would the Company have to be doing in order for money to be put into that regulatory asset?

A. They would have to meet the metrics spelled out.

Q. And what would those metrics be showing?

A. They would probably be showing billing accuracy, timeliness, customer service. If you want more detail, you'd probably need to talk to Tyrone Thomason.

Q. Thank you. And -- and the paragraph six that you were referencing earlier in response to a question says, as you mentioned, that we'd agree by

May 31st, 2026.  So they're not specified yet, but the performance metrics should be related to billing accuracy, billing timeliness, number of estimated bills, call center representatives, and customer experience index, correct?
        A.    That is what the stipulation states.
        Q.    Thank you.
              JUDGE HATCHER:  Thank you.
              And Mr. Williams.
              MR. WILLIAMS:  Thank you.
                    RECROSS-EXAMINATION
BY MR. WILLIAMS:
        Q.    Staff hasn't completed its investigation into the billing issues yet, has it?
        A.    No, we have not.
        Q.    And wouldn't that have something to do with performance metrics?
        A.    That would probably help on our per- -- help determine the performance metrics.
        Q.    And I guess I'll re-tread some ground. That's really just an agreement to agree to something in the future, is it not?
        A.    It is.  It said we would have -- reach an agreement by May 31st.
        Q.    And your stipulation and agreement at

this time is positions of the parties who signed onto it, is it not?

A. Yes.

Q. So except for specific issues that are called out in that agreement, the parties are not -- the parties to that stipulation are not in agreement to those issues that are not specified, correct?

A. We are not in agreement yet as to the customer performance metrics.

Q. Well, there's more than that, isn't it? Are you in agreement on return on equity? Are you in agreement as to capital structure? Are you in agreement as to --

A. It is a black-box settlement and --

Q. But the Commission --

A. -- we agreed to a 97 million dollar increase.

Q. But the Commission is going to have to decide all those issues to come up with a revenue requirement if it decides not to take Public Counsel's first position of no increase until Liberty straightens out its internal issues and billing issues, correct?

A. The Commission can decide that the stipulation is prudent --

Q. Well, how can it --
A. -- and reasonable.
Q. How can it just say, "Hey, 97 million, all of these things are black-boxed"? Doesn't it need to support what it's saying the revenue requirement should be?
MR. VANDERGRIFF: Your Honor, we're going to object. Opposing counsel is try to draw a legal conclusion from our witness.
JUDGE HATCHER: Overruled.
THE WITNESS: We put this on -- this is our position now, the 97 million dollars.
BY MR. WILLIAMS:
Q. But your evidence doesn't support it, does it?
A. Our evidence supports a 128 million dollar case, our original filing.
Q. So your evidence supports more than a 97 million?
A. That's why we believe this is a reasonable settlement.
Q. But if the Commission's going to arrive at a 97, it needs to look at the evidence and come up with a 97 dollar -- I mean million dollar amount, correct?

A. I think these issues are being briefed in this case.

Q. I'm just making a point that the Commission can't just adopt this -- these positions. That it actually is going to have to go through and decide the issues in this case. You agree with that?

A. I believe the Commission could agree that our Non-Unanimous Stipulation is warranted here.

MR. WILLIAMS: Well, I just want to make a point that the Commission's free to do whatever the evidence -- the limits on what the Commission can do in this case is driven by the evidence in front of it and it's a wide range. I'll leave it at that. Thank you.

JUDGE HATCHER: Redirect.

REDIRECT EXAMINATION

BY MR. VANDERGRIFF:

Q. Good afternoon, Ms. Bolin.

A. Good afternoon.

Q. You were asked questions about the metrics. Do you have an idea about which parties would be included in agreeing to any such metrics for the regulatory assets?

A. Per the stipulation, it's the -- it says the parties. I'm assuming it would include OPC.

Q. And with that, had Empire not come to an agreement with those metrics, would it be able to collect any of its deferred assets?
A. Could you repeat the question?
Q. Would -- if we do not come to an agreement, would Empire be allowed to defer any of its Customer First assets?
A. No.
Q. You were asked about the investigation. When is our report for the investigation expected to conclude right now?
A. I believe it's the end of the year, December 31st possibly.
Q. And May 31st. How much time would it give the parties to come to an agreement on the metrics?
A. Five months.
Q. You think that's a reasonable amount of time?
A. I hope.
Q. All right. Had Empire not had the issues it had experienced at the implementation of Customer First, would Staff have recommended including Customer First rates in this case?
A. Could you repeat that question?

Q. Had Empire not had the issues it experienced at the implementation of the Customer First, would Staff have recommended including Customer First in rates for this case?

A. Yes.

Q. Does the stipulation require Empire to meet certain metrics prior to booking returns associated with Customer First to a deferral -- deferred asset?

A. If they meet the metrics, yes.

Q. No further questions.

JUDGE HATCHER: Thank you, Counsel.

Thank you Ms. Bolin. You are excused from our witness stand.

Counsel, go ahead and call your next witness.

MR. VANDERGRIFF: Tyrone Thomason.

JUDGE HATCHER: Mr. Thomason, welcome back. Go ahead and take a seat. You were sworn in yesterday. That still applies.

We will jump right in with Commissioner questions. Are there any Commissioner questions for Mr. Thomason? Chair Hahn.

CHARLES TYRONE THOMASON,

having been previously sworn, testified as follows:

QUESTIONS

BY CHAIR HAHN:

Q. Mr. Thomason, yesterday I was absent in your -- when you testified before the Commission. And I think you may have spoken about how the Company did or did not contact you when they first had issues with Customer First. Can you recall that testimony?

A. Yes, I recall that.

Q. And did you, in fact -- or who from the Staff did reach out to Liberty to discuss issues with Customer First?

A. For the initial meeting that took place in August of 2024, it was the Consumer Services Department that reached out.

Q. Okay. And did you do that via phone call or how did you contact them about issues that the Customer Service Experience Department had?

A. It was Consumer Services, not Customer Experience.

Q. Oh, Consumer Services.

A. Yes. Consumer Services, if I recall correctly, reached out by e-mail to set up a meeting.

Q. Okay. So it was our Staff who actually reached out to Liberty?

A. Yes.

Q. Okay. In the monthly meetings, what was accomplished in those meetings?

A. Usually the Company came with a set of, like, performance metrics showing like this is how many delayed bills they've had, this is their progress in reducing number of billing exceptions, this is how many customers haven't received bills.

And also they would bring updates on any issues that they discussed -- they might have brought up in previous meetings to discuss progress in resolving those, and also new issues that might have come up since then, either issues that they bring to us voluntarily or that we hear from customers and contact them in ad- -- in advance and tell them, "Hey, this is something that you need to look into."

Q. Okay. Over the course of working with Liberty in those monthly meetings, did you see progress toward solving any of those issues or was it kind of a mixed bag?

A. It depends on the issue. For a lot of the issues that came up, there was progress resolving them. In other cases, I would say that there would be progress for a couple months.

For example, delayed bills, for example, there would be progress in reducing that number for a couple months, and then next month you might get a huge spike.  And then back to reducing them again for the following month.  It really depends on the issue.

Q.    Okay.  Thank you.  Appreciate that.  I know this is supposed to not be on -- this is supposed to be on the stipulation so thanks for helping me out.

A.    No problem.

JUDGE HATCHER:  Commissioner Kolkmeyer.

COMMISSIONER KOLKMEYER:  Thank you, Judge.

QUESTIONS

BY COMMISSIONER KOLKMEYER:

Q.    What was that date again that Staff contacted Liberty?

A.    I don't have the date that we first reached out to Liberty, but I know that the -- the meeting that came out from that contact was in August of 2024.

Q.    So that really started with the water case.

A.    I don't believe that meeting was tied directly to the water case.  Consumer Services had been receiving phone calls from Liberty customers I think across all utilities about various issues.

Q.    Okay.  But the water case hadn't been resolved at that time?

A. Not at that time.

Q. I don't -- yeah. Okay. Thank you.

JUDGE HATCHER: Thank you. any other Commissioner questions for Mr. Thomason?

Okay. Thank you, Mr. Thomason. We will go through our --

MR. JOHNSON: I believe Mr. Thomason may be able to answer the question related to the budget bill change.

MR. VANDERGRIFF: That was question five, paragraph 26.

QUESTIONS

BY JUDGE HATCHER:

Q. Excellent. The Bench has a question. Paragraph 26 refers to the revised tariff to reflect the new calculation method for budget billing. Whose testimony contains a description of the new method, and would you be able to explain in simple terms how the new method varies from the existing one?

A. Yes, I can. You can find that in my testimony. My direct testimony pages 33 through 35 is where I discuss budget billing.

To answer the second part of the question, the original budget billing calculation is essentially you take the last -- the charges for the last 12 months and then you divide it by 12.  And that is also the calculation method that is stipulated in their tariff.

The new calculation method is where you take those -- that same 12 months, same -- the same charges, you divide that by the number of days in the billing periods for each of those 12 bills and then you multiply it by 30.  And if you'd like an example of that calculation, you can find it on page 34 of my testimony.

And it also calculates it out with an example showing if you do the two calculation methods, there is a difference.

And I will also add the reason why I put this in testimony to begin with is because when the Company switched to SAP, it changed their calculation method for budget billing, which means that their current method is not in line with their tariff.  So my intention when I -- when I made the recommendation, was to bring the Company back in compliance with its tariff.

Q.    Thank you.  I appreciate that.

JUDGE HATCHER:  Okay.  Any further questions from Commissioners?

COMMISSIONER COLEMAN:  Yes.
JUDGE HATCHER:  Commissioner Coleman.
COMMISSIONER COLEMAN:  Thank you.

QUESTIONS

BY COMMISSIONER COLEMAN:

Q.    Mr. Thomason, hi.  How are you today?

A.    Pretty good.  Thank you.

Q.    Good.  Were you able to hear Chair Hahn and I asking questions -- or maybe it was Commissioner Kolkmeyer and I, I can't remember anymore -- questions about budget billing?

And my main interest is, do you have any idea why the change was made?  I believe Ms. Kelly noted that it had to do with the new system, which we're looking for the change of name and all that good stuff.  But the reason for it.  Because I'm trying to figure out who it benefits.

A.    My understanding is just that -- that's just how SAP does the calculation.  When the Company switched to SAP, I don't think it was even aware that the calculation method would be different.

Q.    So are you saying that it really doesn't matter which system is used?

A.    Which?

Q.    Old math versus new math.

A. Oh, I don't have an issue with either calculation method. My main concern is that the new calculation method is not in line with the tariff.

Q. All right. And that's an important issue. Thank you very much.

JUDGE HATCHER: Thank you. And any -- any question -- further questions from Commissioners?

Hearing none, we will go back to our recross-examination. For a Staff witness, we go first to Mr. Opitz. Indicates no questions. Consumers Council.

MR. COFFMAN: Yes.

RECROSS-EXAMINATION

BY MR. COFFMAN:

Q. Good afternoon, Mr. Thomason.

A. Good afternoon.

Q. And this may be repeating testimony from yesterday, but with regard to the Staff investigation of the -- the billing problems, is it fair to say that the delay in getting a rep- -- a Staff report from that investigation is related to the fact that Staff has continued to find new issues and so the scope of that investigation has gotten bigger and more complicated?

A. That is one of the reasons, yes.

Q. Okay. Do you believe that -- and I believe you said yesterday that you were expecting that that report could still be done by the end of this year, so sometime in December perhaps?
A. Yes, that is our intention.
Q. Okay. And at that point is -- is that why there isn't an agreement on performance metrics yet, because Staff wants to have a comprehensive report before they negotiate exactly what the performance metrics are as it relates to the Non-unanimous Stip recommendation?
A. I don't believe that was a -- one of the reasons, but that is -- that would be a consideration, the investigation.
Q. Do you -- do you -- do you feel right now that at least the scope of the investigation is clear to you? Do you believe that you have now included everything that you think is relevant to that investigation in the -- in the investigation that you're doing? Or are you worried that there might still be new issues that are uncovered?
A. I don't know if I can answer that we have uncovered every single possible issue, but I think we have a pretty good grasp of the -- the main issues, yes.

Q. Okay. And are -- and you have confidence that the parties can reach agreement on those performance metrics in the time recommended?

A. Yes, I think so.

Q. Okay. All right. That's all I have.

JUDGE HATCHER: Thank you. And Empire.

MS. CARTER: Thanks, Judge.

RECROSS-EXAMINATION

BY MS. CARTER:

Q. Mr. Thomason, I have just a few questions for you. There have been quite a few questions to you both the first time you were on the stand and now today about the monthly meetings that started up in August of 2024.

Prior to that and ongoing before that, were there also standing quarterly meetings between Staff, OPC, and Liberty to discuss customer service issues?

A. I'll have to -- for the first part of your question, the monthly meetings did not start in August of 2024. They did not start until February 2025. Sorry, could you repeat the question?

Q. And I'm sorry. I was just going off of the -- I wrote down August of '24 from your answer earlier. I apologize if I got that wrong, that that was when the meetings specifically related to Customer First started. So I will rephrase that question.

You had mentioned meetings specific to Customer First starting at some point based on Staff contacting the Company. So --

A. Yes.

Q. -- I'm asking separate from those, there were also standing customer service meetings that had already been going on quarterly I believe at that time between Staff, OPC, and Liberty; is that correct?

A. That is correct.

Q. Thank you. I just wanted to make sure we were clear that those were two -- two separate things.

And then also you had questions about the investigation and the report having not been filed yet from Staff in the investigation case. Those two cases aren't necessarily tied together, our rate case here and that investigation. They don't have to be timed together, do they?

A. No, not necessarily.

Q. And -- and the primary reason I believe Staff made a filing, the -- the reason for asking for a delay -- and I don't consider it a delay, but for -- for the date that you gave that Staff provided for when you would file that report, that was Staff's workload, correct, was listed first?

A. That was one of the reasons, yes.

Q. And then lastly, on the budget billing, I just wanted to make sure. Did you have Commissioner Coleman the number of budget billing accounts?

A. No, I did not.

Q. Okay. That is in your testimony, correct?

A. Yes, it is.

Q. I just want to make sure she got her answer on that.

A. On page 35 of my testimony I say -- on my direct testimony I say that Empire has 17,751 customers participating in budget billing as of May 15th of 2025.

Q. And this may not be your area, so please feel free to tell me that as the answer. But would you agree with me that as far as the old math/new math, that this -- this new math should result in a slightly more accurate calculation since it digs in a little deeper and -- and goes -- does the daily average instead of just a rolling monthly average?

A. Accurate to what should be a budget billing amount? I think that's kind of -- yeah, I'd defer that question.

Q. Okay. Thank you.

JUDGE HATCHER: Public Counsel.

MR. WILLIAMS: Thank you.

RECROSS-EXAMINATION

BY MR. WILLIAMS:

Q. Good afternoon, Mr. Thomason.

A. Good afternoon.

Q. Chair Hahn asked you about Customer First and some events that occurred, but I didn't hear anything -- or very much about the timing so I want to try to get into that a bit.

I believe you said that -- or testified that Staff learned about Customer First issues through the Staff Customer Experience group; is that correct?

A. Consumer Services Department.

Q. Okay. And about what time frame was that, do you know?

A. I don't recall when the e-mail started going around. I recall that the first meeting that was set up between Consumer Services Customer Experience and the Company was in August of 2024.

Q. Well, I heard the August 2024 date. And we had testimony earlier that Customer First went live in April I believe 8th of 2024. So we kind of have bookends.

Do you have any sense of when in between those two dates Staff learned from -- I guess from input from customers about the Customer First issues at Liberty?

A. I know that the first indication for my department was Consumer Services. There was also -- because of the increase in informal complaints. I don't have a just specific date beyond that.

And I should also add that at that time, the number of issues was small compared to where we're at now.

Q. Well, would that have been in the summer of 2024?

A. Yes, late summer.

Q. You didn't have somebody from Liberty saying, "Hey, we're having trouble with our customer service issues" in like May of 2024? I mean with our Customer First, I'm sorry.

A. No. Pa- -- as part of the variance cases for the Customer First implementation, the Company was required to file a variance report detailing how the conversion went.

They filed an interim report in -- let me get the month real quick. On -- on June 7th they filed an interim report where it did not really address -- discuss any of the issues really. You can -- I discussed that a little bit on page four of my direct testimony.

And then they filed the -- the full report on August 6th, which had more issues.

Q. You testified about having quarterly meetings with Liberty or -- yeah, I think they were meetings; is that --

A. Yes.

Q. -- correct? About --

A. That's correct.

Q. -- customer service?

When were those ongoing?

A. They predate my starting at the Commission. I know they are quarterly meetings stipulated by I believe a rate case, but I don't -- or -- or the merger, but I don't have the case that that was stipulated in in front of me.

Q. So quarterly are -- is it like March you meet and then June and --

A. Right.

Q. -- so forth? September and December?

Was Customer First brought up in any of those quarterly meetings; and if so, when first, to your knowledge?

A. Prior to or subsequent the implementation? Because they mentioned in quarterly meetings before the implementation that they were implementing Customer First. But the actual -- if you're talking about specific issues coming out of Customer First, I think the first quarterly meeting where that was discussed would have been in September of 2024.

Q. Do you know why those quarterly meetings are held?

A. Not off the top of my head. I know we meet with most of the major utilities, just discuss customer service issues either monthly or quarterly depending on the company.

Q. Thank you. Appreciate your testimony.

A. Thank you.

JUDGE HATCHER: Thank you, Mr. Williams.

And redirect.

MR. VANDERGRIFF: No questions, Your Honor.

JUDGE HATCHER: Thank you. Mr. Thomason, appreciate you being here again today.

THE WITNESS: Thank you.

JUDGE HATCHER: You're excused from our witness stand.

Staff, any further witnesses?

MR. VANDERGRIFF:  Sarah Lange.

JUDGE HATCHER:  Has everybody gotten a copy of 180 -- proposed Exhibit 108?

MR. VANDERGRIFF:  Permission to approach.

(Witness sworn.)

JUDGE HATCHER:  Thank you.  Please go ahead and have a seat and spell your name for our court reporter, please.

THE WITNESS:  Sarah Lange, S-a-r-a-h L-a-n-g-e.

JUDGE HATCHER:  And are there any Commissioner questions for Ms. Lange?  Chair Hahn.

SARAH LANGE,

having been first duly sworn, testified as follows:

QUESTIONS

BY CHAIR HAHN:

Q.    Good afternoon, Ms. Lange.

A.    Good afternoon.

Q.    Appreciate the exhibit.  In OPC's opening statements they showed a video.  And I think that one of the folks testifying in the local public hearings had highlighted that White River Co-op was cheaper than what was going to be proposed through the Liberty rate case.  And I remember wondering about the per kilowatt hour charge, but also then about the fixed customer charge.

Can you -- it looks like -- I see you have White River on here. Can you talk about the per kilowatt hour charge under the new Liberty rates compared to the White River charge and then also the fixed charge?

A. Yes. So White River, according to their website -- which I rely on for this sort of thing where they have it and I don't have to make a phone call -- has a customer charge for residential customers of $35 per month and then a flat energy charge for all kWh in all seasons of just over 12 cents per kWh.

So for a lot of customers, if they are using kind of -- the breakpoint is somewhere around a thousand kWh-ish -- wait, no. I'm sorry -- sorry. I'm trying to think of the easiest way to say this.

If you are looking only at I guess what we call the basic tariff rates, or we can call that for purpose of this hearing the basic tariff rates versus the full bill, that breakpoint where it is cheaper to be a White River customer is probably right around 2,500 kWh a month under the current rates.

If you look at the full bill,

incorporating things like the FAC and the securitization charges and the MEEIA charge that is currently in effect that will be going away as part of this rate case, if you do include those things, the breakpoint it looks like is probably closer to a thousand -- just -- probably just under a thousand kWh a month.

And I apologize and defer to my written piece here if I've got my lines confused. Did that answer your question?

Q. Yeah. Thank you very much. I did notice in the stipulation and agreement the fixed charge doesn't ch- -- the residential fixed charge stays at $13. Is that right?

A. That is correct. And that's -- that was a big impetus behind why we put this together for the Commission. You know, just wanting -- wanting to make sure there was an understanding that for customers using kind of less than maybe a thousand kWh a month versus over a thousand kWh a month, that the way that this bill increase hits them is going to change.

So, as I said, there's -- there's a lot of moving pieces in Empire's rates over the next three to four months. So what's actually going to happen on a per co- -- kWh basis is that the MEEIA charge drops off and then the FAC base presumably changes in this case some how, some way.  I think all the parties that had positions on it were higher than the current FAC base.

And so you're going to have this weird situation where each of the three rate phases is going to raise the energy charge of customers by about nine-tenths of a cent per kWh for each month, but then you're going to have that MEEIA charge dropping off, but then you're going to have that FAC base change, but that doesn't get recognized in the FAC rates until six months out.

So all that is a very convoluted way of saying that because the customer charge is changed, but -- or is stable but things are moving with the per kWh charge, customers are going to -- different customers are going to experience different impacts over the -- the course of the three years.

Q.    And then it also says that the summer charges, so the summer per kilowatt hour, is it -- that staying constant too?

A.    No.  I'm sorry.  That -- that had to do with the rate design aspect.  So Empire had proposed to implement a declining block summer charge.

Q.    Okay.

A. And they've had a stable flat customer -- or flat summer charge for decades. So that was important to Staff not to disrupt customers with that change in this case.

Q. Okay. I see. Thank you.

JUDGE HATCHER: Thank you. Are there any other Commissioner questions for Ms. Lange?

Okay. Let's go to our recross-examination. And at the end of that, possibly during a redirect, is when I would expect a motion on what we want to do with this document.

Recross-examination. Mr. Opitz indicates no questions. Consumers Council. I'll circle back around to Consumer Council. Empire. Public Counsel.

MR. WILLIAMS: Thank you.

RECROSS-EXAMINATION

BY MR. WILLIAMS:

Q. Ms. Lange, what are you trying to show with this document?

A. Customer impact is going to vary by customer. Some customers when you account for the changes that are happening with whatever change occurs to the FAC base and that MEEIA dropping off, in this first implementation, you know, they might see a 2 or 3 percent increase for about six months and then they might see an actual reduction briefly if nothing else changes with the FAC. And who knows what will happen with the FAC six months from now.

But then after that, setting aside those -- those FAC changes, securitization charge changes, those sorts of things that are -- are set outside of these rates, that the second rate implementation, the third rate implementation is going to, depending on your choice of denominator, give you changes in the range of just under 5 percent to just under 8 percent per case for -- for two cases.

And then I know there was also questions about the impact of the deferred recovery of the 97 million and the Customer First. So -- I realized sitting here just now I neglected to include income tax and I neglected to include the effects of amortization expense.

But just at a broad level if the same rate design is used in a future rate case that occurs exactly, you know -- rates go into effect exactly four years from when these first -- rates first go into effect and nothing else changes, that the impact of that would be just under two-tenths of a cent for the deferred recovery and just under one-tenth of a cent for the Customer First.

Again, recognizing now that I failed to include the amortization expense. Those would both need to be factored up.

Q. So can I take from what you've just said that this is giving an idea about some of the magnitudes of impacts, but it shouldn't be read just mathematically?

A. I've -- I've never met a customer that used exactly 1,000 kWh each and every month, even if every other bit was right. And -- and every other bit is not going to be exact, that's correct.

Q. And then you said it would be at least six -- or six months for a fuel adjustment clause. My recollection is there's a review period, so that it would take at least ten months. Am I not correct?

A. I -- I defer to the tariff on that one. I -- I should have printed it out and I didn't.

Q. I believe it's six-month accumulation periods and then a four-month review before the rate change associated with an accumulation period actually is implemented.

A. That doesn't sound wrong, but I -- I do have to defer to the tariff.

Q. Thank you.

JUDGE HATCHER: Thank you, Mr. Williams.

Mr. Coffman, you had briefly stepped out of the room, but we had finished the Commissioner questions for Witness Lange. Did you have any cross-exam?

MR. COFFMAN: No. No, thank you.

JUDGE HATCHER: Thank you.

That takes us back to redirect.

REDIRECT EXAMINATION

BY MR. VANDERGRIFF:

Q. Good afternoon, Ms. Lange.

A. Good afternoon.

Q. All right. We're going to lay some foundation for this. Do you recognize the -- the demonstrative exhibit in front of you?

A. I do.

Q. How do you recognize it?

A. I prepared it over the course of the last couple of days.

Q. Does it look substantially similar or exactly the same as what you produced before?

A. It -- it does. I picked it up off the printer two hours ago.

MR. VANDERGRIFF: And with that, we'd like to offer what should be marked as Exhibit 180 into evidence.

MR. WILLIAMS: I have no objection -- I have no objection as long as it's admitted as a demonstrative evidence.

MR. VANDERGRIFF: As a demo- -- as a demonstrative.

JUDGE HATCHER: Any objections to the admission of the sheet labeled Monthly Bill Impact for Residential Customers labeled Demonstrative Exhibit 180?

Hearing no objections, so admitted.

(Staff Exhibit 180 was received into evidence.)

JUDGE HATCHER: I believe you are excused. Thank you very much for being here. Appreciate that.

Staff, any further witnesses?

MR. VANDERGRIFF: No further witnesses, Your Honor.

JUDGE HATCHER: Thank you.

Office of Public Counsel. We have discussed this a bit off the record, but I wanted to make sure that my offer was on the record. That this was an add-on item to our schedule and if OPC would like to present a witness to testify on or about the stipulation, I would invite them to go ahead and do so.

MR. WILLIAMS: Thank you, no.

JUDGE HATCHER: MECG, same offer. This is kind of a last-minute addition. Did you want to pro- -- produce any witnesses?

MR. OPITZ: I don't believe that's necessary, but if the Commission has questions, I would offer that Ms. Maini can be available on Friday morning.

JUDGE HATCHER: Noted. Thank you. Could she be available on Thursday?

MR. OPITZ: My understanding is she could not be.

JUDGE HATCHER: Okay. I will contact all of the counsel if we do request her to come testify.

Consumers Council, same offer.

MR. COFFMAN: I think we're good. I -- I -- if the Commission is interested in learning more about customer service issues and our positions, I would, you know, offer up Jim Thomas. I think we can probably make him available in some way. But otherwise, I think we're good on the record.

JUDGE HATCHER: Thank you. That was all of the participating parties we have. I believe that concludes the Commission's questions on this add-on item of the stipulation and agreement.

Commissioners, I'm going to make a few announcements, but we're wrapping up for today.

For the counsel and those listening online, we will come back tomorrow. We have three issues; Customer Experience, which will be the appearance of Company Witness John Reed. We have the FAC, and we have the Ozark -- the Ozark issue, which will be the appearance of Company Witness Berkstresser.

Are there any issues that I have left off of our agenda? Do we have any items, any points of discussion? We are ready to adjourn in the next 30 seconds or so.

Mr. Williams.

MR. WILLIAMS: Are you going to take them in the order in which they appear on the hearing schedule?

JUDGE HATCHER: I hadn't given that any thought. Do you have some suggestions?

MR. WILLIAMS: I do not.

JUDGE HATCHER: I believe Customer Experience was listed first.

MR. WILLIAMS: The listing I see shows John Reed for Customer Experience, then the FAC issues, and then the Ozark Brane -- Beach crane extension just Mr. Burkett -- Berktresser -- Berkstresser.

MS. CARTER: Berkstresser. If we perhaps want to start with Mr. Berkstresser's issue? Just because the -- I imagine the other ones will be longer and he's not included in the FAC party.

JUDGE HATCHER: Do any parties have any input on taking Mr. Berkstresser and the Ozark issue first?

MR. VANDERGRIFF: No objections.

MR. WILLIAMS: We're flexible. I just thought there might be some accommodations.

JUDGE HATCHER: Sold. Mr. Berkstresser, if you are listening, please be prepared to testify at 9:00 a.m. If he is not, I trust his counsel will inform him. So that takes care of Ozark. That will be 9:00 a.m.

My inclination would then be to go to Reed. Because, again that will be a single witness, single issue. I predict that it would likely be shorter than the FAC. And then we conclude on the FAC with the -- the normal introduction of witnesses, cross, Commission. I'm seeing nods. Everyone agrees? Are there any opposing or alternate discussion items?

MR. WILLIAMS: Judge, I'll point out that Mr. Reed is a Company witness on both the FAC and the customer experience. I don't know if they want to bring him up and down or what order they may want to take him in, but.

JUDGE HATCHER: No, I'm going to -- I'm going to be doing it just as awkward tomorrow as I did it today. We'll have Mr. Berkstresser come up for Customer Experience. Depending on how that goes, we might dismiss him -- no, because he's a Company witness. He would be one of the first ones up. We'll deal with that -- that's a game-time decision. Good point, Mr. Williams. Thank you.

All right. That is it. Last announcement. Tomorrow 9:00 a.m., the Ozark issue with Mr. Berkstresser, followed by Customer Experience. Yeah, we're going to have to put in the Customer Experience in there in the middle. Yeah, we'll go Ozark first, Customer Experience second, FAC third.

Thank you all. We are -- yes, Mr. Flaherty.

MR. FLAHERTY: Yes. I'm not going to participate tomorrow. Is it okay if I'm excused from tomorrow's hearing?

JUDGE HATCHER:  Yes, that would be fine.

MR. FLAHERTY:  Thank you very much.

JUDGE HATCHER:  I'm refraining from making dad jokes.

Excellent.  We are adjourned for the day. Thank you all.

(Whereupon, the proceedings were adjourned at 2:47 p.m., to reconvene on October 16, 2025 at 9:00 a.m.)

INDEX

OSAGE BEACH CRANE EXTENSION

COMPANY EVIDENCE

STIPULATION AND AGREEMENT (CONT'D)

EXHIBIT INDEX

CERTIFICATE OF REPORTER

I, Tracy Thorpe Taylor, CCR No. 939, within the State of Missouri, do hereby certify that the testimony appearing in the foregoing matter was duly sworn by me; that the testimony of said witnesses was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this matter was taken, and further, that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

Tracy TT Taylor

Tracy Thorpe Taylor, CCR, RPR

## $



## 0



## 1



## 2

## B

## G

## H

## I

## N