

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

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

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

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

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

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

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

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

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

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

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

20 A utility funds itself just like other
21 businesses do. It uses a mix of borrowed money that
22 is referred to debt, and investor funding that is
23 referred to as equity. Each utility will fund itself
24 using a percentage of debt and a percentage of equity.
25 The Commission is asked to determine what those

1 percentages are for the utility as part of the
2 rate-making process.

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

7 However, before the global settlement was
8 reached in this case, Empire and Staff both agreed in
9 their pre-filed testimony that the Commission should
10 use Empire's actual percentage of debt and actual
11 percentage of equity in the capital structure to be
12 used by the Commission to set rates in this case.

13 The -- those percentages are 53 percent equity and 47
14 percent debt.

15 It is important to point out that in
16 19 -- or I'm sorry, in 2016 when Empire was acquired
17 by Algonquin Power and Utility Corporate, or APUC, and
18 Empire was going to be funded going forward indirectly
19 by APUC and directly by APUC'S entity that owns Empire
20 and a number of other US utilities called LUCo, that
21 APUC agreed in setting rates going forward, that
22 whichever entity, Empire, LUCo or APUC, had the most
23 economical capital structure, it would be that capital
24 structure that would be used to set rates.

25 In this case, Empire and Staff reviewed

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

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

8 In their pre-filed testimony, the cost of
9 the debt used by Empire and Staff was the actual cost
10 of Empire's debt. As of the end of the test year and
11 the September 30th, 2024 update period, Empire's cost
12 of debt was 4.22 percent. In its true-up filing,
13 Empire included a planned 2025 debt issuance that
14 would increase Empire's overall cost of debt to
15 4.53 percent.

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

25 As you know from other rate cases, the

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

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

11 Staff's expert, Mr. Walters, has
12 pre-filed testimony recommending a return on equity of
13 9.5 percent.

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

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

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

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

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

11 Under his Weight column, he shows the
12 percentage of equity and percentage of debt in
13 Empire's capital structure; 53 percent from equity and
14 47 percent from debt.

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

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

1 cost of equity of 9.5 percent to get 5.04 percent.

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

7 Finally, to get the overall rate of
8 return for Empire, you add the weighted cost of equity
9 of 5.04 percent, plus the weighted cost of debt of
10 2.13 percent to get 7.16 percent, and that is
11 Mr. Walters' recommendation in this case.

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

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

25 I do want to make it clear, and the

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

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

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

22 However, OPC's recommendation in this
23 case is neither constructive nor focused and would not
24 have resulted in a reasonable remedy. Arbitrarily
25 allowing the rate -- no rate increase, and that is

1 what OPC is recommending in this case, is not a
2 reasonable remedy and would likely have the opposite
3 result of making sure customers receive efficient and
4 sufficient service and what is in the public interest.

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

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

11 JUDGE HATCHER: Thank you for your
12 opening.

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

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

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

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

6 Staff's original revenue requirement --
7 or excuse me, original recommendation was
8 7.16 percent. However, we fully support the global
9 stipulation 7.01 percent recommendation. Staff's
10 Witness is Chris Walters. Please refer your Capital
11 Structure questions to him.

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

15 Do you have any questions?

16 JUDGE HATCHER: Thank you, Counsel.

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

20 Next, Public Counsel.

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

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

1 Liberty's service is adequate.

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

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

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

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

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

1 targets.

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

8 JUDGE HATCHER: Thank you, Mr. Williams.

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

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

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

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

1 JUDGE HATCHER: Thank you.

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

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

9 JUDGE HATCHER: Thank you.
10 Are there any questions for Mr. Coffman?
11 All right. We will move on to the
12 calling of witnesses. I have Dan Dane as the first
13 witness.

14 MR. FLAHERTY: Yes, Your Honor.

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

17 (Witness sworn.)

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

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

23 JUDGE HATCHER: Thank you.
24 Empire, your witness.

25 MR. FLAHERTY: Thank you, Judge.

1 DANIEL DANE,
2 being first duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. FLAHERTY:

5 Q. Mr. Dane, who is your employer?

6 A. My employer is Concentric Energy
7 Advisors.

8 Q. What is your position with Concentric?

9 A. I'm the president of the company.

10 Q. And you pre-filed testimony and schedules
11 that have been marked as Exhibits 4, 5-P, 5-C, 6-P,
12 6-C and 17 and previously admitted into the record,
13 correct?

14 A. Yes, that's correct.

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

19 A. Yes.

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

22 JUDGE HATCHER: Thank you.

23 And for our listeners joining us today,
24 I'm going to take a second just to review the
25 procedures that we're going to be using on

1 cross-examination today.

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

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

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

14 JUDGE HATCHER: Thank you, sir.
15 And Public Counsel.

16 MR. WILLIAMS: Thank you. No questions.

17 JUDGE HATCHER: Thank you.

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

22 All right. Hearing none, I don't have
23 any questions for Mr. Dane either. Did we have any --
24 we didn't have any cross, so we don't have any
25 redirect. Thank you, Mr. Dane. I appreciate you

1 making the -- the trip out today.

2 THE WITNESS: Thank you.

3 JUDGE HATCHER: Staff, your witness.

4 MS. JOHNSON: Staff calls Chris Walters.

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

7 (Witness sworn.)

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

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

14 JUDGE HATCHER: Staff, your witness.

15 MS. JOHNSON: Thank you, Judge.

16 CHRISTOPHER WALTERS,
17 being first duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MS. JOHNSON:

20 Q. Good morning, Mr. Walters.

21 A. Good morning.

22 Q. Can you tell me who your employer is?

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

25 Q. And what's your role there?

1 A. I am a principle of the firm.

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

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

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

9 A. On multiple engagements I have, yes.

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

12 A. Maybe.

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

18 A. Yes. That's my understanding.

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

23 A. Yes.

24 MS. JOHNSON: Tender the witness for
25 questions.

1 JUDGE HATCHER: Thank you.

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

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

6 JUDGE HATCHER: Thank you.

7 And Mr. Williams with Public Counsel.

8 MR. WILLIAMS: No questions, thank you.

9 JUDGE HATCHER: Thank you.

10 That brings us to Commissioner questions.

11 Are there any Commissioner questions for Mr. Dane,
12 Staff's witness?

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

14 JUDGE HATCHER: Mr. Walters. Thank you.

15 Hearing none, thank you, Mr. Walters

16 THE WITNESS: Thank you.

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

19 (Witness sworn.)

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

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

25 JUDGE HATCHER: Thank you.

1 Mr. Williams, your witness.

2 DAVID MURRAY,

3 being first duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. WILLIAMS:

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

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

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

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

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

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

23 It -- I think a proper way to write that
24 is to say: Empire's rate base was at least
25 2.5 billion as of September 30th, 2024.

1 Q. Are those all of the corrections?

2 A. Yes.

3 MR. WILLIAMS: I tender the witness for
4 examination by others.

5 JUDGE HATCHER: Thank you, Mr. Williams.
6 I believe our cross-examination will go
7 first to Consumers Council.

8 MR. COFFMAN: No questions.

9 JUDGE HATCHER: Thank you.
10 And next, Mr. Opitz.

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

12 JUDGE HATCHER: Thank you.
13 Then Staff.

14 MS. JOHNSON: Nothing.

15 JUDGE HATCHER: And Empire, the Company.

16 MR. FLAHERTY: Yes, Judge. No questions.
17 I did want to publicly thank Mr. Murray. He helped me
18 in with my bags this morning. So, thank you.

19 THE WITNESS: My pleasure. It was good
20 to see you this morning.

21 JUDGE HATCHER: Thank you.

22 And that will take to us Commissioner
23 questions. Are there any Commissioner questions for
24 Mr. Murray?

25 QUESTIONS

1 BY JUDGE HATCHER:

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

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

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

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

22 A. Sorry.

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

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

4 Q. All right. Thank you.

5 A. Thank you.

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

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

11 MR. COFFMAN: No, Thank you.

12 JUDGE HATCHER: And then Mr. Opitz.

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

14 JUDGE HATCHER: Ms. Johnson.

15 MS. JOHNSON: Nothing from Staff.

16 JUDGE HATCHER: And the Company.

17 MR. FLAHERTY: No questions, thank you.

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

20 THE WITNESS: Thank you.

21 MR. WILLIAMS: No redirect either.

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

24 THE WITNESS: Thank you.

25 JUDGE HATCHER: Thank you, Mr. Murray.

1 Thank you, Mr. Williams.

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

7 So let's go ahead and go to Billing
8 Determinants and Rate Design. Those were Issues 107,
9 108, and 109. Are there any Commissioner questions on
10 Billing Determinants and Rate Design, Issues 107, 108
11 and 109? I'll give the Commissioners a second to
12 think about that.

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

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

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

1 Working Capital, Issue 3?

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

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

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

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

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

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

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

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

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

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

8 THE WITNESS: No surprise.

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

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

14 THE WITNESS: I was, yes.

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

17 THE WITNESS: Okay. Thank you.

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

22 CHARLOTTE EMERY,
23 having been previously sworn, testified as follows:

24 QUESTIONS

25 BY JUDGE HATCHER:

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

4 A. That's okay.

5 Q. Do clearing account entries come from
6 work orders?

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

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

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

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

22 Q. Thank you.

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

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

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

5 JUDGE HATCHER: And Staff.

6 MS. JOHNSON: No, thank you.

7 JUDGE HATCHER: Consumers Council.

8 MR. COFFMAN: No questions.

9 JUDGE HATCHER: And Office of Public
10 Counsel.

11 MR. WILLIAMS: No questions, thank you.

12 JUDGE HATCHER: And redirect from Empire.

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

15 JUDGE HATCHER: Thank you.

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

19 Yes?

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

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

25 THE WITNESS: Is it okay if I leave my

1 stuff?

2 JUDGE HATCHER: Yes, that's fine.

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

5 (Witness sworn.)

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

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

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

15 LINDSEY SMITH,
16 being first duly sworn, testified as follows:

17 QUESTIONS

18 BY JUDGE HATCHER:

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

24 A. Yes, I would expect them to replenish
25 those and use it for other materials. Because, I

1 mean, if they're using the materials in a capital
2 expenditure, then they're going to be booked in
3 another account then the accounts that are included in
4 materials and supplies. So if they're using them,
5 then they need to be replenished in another account --

6 Q. Okay.

7 A. -- in another way.

8 Q. Thank you very much.

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

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

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

16 JUDGE HATCHER: Consumers Council.

17 MR. COFFMAN: No questions.

18 JUDGE HATCHER: Empire.

19 MR. FLAHERTY: No questions.

20 JUDGE HATCHER: OPC.

21 MR. WILLIAMS: No questions, thank you.

22 JUDGE HATCHER: And redirect.

23 MS. JOHNSON: Nothing from Staff.

24 JUDGE HATCHER: Thank you all.

25 Ms. Smith, I think you might be on one

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

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

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

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

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

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

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

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

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

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

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

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

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

21 The only questions I have are for
22 Ms. Schaben, so if she would make her way downstairs.
23 And while she's coming downstairs, I'll ask if there's
24 any Commissioner questions on this issue, Allocations,
25 Allocators and CAM. This is Issues 73, 74 and 84. In

1 general, the issues discuss the January 2025 CAM
2 allocators, the appropriate level of A&G expense, and
3 the appropriate jurisdictional allocations.

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

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

11 MR. WILLIAMS: I suggest you do that.

12 JUDGE HATCHER: Okay.

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

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

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

24 Commissioners, this is on page 16 of your
25 memo. This includes solar initiatives, Riverton 12

1 tracker, Riverton 12 O&M authorizations, PISA
2 regulatory assets, Riverton environmental costs, as
3 well as others. Any questions on those?

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

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

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

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

19 JUDGE HATCHER: Yes.

20 MR. COFFMAN: Thank you.

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

23 MR. COFFMAN: Excellent. Thank you.

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

1 JUDGE HATCHER: I'm trying to consider if
2 we want to move this issue to tomorrow and take it up
3 then, or if we would like to break for 10 or
4 15 minutes and come back to finish what might be only
5 a single question for Ms. Schaben.

6 Okay. Let's take -- let's take a
7 10-minute break. Let's go off the record. Let's come
8 back -- let's call it 15-minute break. Let's come
9 back at 10:00 on the hour. Ten o'clock. We are at
10 recess and off the record.

11 (A recess was taken.)

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

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

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

1 this afternoon.

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

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

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

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

24 Mr. Vandergriff.

25 MR. VANDERGRIFF: Your Honor, I have a

1 different question unrelated to what you've mentioned
2 before.

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

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

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

21 JUDGE HATCHER: Yes.

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

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

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

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

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

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

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

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

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

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

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

13 MR. WILLIAMS: Go for it.

14 MR. COFFMAN: No objection.

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

20 JUDGE HATCHER: We will keep that open as
21 option.

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

1 issue.

2 Does Empire have any other questions or
3 input?

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

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

9 Angela Schaben, please raise your right
10 hand.

11 (Witness sworn.)

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

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

17 JUDGE HATCHER: Thank you.

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

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

25 ANGELA SCHABEN,

1 being first duly sworn, testified as follows:

2 QUESTIONS

3 BY JUDGE HATCHER:

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

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

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

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

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

24 A. I apologize. I did not. Sorry.

25 Q. Okay. That's all right.

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

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

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

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

15 Q. And I think this is my last question. Do
16 your amounts for A&G include FERC USOA Accounts 920 to
17 931?

18 A. I can't say for sure off the top of my
19 head, sorry, without having it in front of me. But --
20 920 through 931?

21 Q. Right.

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

1 Form 1.

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

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

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

10 MR. COFFMAN: No questions.

11 JUDGE HATCHER: MEGG.

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

13 JUDGE HATCHER: Staff.

14 MR. PRINGLE: No, thank you, Judge.

15 JUDGE HATCHER: Empire.

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

18 JUDGE HATCHER: Go ahead.

19 RECROSS-EXAMINATION

20 BY MR. FLAHERTY:

21 Q. Good morning, Ms. Schaben.

22 A. Good morning.

23 Q. My name is Jim Flaherty, and I represent
24 Empire. I just have a couple questions based upon the
25 Judge's questions relating to -- I think he pointed

1 you to page two of your direct testimony and a
2 question about the sources that were used to fill out
3 your Table 1. Are you with me?

4 A. Yes.

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

8 A. Table 1 is based on actuals.

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

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

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

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

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

23 A. That's a fair assessment.

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

1 2018 and determine if there were any nonrecurring,
2 unusual or discretionary items that needed to be taken
3 out?

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

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

8 A. That's true.

9 Q. Thank you.

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

12 JUDGE HATCHER: Thank you, Mr. Flaherty.
13 And redirect.

14 MR. WILLIAMS: Thank you.

15 REDIRECT EXAMINATION

16 BY MR. WILLIAMS:

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

21 A. In Table 1, no.

22 Q. Yes.

23 A. They're fairly consistent.

24 Q. And then the Bench asked you about a
25 break-out of some of the information. You said that

1 you -- it shows up in position statements, but not in
2 your testimony. Do you recall that?

3 A. Yes.

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

5 A. Yes. So we had -- like our position in
6 the end, the -- we're reducing Staff's number by
7 17 million. Staff had \$41,643,800 for Empire's A&G
8 expense in their EMS runs -- the final -- final EMS
9 run. So I reduced that by \$17,159,938. And that's
10 with the jurisdictional factor of approximately
11 88 percent.

12 Q. Thank you. No further questions.

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

16 THE WITNESS: Thank you.

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

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

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

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

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

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

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

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

25 Issue 6 is the amount of fuel inventory,

1 132 is system energy loss factor, 133 is
2 jur- -- jurisdictional allocation factors for demand
3 and energy, 134 is determining gas transportation
4 costs, 135 is gas -- gas transportation costs
5 calculated using the new rates established.

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

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

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

15 Sixteen is the appropriate rate-base
16 balance for the prepaid pension asset, pension tracker
17 and OPEB tracker -- OPEB tracker, 62 is the expense
18 amount to be included in the revenue requirement for
19 the FAS 87 costs, 63 is the expense amount for FAS
20 88 costs, 64 is the expense amount for FAS 106, and 65
21 is the expense amount reflected for SERP.

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

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

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

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

13 MR. WILLIAMS: Judge?

14 JUDGE HATCHER: Yes.

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

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

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

25 JUDGE HATCHER: Understandable. We've

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

6 Is Dr. Marke available today?

7 MR. WILLIAMS: Yes.

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

11 MR. WILLIAMS: Both that and the 169.

12 JUDGE HATCHER: Okay.

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

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

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

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

1 out.

2 Company.

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

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

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

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

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

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

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

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

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

7 THE WITNESS: I do not.

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

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

12 THE WITNESS: Yes, I do.

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

15 THE WITNESS: Yes, I was.

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

21 MATTHEW YOUNG,
22 having been previously sworn, testified as follows:

23 QUESTIONS

24 BY JUDGE HATCHER:

25 Q. The true-up accounting schedule entries

1 to adjust reserve for environmental cost do not total
2 the \$7,348,995 amount Liberty recommends for Iatan/PCB
3 offsets. Staff adjustments total over eight million
4 dollars. Your surrebuttal/true-up direct testimony on
5 page two appears to be in agreement with Liberty.

6 Here's my question --

7 A. Okay.

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

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

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

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

25 Q. Okay. Thank you.

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

3 That was my only question.

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

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

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

13 JUDGE HATCHER: Consumers Council.

14 MR. COFFMAN: No questions.

15 JUDGE HATCHER: Empire.

16 MS. CARTER: No questions.

17 JUDGE HATCHER: Public Counsel.

18 MR. WILLIAMS: No questions, thank you.

19 JUDGE HATCHER: And redirect.

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

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

25 Next, we will move to Depreciation. This

1 is Issue 80.

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

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

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

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

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

25 JUDGE HATCHER: Okay. Depreciation,

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

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

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

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

14 This is Issues 31 through 33, 36, 37, 77,
15 82 and 87. Are there any Commissioner questions on
16 any of those issues?

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

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

21 JUDGE HATCHER: Right.

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

1 JUDGE HATCHER: Great. But that will be
2 today?

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

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

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

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

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

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

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

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

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

3 Commissioners, are there any Commissioner
4 questions on cybersecurity?

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

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

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

14 MATTHEW YOUNG,
15 having been previously sworn, testified as follows:

16 QUESTIONS

17 BY JUDGE HATCHER:

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

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

1 agree?

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

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

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

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

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

25 Okay. Hearing none, we'll go through our

1 recross-examination schedule. First, we will go to
2 Mr. Opitz.

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

4 JUDGE HATCHER: And Mr. Coffman.

5 MR. COFFMAN: No questions.

6 JUDGE HATCHER: And Empire.

7 MR. FLAHERTY: No questions.

8 JUDGE HATCHER: Public Counsel.

9 MR. WILLIAMS: Thank you.

10 RECROSS-EXAMINATION

11 BY MR. WILLIAMS:

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

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

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

1 be approached.

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

5 A. I don't know.

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

8 A. Yes. That is the purpose of --

9 Q. Thank you.

10 A. -- a PLR.

11 JUDGE HATCHER: Thank you, Mr. Williams.

12 Redirect.

13 MR. VANDERGRIFF: No redirect, Your
14 Honor.

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

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

20 JUDGE HATCHER: Remind me which issue.

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

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

25 Brian, if you could help me and -- and

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

3 THE WITNESS: I -- can you hear me?

4 JUDGE HATCHER: Yes, thank you.

5 THE WITNESS: Perfect.

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

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

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

17 (Witness sworn.)

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

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

22 JUDGE HATCHER: Thank you, Mr. McCuen.

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

1 QUESTIONS

2 BY JUDGE HATCHER:

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

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

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

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

1 case.

2 Q. Okay. Thank you. I appreciate that.

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

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

8 THE WITNESS: Sure.

9 JUDGE HATCHER: First, we'll go to MEGG.

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

11 JUDGE HATCHER: Then Staff.

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

14 JUDGE HATCHER: Consumers Council.

15 MR. COFFMAN: No questions.

16 JUDGE HATCHER: Public Counsel.

17 MR. WILLIAMS: No questions. Thank you.

18 JUDGE HATCHER: And then redirect by the
19 Company.

20 MR. FLAHERTY: No redirect, Your Honor.

21 JUDGE HATCHER: Thank you.

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

25 THE WITNESS: All right. Thank you very

1 much.

2 JUDGE HATCHER: Thank you.

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

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

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

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

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

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

1 Does any other party wish to examine John Reed?

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

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

9 MS. CARTER: And, Judge?

10 JUDGE HATCHER: Yes.

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

13 JUDGE HATCHER: Okay.

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

16 JUDGE HATCHER: Thank you.

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

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

21 MS. CARTER: Thank you.

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

1 Self-read Option.

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

8 MR. WILLIAMS: Both.

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

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

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

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

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

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

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

7 MS. CARTER: That is fine with Liberty.

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

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

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

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

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

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

22 MR. WILLIAMS: And Charlotte?

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

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

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

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

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

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

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

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

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

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

1 questions.

2 MR. PRINGLE: Okay.

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

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

10 THE WITNESS: I have.

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

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

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

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

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

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

3 JUDGE HATCHER: Sold.

4 MR. PRINGLE: All right.

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

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

10 GEOFF MARKE,
11 having been previously sworn, testified as follows:

12 QUESTIONS

13 BY CHAIR HAHN:

14 Q. Lucky you. Thank you.

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

19 A. I do.

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

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

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

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

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

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

11 A. Okay.

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

14 COMMISSIONER KOLKMEYER: Yes.

15 JUDGE HATCHER: Yes. Commissioner
16 Kolkmeier, go ahead.

17 COMMISSIONER KOLKMEYER: Thank you,
18 Judge.

19 QUESTIONS

20 BY COMMISSIONER KOLKMEYER:

21 Q. Good morning.

22 A. Good morning.

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

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

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

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

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

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

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

22 Q. We hear quite often --

23 A. Right.

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

1 A. Right.

2 Q. -- you know, but okay. Thank you.

3 A. Uh-huh.

4 JUDGE HATCHER: And Commissioner Coleman.

5 COMMISSIONER COLEMAN: Thank you.

6 QUESTIONS

7 BY COMMISSIONER COLEMAN:

8 Q. Dr. Marke, would you respond again to
9 that question Commissioner Kolkmeier just asked? I
10 was reviewing something with the Judge and missed it.

11 A. Sure, Commissioner. So Commissioner
12 Kolkmeier asked if he believed -- whether or not I
13 thought that the numbers would be large moving
14 forward.

15 And I think my response was, you know,
16 it's a good question. There's a concern that it could
17 be quite large given just the feedback that we
18 received from the town halls and the local public
19 hearings regarding meters and -- and just the
20 skepticism, I guess, over the billing numbers.

21 And then the follow-up question was
22 around the charges themselves. So right now
23 there's -- there's a charge for customers to opt out
24 and then there's a charge effectively for a future
25 meter reader. So, you know, absent having an AMI and

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

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

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

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

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

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

1 that enough?

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

6 Q. Thank you.

7 COMMISSIONER COLEMAN: Thank you, Judge.

8 JUDGE HATCHER: Thank you, Commissioner.

9 Are there any other Commissioner
10 questions for Dr. Marke?

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

13 THE WITNESS: Yeah.

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

16 Okay. Consumers Council.

17 MR. COFFMAN: No questions.

18 JUDGE HATCHER: MEGG.

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

20 JUDGE HATCHER: Staff.

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

23 JUDGE HATCHER: Empire.

24 MS. CARTER: Yes. Thank you.

25 RECROSS-EXAMINATION

1 BY MS. CARTER:

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

5 A. That's correct.

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

8 A. Correct.

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

12 A. There was communication, yes.

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

15 A. I believe that's correct.

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

18 A. I'll take your word for it.

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

25 A. We -- I -- I would say that is true. I

1 think I qualified that statement. And I qualified
2 that statement by saying the -- the issue today is
3 that those customers would be charged more than what
4 we are proposing moving forward, and that's that
5 self-read option.

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

8 A. That's right.

9 Q. -- approved rate?

10 A. Yeah.

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

14 A. That is correct.

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

17 A. Correct.

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

20 A. Yes.

21 Q. Thank you. Those are all my questions.

22 JUDGE HATCHER: Thank you.

23 And redirect.

24 MR. WILLIAMS: I think there's no need.

25 Thank you.

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

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

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

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

9 (Witness sworn.)

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

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

15 JUDGE HATCHER: Thank you.

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

18 QUESTIONS

19 BY CHAIR HAHN:

20 Q. Good morning, Ms. Eubanks.

21 A. Good morning.

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

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

5 Q. Okay. Thank you.

6 A. You're welcome.

7 Q. Thank you.

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

10 COMMISSIONER KOLKMEYER: Thank you,
11 Judge.

12 QUESTIONS

13 BY COMMISSIONER KOLKMEYER:

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

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

20 Q. Okay.

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

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

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

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

10 A. It -- it is in the statute.

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

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

14 Q. That's fine.

15 A. Yeah.

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

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

20 Q. Okay. Thank you.

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

23 QUESTIONS

24 BY JUDGE HATCHER:

25 Q. The Bench does have one. I wanted to

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

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

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

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

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

25 Q. West is the only -- Everygy West is the

1 only utility you're aware of in Missouri?

2 A. I believe -- I want to say Spire also.

3 Q. Okay. Okay. Thank you very much.

4 JUDGE HATCHER: That takes us to recross.

5 MECG.

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

7 JUDGE HATCHER: Consumers Council.

8 MR. COFFMAN: No questions.

9 JUDGE HATCHER: Empire.

10 MS. CARTER: Yes, just one.

11 RECROSS-EXAMINATION

12 BY MS. CARTER:

13 Q. Ms. Eubanks, but Empire also has a
14 self-read option currently, as Dr. Marke affirmed
15 while he was on the stand?

16 A. I don't recall.

17 Q. Okay.

18 JUDGE HATCHER: Public Counsel.

19 MR. WILLIAMS: Thank you, no.

20 JUDGE HATCHER: And redirect?

21 MS. KLAUS: Thank you. Briefly.

22 Alexandra Klaus on behalf of Staff.

23 REDIRECT EXAMINATION

24 BY MS. KLAUS:

25 Q. Good morning, Ms. Eubanks.

1 A. Good morning.

2 Q. I had to check what time it was.

3 You've gotten some questions on a few
4 topics. I'd like to address a couple. You were asked
5 about other utilities using advanced meter opt-outs.
6 Do you remember that question?

7 A. I do.

8 Q. And I think you had said that Coty King
9 had some testimony on this topic and wanted to see if
10 you might have been thinking of a chart that Mr. King
11 had included at page three of his direct testimony?

12 A. Yes.

13 Q. And just for clarity sake, that does
14 identify Evergy Missouri West; Spire Missouri, Inc.;
15 Empire Water; Liberty Utilities; Missouri Water; and
16 Ameren Missouri in that chart, correct?

17 A. That's my recollection, yes.

18 Q. Thank you. You were also asked about
19 fees and Senate Bill 4.

20 A. Yes.

21 Q. Do you remember those questions?

22 A. I did -- I do.

23 Q. All right. Pardon me. Do you have a
24 copy of Mr. King's testimony with you?

25 A. I do not.

1 Q. That's quite all right.

2 MS. KLAUS: One moment, please.

3 BY MS. KLAUS:

4 Q. Well, I have a copy in front of me here.
5 And I'm looking at page two, footnote two. And
6 Mr. King has cited to Senate Bill 4 and it including
7 new provisions, specifically at Section 386.820.2,
8 sub two.

9 Would it -- would it sound correct to you
10 to say that that statute's going to say that the
11 one-time fee cannot exceed \$125?

12 A. That sounds right, yes.

13 Q. And does it sound right that the monthly
14 fee may not exceed \$15?

15 A. Yes.

16 MS. KLAUS: No further questions. Thank
17 you.

18 JUDGE HATCHER: Thank you, Ms. Klaus.
19 Good to have you back.

20 I think -- I think that's it. Thank you.
21 I appreciate you being here and filling in today.

22 THE WITNESS: Absolutely. Thank you.

23 JUDGE HATCHER: You're excused from our
24 witness stand.

25 Counsel, here is -- here is my

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

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

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

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

16 COMMISSIONER KOLKMEYER: Finish it.

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

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

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

24 JUDGE HATCHER: Okay. Counsel, parties,
25 we are left with four items to discuss. They are the

1 continuation of Customer Experience, FAC, Ozark Beach
2 crane extension, and questions on the stipulation.

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

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

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

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

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

18 MR. VANDERGRIFF: Our witnesses are
19 available.

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

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

1 MR. WILLIAMS: That is correct.

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

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

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

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

15 MS. CARTER: Yes. Ms. Grubbs?

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

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

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

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

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

3 MR. WILLIAMS: We can waive that.

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

6 MR. PRINGLE: Happy to kick it.

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

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

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

22 Company, go ahead and call your witness.

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

1 possible?

2 JUDGE HATCHER: Why do you need copies?

3 MS. GRUBBS: To take up to the stand.

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

6 MS. GRUBBS: To reference.

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

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

12 MS. GRUBBS: Yes.

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

17 CHARLOTTE EMERY,
18 having been previously sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MS. GRUBBS:

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

23 A. I am.

24 Q. All right. Do you have a copy with you
25 then of your testimonies? You filed direct testimony,

1 rebuttal testimony, surrebuttal/true-up direct
2 testimony, and true-up rebuttal testimony, Exhibits 17
3 through 20 that have previously been admitted.

4 A. I do.

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

9 A. Yes.

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

12 JUDGE HATCHER: Thank you very much.
13 And we will first go to Mr. Opitz of
14 MECG.

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

16 JUDGE HATCHER: And then Staff.

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

18 JUDGE HATCHER: Consumers Council.

19 MR. COFFMAN: No questions.

20 JUDGE HATCHER: OPC.

21 MR. WILLIAMS: No questions, thank you.

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

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

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

4 THE WITNESS: Yes.

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

9 MR. GRAHAM: Brodrick Niemeier.

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

12 (Witness sworn.)

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

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

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

19 MR. GRAHAM: Thank you, Your Honor.

20 BRODRICK NIEMEIER,
21 being first duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MR. GRAHAM:

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

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

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

7 A. Yes.

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

10 A. Yes.

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

14 A. Yes.

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

21 A. Yes.

22 MR. GRAHAM: I'll tender the witness.

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

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

1 JUDGE HATCHER: Consumers Council.

2 MR. COFFMAN: No questions.

3 JUDGE HATCHER: Empire.

4 MS. GRUBBS: No questions.

5 JUDGE HATCHER: Public Counsel.

6 MR. WILLIAMS: Thank you.

7 CROSS-EXAMINATION

8 BY MR. WILLIAMS:

9 Q. Good morning, Mr. Niemeier.

10 A. Good morning.

11 Q. Do you know when the dam at Ozark Beach
12 was built?

13 A. Not off the top of my head.

14 Q. More than -- or about 100 years ago?

15 A. That sounds about right.

16 Q. Do you know when the crane was built on
17 the dam?

18 A. I do not know.

19 Q. Do you have any idea? I mean, has it
20 been there for decades or was it something that was
21 built the past 20 years?

22 MR. GRAHAM: Objection, asked and
23 answered. He's calling for conjecture now and
24 speculation. The witness said he didn't know.

25 MR. WILLIAMS: He said he didn't know a

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

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

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

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

9 BY MR. WILLIAMS:

10 Q. Have you observed the crane?

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

13 Q. Do you know when the extension was done?

14 A. The extension was complete in 2023.

15 Q. No further questions.

16 JUDGE HATCHER: Thank you, Mr. Williams.

17 Then we'll go to Commissioner questions.

18 Are there any Commissioner questions for Mr. Niemeier?

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

22 MR. GRAHAM: No, thank you.

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

1 THE WITNESS: Yeah.

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

7 Public Counsel, your witness.

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

10 JUDGE HATCHER: Okay. Consumers Council.

11 MR. COFFMAN: No questions.

12 JUDGE HATCHER: And Mr. Opitz.

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

14 JUDGE HATCHER: Mr. Graham.

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

16 JUDGE HATCHER: Empire.

17 MS. GRUBBS: No questions.

18 JUDGE HATCHER: Are there any questions
19 from the Commissioners for Dr. Marke on the issue of
20 the Ozark Beach crane extension? Commissioner
21 Kolkmeier.

22 COMMISSIONER KOLKMEYER: Briefly. Thank
23 you, Judge.

24 GEOFF MARKE,
25 having been previously sworn, testified as follows:

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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

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

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

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

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

1 So our objection to this was really it
2 just -- it looks like an outlier, it didn't make
3 sense. You've been doing things for -- one way for
4 100-plus years. We've had concerns from the public at
5 large about this company focusing on CapEx investments
6 as opposed to affordability.

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

11 Q. Thank you.

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

16 MR. COFFMAN: No questions.

17 JUDGE HATCHER: MECG.

18 MR. OPITZ: No, thank you.

19 JUDGE HATCHER: Staff.

20 MR. GRAHAM: No, thank you.

21 JUDGE HATCHER: Empire.

22 MS. GRUBBS: Yes, Your Honor.

23 RECROSS-EXAMINATION

24 BY MS. GRUBBS:

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

1 in morning, huh? It's flying by.

2 Dr. Marke, have you reviewed the
3 surrebuttal testimony of Company Witness Brian
4 Berkstresser, which has been marked as Exhibit 3 in
5 this docket?

6 A. I believe I have. I don't have a copy of
7 that with me.

8 Q. I can provide you one if you'd like.

9 A. Sure.

10 Q. With the assistance of Mr. Vandergriff,
11 thank you.

12 Does that refresh your recollection
13 seeing it there, sir?

14 A. Yes.

15 Q. Okay. So do you recall at pages one
16 through three where Mr. Berk- -- Mr. Berkstresser
17 explains that the original estimate reflected the cost
18 of a feasibility study to assess whether the project
19 was viable? I'd call your attention to page one,
20 lines 19 through 20, please.

21 A. I see that.

22 Q. And that -- the feasibility study, that
23 evaluated whether the project was viable, but -- but
24 also any benefits from that project, correct?

25 A. That's what it says.

1 Q. And have you reviewed that feasibility
2 study?

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

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

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

14 Q. For a feasibility study, correct?

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

17 Q. Pages 19 through 20 on page 1.

18 A. I only have three pages.

19 Q. Page one, lines 19 through 20.

20 A. Oh, lines.

21 Q. I'm sorry, yes.

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

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

1 you were referring to.

2 A. I guess I would have to verify this.

3 Q. So you -- you didn't verify it when you
4 reviewed his surrebuttal testimony? Do you have any
5 reason to question that representation?

6 A. I do. So I guess what I'm confused right
7 now, is the Company suggesting that the cost was never
8 \$10,000?

9 Q. The cost -- if I may?

10 A. Please.

11 Q. I believe that the Company has described
12 that that was for -- the initial estimate was for a
13 feasibility study to determine whether it was a viable
14 project. And then afterwards, there was a revised
15 estimate.

16 A. So if -- if that's the case, then
17 Mr. Niemeier's testimony was -- was -- is incorrect
18 then. Because his testimony suggests that the
19 study -- that the cost was \$10,000.

20 Q. Well, I believe if you look at -- and
21 I'll have to pull up Mr. Niemeier's testimony.

22 A. Okay.

23 Q. But a later round of testimony clarified
24 that. If I may have just a moment to -- so I'm
25 referring to -- I'm sorry. I don't have a copy of it

1 with you, but -- or with me.

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

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

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

15 A. Not a problem.

16 Q. Thanks again for the assistance from
17 Staff.

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

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

21 THE WITNESS: Okay.

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

24 BY MS. GRUBBS:

25 Q. If -- if I could call your attention,

1 Dr. Marke, to the bottom of page eight of
2 Mr. Niemeier's surrebuttal testimony and then
3 following onto page nine. If you want a couple
4 minutes to review that.

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

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

14 A. So I've got two testimonies in front of
15 me. I've got the Company's witness who claims that
16 this is just a misunderstanding, if I understand
17 correctly. That the -- there's a \$10,000 study. The
18 \$10,000 study suggested the project would cost
19 3.5 million dollars, it was actually 2.9 million
20 dollars.

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

1 study or the \$10,000.

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

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

9 But I -- I don't see anything that
10 suggests that this is a \$10,000 -- or that -- if -- if
11 I'm to read Mr. Niemeier's testimony it was still over
12 \$3,000, not \$600,000 less than what was planned.

13 Q. Sorry. Three -- are you saying
14 3.5 million instead of \$3,000?

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

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

25 Q. Under budget.

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

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

9 A. I see that.

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

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

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

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

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

2 Q. Okay.

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

5 Q. So it was that -- I think the way
6 Mr. Niemeier described it, a 3,000 doll- -- or
7 3000 percent increase, that was your main concern.
8 Not that it was addressing safety issues and that it
9 ultimately was under budget by over half a million
10 dollars compared to the full scope project costs?

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

16 I relied on Staff's position that this
17 was a cost overrun of orders of magnitude. We
18 followed -- we raised this as an issue. The first
19 time we are hearing -- the first time that I'm hearing
20 now is -- is today that, in fact, it was never
21 \$10,000, it was 3.5 million dollars. And that
22 number -- I'm trying to reconcile this through our
23 discussion right now.

24 Q. Okay. On the PISA piece of it, I just
25 want to clarify. Do -- do you recall reviewing the

1 surrebuttal/true-up direct testimony of Company
2 Witness Charlotte Emery, which has been admitted as
3 Exhibit 19 that explains why the Company believes that
4 it is PISA eligible?

5 A. Yes.

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

8 A. I would agree with that now.

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

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

13 JUDGE HATCHER: Thank you.

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

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

20 MR. COFFMAN: No questions.

21 JUDGE HATCHER: MEGC is indicating no.
22 Staff.

23 MR. GRAHAM: No.

24 JUDGE HATCHER: Empire.

25 MS. GRUBBS: No, Your Honor.

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

4 MR. WILLIAMS: Thank you, Judge.

5 REDIRECT EXAMINATION

6 BY MR. WILLIAMS:

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

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

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

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

24 A. Yes.

25 MS. GRUBBS: Objection, this is beyond

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

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

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

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

12 THE WITNESS: Yes.

13 MR. WILLIAMS: Thank you. No further
14 questions.

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

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

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

25 MR. WILLIAMS: We still have one witness

1 on Ozark Beach crane extension.

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

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

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

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

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

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

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

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

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

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

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

9 MR. VANDERGRIFF: And Claire Eubanks.

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

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

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

24 MR. WILLIAMS: I -- at this point I don't
25 know whether I'd want to call someone or not. I have

1 no idea about what you're going to ask regarding the
2 agreement, which is now change in positions.

3 JUDGE HATCHER: Yes. Ms. Carter.

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

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

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

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

22 MR. WILLIAMS: Sure.

23 JUDGE HATCHER: Okay. I think that
24 sounds like a good plan. Let's try and wrap up
25 questions on the stipulation today. We are at recess

1 until one o'clock and we are off the record.

2 (A recess was taken.)

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

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

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

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

1 Company going first. Counsel.

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

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

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

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

19 JUDGE HATCHER: Mr. Williams.

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

24 JUDGE HATCHER: I -- I note that
25 Ms. Lange is in the audience and she may be called to

1 testify on the stipulation. Mr. Williams, would that
2 address your initial concern that we would have
3 some -- the person who produced this table on the
4 stand to ask questions of?

5 MR. WILLIAMS: Potentially, sure.

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

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

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

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

20 THE WITNESS: Yes. Sorry.

21 JUDGE HATCHER: No, you're fine.

22 THE WITNESS: Okay.

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

1 MS. CARTER: That is my assumption.

2 JUDGE HATCHER: Yes. Yes. Let's do
3 that. I'm seeing nodding heads. Let's go ahead and
4 start with Commissioner questions. Chair.

5 CHARLOTTE EMERY,
6 having been previously sworn, testified as follows:

7 QUESTIONS

8 BY CHAIR HAHN:

9 Q. Good afternoon, Ms. Emery.

10 A. Good afternoon.

11 Q. Were you -- I assume you helped oversee
12 the Liberty Water rate case; is that correct?

13 A. That's correct.

14 Q. Okay. In the Liberty Water rate case, I
15 recalled I think yesterday that OPC was a signatory to
16 that agreement. Is -- was OPC a signatory to that
17 stipulation and agreement?

18 A. Yes, they were.

19 Q. Okay. And that stipulation and agreement
20 did have phased-in rates, right?

21 A. Correct. Phase-in for Bolivar.

22 Q. And that phase-in did have a carrying
23 cost associated -- or it did not?

24 A. It did not have a carrying cost
25 associated with it.

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

4 A. Correct.

5 Q. Okay. Thank you for clarifying.

6 A. Yes.

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

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

17 Q. So it's 100 percent shareholder funded?

18 A. Yeah.

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

23 Talk to me about what that means. I
24 think we did hear various service issues throughout
25 the local public hearing, but there's really not a lot

1 of detail here. Can you --

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

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

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

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

22 Q. Okay. Yesterday I had asked Ms. Walt
23 some questions about in-person Customer Service
24 Centers and there's nothing in the stipulation and
25 agreement about in-person Customer Service Centers. I

1 continue to be concerned about that given the feedback
2 from the local public hearings.

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

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

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

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

22 So in talking with Ms. Walt, we're going
23 to have appointments available in our Aurora Service
24 Center. So when customers in that Aurora area have
25 issues that they need to come in and speak

1 face-to-face with our customer service, that we will
2 have folks there available for them.

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

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

9 A. You're welcome.

10 JUDGE HATCHER: Commissioner Kolkmeyer.

11 COMMISSIONER KOLKMEYER: Thank you,
12 Judge.

13 QUESTIONS

14 BY COMMISSIONER KOLKMEYER:

15 Q. Good afternoon.

16 A. Good afternoon.

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

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

22 Q. Operations only?

23 A. Yeah.

24 Q. Okay.

25 A. But we're going to -- by appointment, so

1 we can make sure that we have the right folks there,
2 we're going to commit to having customer service. And
3 frankly, if we need a billing person there, if we need
4 a meter person there, we're going to make sure that we
5 have the right people there to address customer
6 issues.

7 Q. Okay. Thank you.

8 A. Uh-huh.

9 JUDGE HATCHER: Are there any other
10 Commissioner questions?

11 QUESTIONS

12 BY JUDGE HATCHER:

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

16 A. Okay.

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

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

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

8 Q. And the second question is on paragraph
9 16, which refers to tax equity distribution. Can the
10 Company or Staff provide a more detailed look about
11 what this paragraph pertains to?

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

15 Q. And then the next question --

16 A. Yeah.

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

22 A. Sure. I checked with our tax
23 accountants -- or accountants on this and they
24 indicated that the actual equity distribution
25 agreement that we have with our tax equity partner

1 doesn't specify a specific date for those
2 distributions, only that they occur in 2026.

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

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

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

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

18 A. Uh-huh.

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

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

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

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

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

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

8 A. Yes. Company Witness Michel McCuen.

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

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

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

18 Last question. There's no exhibit that
19 includes the agreed plant and accumulated depreciation
20 reserve balances as of the true-up date, March 31st,
21 2025. Since there were issues related to both plant
22 and reserve, will there be an exhibit that quantifies
23 the plant and reserve balances as of the true-up date?

24 A. No, it's not our intention that it's
25 needed. The 97 million was a -- just an agreed-upon

1 rate -- rate revenue increase. We don't feel it's
2 needed at this time.

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

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

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

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

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

19 MR. VANDERGRIFF: No questions.

20 JUDGE HATCHER: Consumers Council.

21 MR. COFFMAN: No questions.

22 JUDGE HATCHER: Public Counsel.

23 MR. WILLIAMS: Thank you.

24 RECROSS-EXAMINATION

25 BY MR. WILLIAMS:

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

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

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

10 A. In which case are you referring --

11 Q. The current case.

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

13 Q. No.

14 A. -- current electric case.

15 Q. This case.

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

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

20 A. Yes, it does.

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

23 A. I believe it's in the order.

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

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

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

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

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

9 A. Bolivar.

10 Q. Thank you.

11 A. Uh-huh.

12 JUDGE HATCHER: Thank you, Mr. Williams.
13 And then we'll go back to redirect.

14 MS. CARTER: I have no questions.
15 And -- and, Judge, I'd say Ms. Kelly is
16 on the line.

17 JUDGE HATCHER: Perfect.

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

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

22 MS. CARTER: Candice Kelly.

23 JUDGE HATCHER: Candice Kelly, thank you.

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

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

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

5 JUDGE HATCHER: Excellent. Thank you.
6 I don't believe we have sworn in
7 Ms. Kelly yet.

8 THE WITNESS: Yesterday.

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

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

14 JUDGE HATCHER: No, I think it --

15 MS. CARTER: Okay.

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

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

20 Are there any Commissioner questions for
21 Ms. Kelly?

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

1 five. Thank you.

2 CANDICE KELLY,
3 having been previously sworn, testified as follows:

4 QUESTIONS

5 BY JUDGE HATCHER:

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

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

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

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

1 12 months for that customer or that location and
2 dividing that by the total number of days in the
3 billing cycle and then taking the daily average and
4 multiplying it by 30 to come up with a new installment
5 amount for budget bill plan.

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

11 A. Yes, that is correct.

12 Q. And then the new method is going to be
13 taking the total charges over the year, but then the
14 difference is going to be in those denominators.
15 We're going to divide by the number of days in the
16 billing cycle and then get to our division into
17 12 monthly payments; is that correct? I know that
18 that would not pass a math exam, but --

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

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

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

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

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

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

12 JUDGE HATCHER: Commissioner Coleman.

13 COMMISSIONER COLEMAN: Thank you.

14 QUESTIONS

15 BY COMMISSIONER COLEMAN:

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

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

1 complication? Thank you.

2 A. Thank you for that question, Commissioner
3 Coleman. The -- currently the way the system is
4 configured is the way I've described it in the second
5 scenario where it is already set up to take that
6 average. So making a change to dividing it by
7 12 would be a system change as well.

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

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

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

15 FURTHER QUESTIONS

16 BY JUDGE HATCHER:

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

20 A. Yes.

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

23 FURTHER QUESTIONS

24 BY CHAIR HAHN:

25 Q. What are we going to call Customer First?

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

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

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

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

15 CHAIR HAHN: Interesting.

16 JUDGE HATCHER: Any further Commissioner
17 questions?

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

21 MR. OPITZ: No, thank you.

22 JUDGE HATCHER: He indicates no
23 questions. Staff.

24 MR. VANDERGRIFF: No, thank you.

25 JUDGE HATCHER: Consumers Council.

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

4 RECROSS-EXAMINATION

5 BY MR. COFFMAN:

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

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

14 The revised tariff would have the budget
15 bill plan calculated by taking the total number of
16 days in the billing cycle -- sorry, by taking the
17 total charges for the previous 12 months and dividing
18 that by the total number of days in the billing cycle
19 to get the daily average and then multiplying it by
20 30 to come up with the new installment amount.

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

23 A. I do.

24 Q. Will it be substantially similar?

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

1 the customer's usage --

2 Q. Okay. But it --

3 A. -- and what their -- their pattern is.

4 Q. And -- but it's going to continue to be
5 based on historical usage, not projection forward; is
6 that right?

7 A. Correct.

8 Q. Okay.

9 A. That is correct.

10 Q. Okay. Thank you. That's all I have.

11 JUDGE HATCHER: And Public Counsel.

12 MR. WILLIAMS: No questions. Thank you.

13 JUDGE HATCHER: Before we go to redirect,
14 we have another Commissioner question. We will go
15 back through recross and then we will do the redirect.
16 Commissioner Coleman.

17 FURTHER QUESTIONS

18 BY COMMISSIONER COLEMAN:

19 Q. Ms. Kelly, do you happen to know how many
20 of your customers are on budget billing right now?

21 A. I do not have that answer right now,
22 Commissioner Coleman. I believe that has been
23 answered possibly in a -- in a data request that I
24 could get for you, but I do not have that with me
25 right now.

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

5 A. I do not know that at this time.

6 Q. Okay. Thank you.

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

9 MR. OPITZ: No, thank you --

10 JUDGE HATCHER: -- indicates no
11 questions. Staff.

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

14 JUDGE HATCHER: Consumers Council.

15 MR. COFFMAN: No more, thank you.

16 JUDGE HATCHER: Public Counsel.

17 MR. WILLIAMS: No, thank you.

18 JUDGE HATCHER: And now redirect.

19 MS. CARTER: No, thank you.

20 JUDGE HATCHER: Thank you, Ms. Kelly.

21 And we really appreciate you taking the item to call
22 into the WebEx. I -- I know that the schedule got
23 rearranged at the last minute and I appreciate your
24 patience.

25 THE WITNESS: Absolutely. Thank you.

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

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

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

8 Staff.

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

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

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

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

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

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

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

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

20 Are there any Commissioner questions for
21 Ms. Eubanks?

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

25 MR. VANDERGRIFF: Just number one, Your

1 Honor.

2 JUDGE HATCHER: Just number one.

3 QUESTIONS

4 BY JUDGE HATCHER:

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

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

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

22 So the depreciation rates that are in the
23 stipulation are reflective of the -- the account --
24 new account numbering system. So it is not the rates
25 that are in conflict. It is what we used to call the

1 account numbers. So that includes things like
2 computer hardware and software, but also some of the
3 wind and solar plant as well.

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

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

12 CHAIR HAHN: Thank you, Mr. Vandergriff.

13 QUESTIONS

14 BY CHAIR HAHN:

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

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

23 So we don't have specific items that
24 we're asking to be ordered. In this case the
25 provision is a collaboration between Staff and OPC to

1 toe address what I saw were supported by reliability
2 metrics that are reported to the Commission, which
3 related to the duration of outages and also
4 worst-performing circuits.

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

10 Q. Thank you. Appreciate that.

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

13 Go ahead and call your next witness.

14 You are excused from the witness stand.

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

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

19 THE WITNESS: No, just --

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

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

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

3 MR. OPITZ: No, thank you.

4 JUDGE HATCHER: Consumers Council.

5 MR. COFFMAN: No questions.

6 JUDGE HATCHER: Empire.

7 MS. CARTER: No, thank you.

8 JUDGE HATCHER: Public Counsel.

9 RE CROSS-EXAMINATION

10 BY MR. WILLIAMS:

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

15 A. I don't believe so.

16 Q. You don't bel- --

17 A. I --

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

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

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

1 A. Yes, that's my understanding.

2 Q. No further questions.

3 JUDGE HATCHER: Thank you.

4 And that goes to redirect.

5 MR. VANDERGRIFF: No redirect, Your
6 Honor.

7 JUDGE HATCHER: Thank you.

8 And now.

9 THE WITNESS: Thank you.

10 MR. VANDERGRIFF: Our next witness is
11 Mr. Matthew Young.

12 JUDGE HATCHER: Are we purposefully
13 keeping Ms. Bolin waiting?

14 COMMISSIONER KOLKMEYER: She can't wait.

15 JUDGE HATCHER: Come on down. You've
16 already been sworn. Please join our party. Thank
17 you, Mr. Young.

18 Are there any Commissioner questions for
19 Mr. Young? And I'm going to look meaningfully at
20 Mr. Vandergriff. What questions on the list?

21 MR. VANDERGRIFF: So paragraph two is for
22 tax equity distribution. Number two in paragraph 16.

23 JUDGE HATCHER: Thank you.

24 MATTHEW YOUNG,
25 having been previously sworn, testified as follows:

1 QUESTIONS

2 BY JUDGE HATCHER:

3 Q. Mr. Young, paragraph 16 refers to tax
4 equity distribution. Can Staff provide more detail
5 about what this paragraph pertains to?

6 A. I think there's been a -- some
7 miscommunication. I'm going to defer that paragraph
8 to -- to Ms. Bolin. I can -- I can speak to the
9 number three and four on -- on the list of Commission
10 questions.

11 Q. Well, let's -- let's do three and four.
12 I apologize.

13 MR. VANDERGRIFF: And I apologize too.
14 But just to reiterate, we had question 19 for external
15 audits. You -- you didn't ask for that one, but you
16 did ask for 20. So if you -- if you're asking about
17 audits, that might be there as well.

18 JUDGE HATCHER: I'll see if anyone
19 e-mails me.

20 BY JUDGE HATCHER:

21 Q. Let's move to three and four, Mr. Young.
22 Number three says: Paragraph 20 refers to ethics and
23 capitalization internal audits. Can Staff provide
24 more detail of what these audits are intended to
25 provide and the specific problems they address?

1 A. Sure. I tried my best to outline the
2 current events and -- on pages 24 through 31 of my
3 direct testimony. And I'd also like to note that in
4 rebuttal testimony, Mr. Wilson from Empire agreed with
5 the -- with the recommendations of that part of my
6 direct.

7 The audits were brought about I think for
8 two reasons. The first reason were a response to
9 customer filings, customer comments from former Empire
10 employees. My impression is that these employees
11 were -- were long tenured, most of them very likely
12 going back before Algonquin acquired Empire in 2017.

13 These customer comments generally accused
14 Empire of basically capitalizing too much. They
15 accused them of -- of diverting projects from -- from
16 maintenance to capital projects by replacing perfectly
17 good equipment or -- or doing some creative accounting
18 to -- to inflate the -- the amount of capital spending
19 they could come up with.

20 And there also were some concerns with
21 how they interacted with the third-party contractors
22 from both in the competitive bid process and -- and
23 the gratuities accepted by employees.

24 So -- so I asked for all of Empire's
25 policies in response to the -- the customers' input.

1 I -- I didn't want to do nothing with the information
2 they provided. And I didn't find any evidence of
3 impropriety, okay?

4 But the internal audits I think -- I
5 would hope they would frame up a re-evaluation of how
6 Empire controls its spending and ensures it's acting
7 in the ratepayer's interest on a general and -- and
8 specifically the -- the items mentioned in those --
9 those customer comments.

10 And the second part of -- of what is
11 driving this audit is some things that -- that we came
12 across -- we, as the auditors of the Staff Commission,
13 came across during the audit. Where -- where we found
14 that Empire was capitalizing some -- some cost items
15 that had questionable relationship to construction.

16 So hopefully those -- those overhead-type
17 of costs that are -- that are ending up in plant
18 accounts will be included in what the Internal Audit
19 Department examines.

20 Q. Mr. Vandergriff brought up external
21 audits in paragraph 19 and my question was on
22 paragraph 20, internal audits. Am I correct in
23 concluding that the "internal" designation indicates
24 that this will be an audit done by Liberty personnel?

25 A. Exactly, yes.

1 Q. Let's move on to question four on that
2 list that we e-mailed. Paragraph 23 refers to the
3 discontinuance of the excess EADIT tracker. Was this
4 tracker specifically for unprotected property or also
5 for protected property?

6 A. It is my understanding it was -- it is
7 for both protected and unprotected. And I can cite to
8 the Commission's order approving the stipulation and
9 agreements they issued in ER-2021-0312.

10 That order approved the Non-unanimous
11 Partial Stipulation and Agreement in that case, which
12 contained paragraph six titled EADIT tracker.

13 Okay. That paragraph references a
14 tracker that's going to capture the difference between
15 protected EADIT return to customers as part of the
16 revenue requirement and the actual amortization
17 recorded by Empire using ARAM.

18 But it also mentions a three-year
19 amortization period for non-stub period, unprotected
20 EADIT balances. So that -- that stipulation the
21 Commission approved addresses protected and
22 unprotected.

23 JUDGE HATCHER: Mr. Vandergriff, was
24 that -- those are the questions. Thank you.

25 Any further Commissioner questions for

1 Mr. Young before I start the recross examination?

2 Hearing none, we'll go to
3 recross-examination. This is a Staff witness. We
4 start with Mr. Opitz, who indicates no questions.
5 Consumers Council indicates no questions. Empire
6 indicates no questions. Public Counsel.

7 MR. WILLIAMS: No questions.

8 JUDGE HATCHER: And redirect by Staff.

9 MR. VANDERGRIFF: No redirect, Your
10 Honor.

11 JUDGE HATCHER: Thank you.

12 Thank you for the third time today,
13 Mr. Young. I appreciate you being here.

14 MR. VANDERGRIFF: We'll stop hiding
15 Ms. Bolin. Please take the stand.

16 JUDGE HATCHER: Ms. Bolin, you've already
17 been sworn in in this case.

18 THE WITNESS: Yes. Yes, I have.

19 JUDGE HATCHER: That still applies.
20 Let's jump right in with Commissioner questions on
21 question number --

22 MR. VANDERGRIFF: Two and six.

23 KIMBERLY BOLIN,
24 having been previously sworn, testified as follows:

25 QUESTIONS

1 BY JUDGE HATCHER:

2 Q. I'm going to be asking about number two
3 and six. Question number two on the sheet I
4 distributed to all the parties. Paragraph 16 refers
5 to tax equity distribution. Can Staff provide more
6 detail about what this paragraph pertains to?

7 A. Yes. This is with the tax equity
8 partnership on the wind farms. There are cash
9 distributions that Empire is sweeping before they
10 start doing the cash distributions to the tax equity
11 partners.

12 And we had a little confusion on exactly
13 how the rate-making of those cash distributions are
14 going to work in the future. So I think we just need
15 more time and more understanding on this and that's
16 what the stipulation is getting to. It has no current
17 impact on the revenue requirement.

18 Q. So if there isn't an agreement by the
19 time these payments start, there will be another case
20 filing or --

21 A. Possibly.

22 Q. -- deal with it down the road?

23 A. I think -- I think we can figure the --
24 it just needs -- we need more time to understand what
25 is going on here.

1 Q. Okay. I understand. Thank you.

2 A. And I think we need more detail.

3 Q. And my other question was number six.

4 There is no exhibit that includes the agreed plant and
5 accumulated depreciation reserve balances as of the
6 true-up date, March 31st, 2025. Since there were
7 issues related to both plant and reserve, will there
8 be an exhibit that quantifies the plant and reserve
9 balances as of the true-up date?

10 A. No, there was not. And there is not a
11 need for one with the settlement. I'd like to point
12 out we do have amortization balances attached as a
13 schedule and those would be needed in the future.

14 Q. Okay. Thank you.

15 JUDGE HATCHER: I'll open that back up to
16 other Commissioner questions. Chair Hahn.

17 QUESTIONS

18 BY CHAIR HAHN:

19 Q. Good afternoon, Ms. Bolin.

20 A. Good afternoon.

21 Q. Can you just give me a high level --
22 you've been involved in this case, previous Liberty
23 cases and also you're involved in the investigation
24 case. From your view, taking into account the billing
25 considerations, do you think that this stipulation

1 agreement results in just and reasonable rates?

2 A. Yes, I do. Staff's case, with all of our
3 disallowances for Customer First matters and customer
4 service matters was 128, almost 129 million dollars.
5 This settlement is 97 million. We still have our
6 investigation going where we can bring up more matters
7 that need to be brought before the Commission on
8 customer service so we can still handle that in the
9 investigation.

10 Q. Thank you.

11 JUDGE HATCHER: Any further Commissioner
12 questions for Ms. Bolin?

13 Hearing none, we will go back to our
14 recross-examination. This is a Staff witness. MEG
15 indicates no questions. Consumers Council indicates
16 no questions.

17 MR. COFFMAN: No, I -- I do.

18 JUDGE HATCHER: Oh, I'm sorry. Consumer
19 Council, go ahead.

20 RECROSS-EXAMINATION

21 BY MR. COFFMAN:

22 Q. And -- and this is a broad question, but
23 I hope it will be allowed since the Chair did ask
24 about kind of the high level of this Non-Unanimous
25 Stipulation, which is now a Joint Position Statement

1 of the signatories.

2 And my main focus is on the Customer
3 First regulatory asset. And if you could just help me
4 understand how this works mechanically. There is --
5 the -- the -- the first paragraph indicates that
6 the -- 97 million dollar revenue requirement
7 recommendation does not include Customer First. That
8 there is -- it's recognized that that's not in the
9 97 million.

10 And then paragraph 7 describes a Customer
11 First regulatory asset, which would then still be
12 possible for the utility to recover if they met
13 certain performance metrics on a monthly basis,
14 correct?

15 A. That is correct.

16 Q. And so even though it's not included in
17 the 97 million, there's the potential for this utility
18 to have in a regulatory asset \$1,145,863 in each month
19 that they meet these metrics.

20 A. There is. And that would total to
21 thirteen-thousand seventy-hundred fifty-thousand [as
22 said] dollars a year.

23 Q. Okay.

24 A. Which still wouldn't get you to our 129.

25 Q. Okay. So as -- as you interpret

1 paragraph seven, what you're recommending to the
2 Commission is that this regulatory asset not ever be
3 more than 13 million?

4 A. That is correct. Well --

5 Q. So it doesn't roll over and -- like if it
6 went on for two years?

7 A. If it went on for two years. But our
8 amounts are annual in- -- amounts that get -- like the
9 128 million would be the increase so you would see the
10 revenues increase by 128 million dollars.

11 Q. Okay. Okay. So it's a rate-base amount,
12 not a revenue requirement amount?

13 A. This would be included in rate base,
14 that's correct.

15 Q. Okay. And so then the rate -- so what --
16 and then the -- so what -- how high could this
17 regulatory asset grow to be if -- if let's just say
18 hypothetically the utility met the performance metrics
19 in 24 of the months between now and the end of this
20 period?

21 A. If they met them for 24 months --

22 Q. Uh-huh.

23 A. -- it would be roughly 27 million
24 dollars.

25 Q. Okay. And then that 27 million dollars

1 would then be reviewed by the Commission in another
2 case two or three years from now?

3 A. Whenever they come back in. They cannot
4 come in any sooner -- cannot file any sooner than two
5 years, 24 months.

6 Q. But that -- yeah. That hypothetical
7 amount, which could be 24 million or somewhere in that
8 range, would be in addition to the 97 million dollars
9 in this --

10 A. It would be --

11 Q. -- non-unanimous --

12 A. -- in the next rate case.

13 Q. Okay. But it could --

14 A. It would recover -- the recovery would be
15 looked at in the next rate case.

16 Q. And how soon could that amount be
17 addressed by the Commission given the year one, year
18 two, year three? Would it -- would it necessarily be
19 after the year three, 97 -- after -- after the revenue
20 requirement had gone up 97 million or could it occur
21 before that?

22 A. No, they cannot come in and file -- they
23 cannot file a rate case for 24 months after the
24 effective date of February 1st in this case. So a
25 rate case takes 11 months.

1 Q. Right. Right. And so 24 -- 24 months
2 from the Report and Order in this case, your
3 recommendation would have the revenue requirement be
4 at 97 million. That would be the year three -- year
5 three would be 24 months after the ord- -- the
6 effective dates in this case --

7 A. Correct.

8 Q. -- is that right?

9 A. Yes.

10 Q. Okay. And would -- would there be any
11 carrying costs on this regulatory asset?

12 A. That is not addressed in this paragraph.
13 The paragraph says the amounts are subject to review
14 and recovery in a future rate case.

15 Q. So the -- and this is a separate
16 regulatory asset from the deferred revenue regulatory
17 asset, correct?

18 A. That is correct.

19 Q. So that -- that's in paragraph eight and
20 that refers to the carrying cost over the -- the
21 phase-in, the three different years; year one, year
22 two, year three?

23 A. That is correct. That's that -- that
24 asset there.

25 Q. And that specifically, in your

1 recommendation, would have a carrying cost of zero
2 percent?

3 A. That is correct.

4 Q. But there -- but there is no such
5 provision in paragraph seven?

6 A. That is correct.

7 Q. So this -- and it -- it won't be
8 24 million, but we're -- for purposes of our
9 hypothetical, it's another -- it's another big chunk
10 of change coming. And it -- your -- you would say
11 that the Commission could consider carrying costs on
12 that.

13 A. They could. But it is not spelled out
14 here. The --

15 Q. Do you have an opinion about whether that
16 would be reasonable or not?

17 A. I would not think carrying costs would be
18 appropriate on that.

19 Q. Okay. And then one more question.
20 These -- the performance metrics are not spelled out
21 in the stipulation, which is now your recommendation.
22 Is -- does Staff have an idea of what it would accept
23 for performance metrics or is that just still to be
24 determined?

25 A. I don't know that we have a formal

1 definition of metrics. If you would want more
2 information on metrics, Tyrone Thomason would be
3 good -- best witness to approach on that.

4 Q. Okay. So that is -- and what happens if
5 the -- the parties do not agree on performance metrics
6 by the time that the Commission would then be
7 reviewing this? In other word -- well, when would
8 the -- when would there have to be agreement on the
9 performance metrics? That would have to be right at
10 the end of this case, wouldn't it, because --

11 A. We -- the -- the stipulation says that
12 the parties will confer on the appropriate and
13 reasonable, achievable, monthly, normalized
14 performance metrics and targets in a separate
15 investigation and reach agreement by May 31st.

16 Q. And what happens if there is not an
17 agreement by May 31st?

18 A. Then it would go in front of the
19 Commission to make that determination.

20 Q. That's what I thought. I just wasn't
21 clear. So then that would be -- there would need to
22 be -- so if -- if there is no agreement, you would
23 expect then a filing at the Commission to have the
24 Commission decide what --

25 A. Yes.

1 Q. -- those performance metrics are?

2 And when would that -- when would there
3 need to be a decision on that --

4 A. It is not spelled on --

5 Q. -- for this to work?

6 A. It's not spelled out in this stipulation.

7 Q. Would that need to be before May 31st in
8 order for the -- for paragraph seven to be effective?

9 A. I'm not sure that it would need to be.
10 This -- the agreement says that they will be reached
11 by May 31st.

12 Q. Would it be your opinion that paragraph
13 seven could not take place until there was an
14 agreement or a determination about the performance
15 metrics?

16 A. That is my understanding.

17 Q. Okay. All right. That helps. Thank
18 you.

19 JUDGE HATCHER: Thank you, Mr. Coffman.
20 It goes to Empire.

21 MS. CARTER: Thank you.

22 RECROSS-EXAMINATION

23 BY MS. CARTER:

24 Q. Ms. Bolin, Mr. Coffman said there would
25 be a big chunk of change coming from paragraph seven.

1 Just -- just to be clear, there would be nothing put
2 into that regulatory asset unless -- unless and until
3 there are agreed-upon performance metrics and the
4 Company meets those performance metrics, correct?

5 A. That is correct.

6 Q. And there -- that's done on a
7 month-by-month basis, correct?

8 A. Yes. You can meet it one month and then
9 the following month not meet it.

10 Q. So nothing is put into that regulatory
11 asset unless the Company is showing that it is -- I --
12 I'll let you use your words instead of me trying to
13 put the words in your mouth. But what would the
14 Company have to be doing in order for money to be put
15 into that regulatory asset?

16 A. They would have to meet the metrics
17 spelled out.

18 Q. And what would those metrics be showing?

19 A. They would probably be showing billing
20 accuracy, timeliness, customer service. If you want
21 more detail, you'd probably need to talk to Tyrone
22 Thomason.

23 Q. Thank you. And -- and the paragraph six
24 that you were referencing earlier in response to a
25 question says, as you mentioned, that we'd agree by

1 May 31st, 2026. So they're not specified yet, but the
2 performance metrics should be related to billing
3 accuracy, billing timeliness, number of estimated
4 bills, call center representatives, and customer
5 experience index, correct?

6 A. That is what the stipulation states.

7 Q. Thank you.

8 JUDGE HATCHER: Thank you.

9 And Mr. Williams.

10 MR. WILLIAMS: Thank you.

11 RECROSS-EXAMINATION

12 BY MR. WILLIAMS:

13 Q. Staff hasn't completed its investigation
14 into the billing issues yet, has it?

15 A. No, we have not.

16 Q. And wouldn't that have something to do
17 with performance metrics?

18 A. That would probably help on our per- --
19 help determine the performance metrics.

20 Q. And I guess I'll re-tread some ground.
21 That's really just an agreement to agree to something
22 in the future, is it not?

23 A. It is. It said we would have -- reach an
24 agreement by May 31st.

25 Q. And your stipulation and agreement at

1 this time is positions of the parties who signed onto
2 it, is it not?

3 A. Yes.

4 Q. So except for specific issues that are
5 called out in that agreement, the parties are not --
6 the parties to that stipulation are not in agreement
7 to those issues that are not specified, correct?

8 A. We are not in agreement yet as to the
9 customer performance metrics.

10 Q. Well, there's more than that, isn't it?
11 Are you in agreement on return on equity? Are you in
12 agreement as to capital structure? Are you in
13 agreement as to --

14 A. It is a black-box settlement and --

15 Q. But the Commission --

16 A. -- we agreed to a 97 million dollar
17 increase.

18 Q. But the Commission is going to have to
19 decide all those issues to come up with a revenue
20 requirement if it decides not to take Public Counsel's
21 first position of no increase until Liberty
22 straightens out its internal issues and billing
23 issues, correct?

24 A. The Commission can decide that the
25 stipulation is prudent --

1 Q. Well, how can it --

2 A. -- and reasonable.

3 Q. How can it just say, "Hey, 97 million,
4 all of these things are black-boxed"? Doesn't it need
5 to support what it's saying the revenue requirement
6 should be?

7 MR. VANDERGRIFF: Your Honor, we're going
8 to object. Opposing counsel is try to draw a legal
9 conclusion from our witness.

10 JUDGE HATCHER: Overruled.

11 THE WITNESS: We put this on -- this is
12 our position now, the 97 million dollars.

13 BY MR. WILLIAMS:

14 Q. But your evidence doesn't support it,
15 does it?

16 A. Our evidence supports a 128 million
17 dollar case, our original filing.

18 Q. So your evidence supports more than a
19 97 million?

20 A. That's why we believe this is a
21 reasonable settlement.

22 Q. But if the Commission's going to arrive
23 at a 97, it needs to look at the evidence and come up
24 with a 97 dollar -- I mean million dollar amount,
25 correct?

1 A. I think these issues are being briefed in
2 this case.

3 Q. I'm just making a point that the
4 Commission can't just adopt this -- these positions.
5 That it actually is going to have to go through and
6 decide the issues in this case. You agree with that?

7 A. I believe the Commission could agree that
8 our Non-Unanimous Stipulation is warranted here.

9 MR. WILLIAMS: Well, I just want to make
10 a point that the Commission's free to do whatever the
11 evidence -- the limits on what the Commission can do
12 in this case is driven by the evidence in front of it
13 and it's a wide range. I'll leave it at that. Thank
14 you.

15 JUDGE HATCHER: Redirect.

16 REDIRECT EXAMINATION

17 BY MR. VANDERGRIFF:

18 Q. Good afternoon, Ms. Bolin.

19 A. Good afternoon.

20 Q. You were asked questions about the
21 metrics. Do you have an idea about which parties
22 would be included in agreeing to any such metrics for
23 the regulatory assets?

24 A. Per the stipulation, it's the -- it says
25 the parties. I'm assuming it would include OPC.

1 Q. And with that, had Empire not come to an
2 agreement with those metrics, would it be able to
3 collect any of its deferred assets?

4 A. Could you repeat the question?

5 Q. Would -- if we do not come to an
6 agreement, would Empire be allowed to defer any of its
7 Customer First assets?

8 A. No.

9 Q. You were asked about the investigation.
10 When is our report for the investigation expected to
11 conclude right now?

12 A. I believe it's the end of the year,
13 December 31st possibly.

14 Q. And May 31st. How much time would it
15 give the parties to come to an agreement on the
16 metrics?

17 A. Five months.

18 Q. You think that's a reasonable amount of
19 time?

20 A. I hope.

21 Q. All right. Had Empire not had the issues
22 it had experienced at the implementation of Customer
23 First, would Staff have recommended including Customer
24 First rates in this case?

25 A. Could you repeat that question?

1 Q. Had Empire not had the issues it
2 experienced at the implementation of the Customer
3 First, would Staff have recommended including Customer
4 First in rates for this case?

5 A. Yes.

6 Q. Does the stipulation require Empire to
7 meet certain metrics prior to booking returns
8 associated with Customer First to a deferral --
9 deferred asset?

10 A. If they meet the metrics, yes.

11 Q. No further questions.

12 JUDGE HATCHER: Thank you, Counsel.

13 Thank you Ms. Bolin. You are excused
14 from our witness stand.

15 Counsel, go ahead and call your next
16 witness.

17 MR. VANDERGRIFF: Tyrone Thomason.

18 JUDGE HATCHER: Mr. Thomason, welcome
19 back. Go ahead and take a seat. You were sworn in
20 yesterday. That still applies.

21 We will jump right in with Commissioner
22 questions. Are there any Commissioner questions for
23 Mr. Thomason? Chair Hahn.

24 CHARLES TYRONE THOMASON,
25 having been previously sworn, testified as follows:

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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.

1 Q. Okay. In the monthly meetings, what was
2 accomplished in those meetings?

3 A. Usually the Company came with a set of,
4 like, performance metrics showing like this is how
5 many delayed bills they've had, this is their progress
6 in reducing number of billing exceptions, this is how
7 many customers haven't received bills.

8 And also they would bring updates on any
9 issues that they discussed -- they might have brought
10 up in previous meetings to discuss progress in
11 resolving those, and also new issues that might have
12 come up since then, either issues that they bring to
13 us voluntarily or that we hear from customers and
14 contact them in ad- -- in advance and tell them, "Hey,
15 this is something that you need to look into."

16 Q. Okay. Over the course of working with
17 Liberty in those monthly meetings, did you see
18 progress toward solving any of those issues or was it
19 kind of a mixed bag?

20 A. It depends on the issue. For a lot of
21 the issues that came up, there was progress resolving
22 them. In other cases, I would say that there would be
23 progress for a couple months.

24 For example, delayed bills, for example,
25 there would be progress in reducing that number for a

1 couple months, and then next month you might get a
2 huge spike. And then back to reducing them again for
3 the following month. It really depends on the issue.

4 Q. Okay. Thank you. Appreciate that. I
5 know this is supposed to not be on -- this is supposed
6 to be on the stipulation so thanks for helping me out.

7 A. No problem.

8 JUDGE HATCHER: Commissioner Kolkmeyer.

9 COMMISSIONER KOLKMEYER: Thank you,
10 Judge.

11 QUESTIONS

12 BY COMMISSIONER KOLKMEYER:

13 Q. What was that date again that Staff
14 contacted Liberty?

15 A. I don't have the date that we first
16 reached out to Liberty, but I know that the -- the
17 meeting that came out from that contact was in August
18 of 2024.

19 Q. So that really started with the water
20 case.

21 A. I don't believe that meeting was tied
22 directly to the water case. Consumer Services had
23 been receiving phone calls from Liberty customers I
24 think across all utilities about various issues.

25 Q. Okay. But the water case hadn't been

1 resolved at that time?

2 A. Not at that time.

3 Q. I don't -- yeah. Okay. Thank you.

4 JUDGE HATCHER: Thank you. any other
5 Commissioner questions for Mr. Thomason?

6 Okay. Thank you, Mr. Thomason. We will
7 go through our --

8 MR. JOHNSON: I believe Mr. Thomason may
9 be able to answer the question related to the budget
10 bill change.

11 MR. VANDERGRIFF: That was question five,
12 paragraph 26.

13 QUESTIONS

14 BY JUDGE HATCHER:

15 Q. Excellent. The Bench has a question.
16 Paragraph 26 refers to the revised tariff to reflect
17 the new calculation method for budget billing. Whose
18 testimony contains a description of the new method,
19 and would you be able to explain in simple terms how
20 the new method varies from the existing one?

21 A. Yes, I can. You can find that in my
22 testimony. My direct testimony pages 33 through 35 is
23 where I discuss budget billing.

24 To answer the second part of the
25 question, the original budget billing calculation is

1 essentially you take the last -- the charges for the
2 last 12 months and then you divide it by 12. And that
3 is also the calculation method that is stipulated in
4 their tariff.

5 The new calculation method is where you
6 take those -- that same 12 months, same -- the same
7 charges, you divide that by the number of days in the
8 billing periods for each of those 12 bills and then
9 you multiply it by 30. And if you'd like an example
10 of that calculation, you can find it on page 34 of my
11 testimony.

12 And it also calculates it out with an
13 example showing if you do the two calculation methods,
14 there is a difference.

15 And I will also add the reason why I put
16 this in testimony to begin with is because when the
17 Company switched to SAP, it changed their calculation
18 method for budget billing, which means that their
19 current method is not in line with their tariff. So
20 my intention when I -- when I made the recommendation,
21 was to bring the Company back in compliance with its
22 tariff.

23 Q. Thank you. I appreciate that.

24 JUDGE HATCHER: Okay. Any further
25 questions from Commissioners?

1 COMMISSIONER COLEMAN: Yes.

2 JUDGE HATCHER: Commissioner Coleman.

3 COMMISSIONER COLEMAN: Thank you.

4 QUESTIONS

5 BY COMMISSIONER COLEMAN:

6 Q. Mr. Thomason, hi. How are you today?

7 A. Pretty good. Thank you.

8 Q. Good. Were you able to hear Chair Hahn
9 and I asking questions -- or maybe it was Commissioner
10 Kolkmeyer and I, I can't remember anymore -- questions
11 about budget billing?

12 And my main interest is, do you have any
13 idea why the change was made? I believe Ms. Kelly
14 noted that it had to do with the new system, which
15 we're looking for the change of name and all that good
16 stuff. But the reason for it. Because I'm trying to
17 figure out who it benefits.

18 A. My understanding is just that -- that's
19 just how SAP does the calculation. When the Company
20 switched to SAP, I don't think it was even aware that
21 the calculation method would be different.

22 Q. So are you saying that it really doesn't
23 matter which system is used?

24 A. Which?

25 Q. Old math versus new math.

1 A. Oh, I don't have an issue with either
2 calculation method. My main concern is that the new
3 calculation method is not in line with the tariff.

4 Q. All right. And that's an important
5 issue. Thank you very much.

6 JUDGE HATCHER: Thank you. And any --
7 any question -- further questions from Commissioners?

8 Hearing none, we will go back to our
9 recross-examination. For a Staff witness, we go first
10 to Mr. Opitz. Indicates no questions. Consumers
11 Council.

12 MR. COFFMAN: Yes.

13 RE CROSS-EXAMINATION

14 BY MR. COFFMAN:

15 Q. Good afternoon, Mr. Thomason.

16 A. Good afternoon.

17 Q. And this may be repeating testimony from
18 yesterday, but with regard to the Staff investigation
19 of the -- the billing problems, is it fair to say that
20 the delay in getting a rep- -- a Staff report from
21 that investigation is related to the fact that Staff
22 has continued to find new issues and so the scope of
23 that investigation has gotten bigger and more
24 complicated?

25 A. That is one of the reasons, yes.

1 Q. Okay. Do you believe that -- and I
2 believe you said yesterday that you were expecting
3 that that report could still be done by the end of
4 this year, so sometime in December perhaps?

5 A. Yes, that is our intention.

6 Q. Okay. And at that point is -- is that
7 why there isn't an agreement on performance metrics
8 yet, because Staff wants to have a comprehensive
9 report before they negotiate exactly what the
10 performance metrics are as it relates to the
11 Non-unanimous Stip recommendation?

12 A. I don't believe that was a -- one of the
13 reasons, but that is -- that would be a consideration,
14 the investigation.

15 Q. Do you -- do you -- do you feel right now
16 that at least the scope of the investigation is clear
17 to you? Do you believe that you have now included
18 everything that you think is relevant to that
19 investigation in the -- in the investigation that
20 you're doing? Or are you worried that there might
21 still be new issues that are uncovered?

22 A. I don't know if I can answer that we have
23 uncovered every single possible issue, but I think we
24 have a pretty good grasp of the -- the main issues,
25 yes.

1 Q. Okay. And are -- and you have confidence
2 that the parties can reach agreement on those
3 performance metrics in the time recommended?

4 A. Yes, I think so.

5 Q. Okay. All right. That's all I have.

6 JUDGE HATCHER: Thank you. And Empire.

7 MS. CARTER: Thanks, Judge.

8 RE CROSS-EXAMINATION

9 BY MS. CARTER:

10 Q. Mr. Thomason, I have just a few questions
11 for you. There have been quite a few questions to you
12 both the first time you were on the stand and now
13 today about the monthly meetings that started up in
14 August of 2024.

15 Prior to that and ongoing before that,
16 were there also standing quarterly meetings between
17 Staff, OPC, and Liberty to discuss customer service
18 issues?

19 A. I'll have to -- for the first part of
20 your question, the monthly meetings did not start in
21 August of 2024. They did not start until February
22 2025. Sorry, could you repeat the question?

23 Q. And I'm sorry. I was just going off of
24 the -- I wrote down August of '24 from your answer
25 earlier. I apologize if I got that wrong, that that

1 was when the meetings specifically related to Customer
2 First started. So I will rephrase that question.

3 You had mentioned meetings specific to
4 Customer First starting at some point based on Staff
5 contacting the Company. So --

6 A. Yes.

7 Q. -- I'm asking separate from those, there
8 were also standing customer service meetings that had
9 already been going on quarterly I believe at that time
10 between Staff, OPC, and Liberty; is that correct?

11 A. That is correct.

12 Q. Thank you. I just wanted to make sure we
13 were clear that those were two -- two separate things.

14 And then also you had questions about the
15 investigation and the report having not been filed yet
16 from Staff in the investigation case. Those two cases
17 aren't necessarily tied together, our rate case here
18 and that investigation. They don't have to be timed
19 together, do they?

20 A. No, not necessarily.

21 Q. And -- and the primary reason I believe
22 Staff made a filing, the -- the reason for asking for
23 a delay -- and I don't consider it a delay, but for --
24 for the date that you gave that Staff provided for
25 when you would file that report, that was Staff's

1 workload, correct, was listed first?

2 A. That was one of the reasons, yes.

3 Q. And then lastly, on the budget billing, I
4 just wanted to make sure. Did you have Commissioner
5 Coleman the number of budget billing accounts?

6 A. No, I did not.

7 Q. Okay. That is in your testimony,
8 correct?

9 A. Yes, it is.

10 Q. I just want to make sure she got her
11 answer on that.

12 A. On page 35 of my testimony I say -- on my
13 direct testimony I say that Empire has 17,751
14 customers participating in budget billing as of
15 May 15th of 2025.

16 Q. And this may not be your area, so please
17 feel free to tell me that as the answer. But would
18 you agree with me that as far as the old math/new
19 math, that this -- this new math should result in a
20 slightly more accurate calculation since it digs in a
21 little deeper and -- and goes -- does the daily
22 average instead of just a rolling monthly average?

23 A. Accurate to what should be a budget
24 billing amount? I think that's kind of -- yeah, I'd
25 defer that question.

1 Q. Okay. Thank you.

2 JUDGE HATCHER: Public Counsel.

3 MR. WILLIAMS: Thank you.

4 RECROSS-EXAMINATION

5 BY MR. WILLIAMS:

6 Q. Good afternoon, Mr. Thomason.

7 A. Good afternoon.

8 Q. Chair Hahn asked you about Customer First
9 and some events that occurred, but I didn't hear
10 anything -- or very much about the timing so I want to
11 try to get into that a bit.

12 I believe you said that -- or testified
13 that Staff learned about Customer First issues through
14 the Staff Customer Experience group; is that correct?

15 A. Consumer Services Department.

16 Q. Okay. And about what time frame was
17 that, do you know?

18 A. I don't recall when the e-mail started
19 going around. I recall that the first meeting that
20 was set up between Consumer Services Customer
21 Experience and the Company was in August of 2024.

22 Q. Well, I heard the August 2024 date. And
23 we had testimony earlier that Customer First went live
24 in April I believe 8th of 2024. So we kind of have
25 bookends.

1 Do you have any sense of when in between
2 those two dates Staff learned from -- I guess from
3 input from customers about the Customer First issues
4 at Liberty?

5 A. I know that the first indication for my
6 department was Consumer Services. There was also --
7 because of the increase in informal complaints. I
8 don't have a just specific date beyond that.

9 And I should also add that at that time,
10 the number of issues was small compared to where we're
11 at now.

12 Q. Well, would that have been in the summer
13 of 2024?

14 A. Yes, late summer.

15 Q. You didn't have somebody from Liberty
16 saying, "Hey, we're having trouble with our customer
17 service issues" in like May of 2024? I mean with our
18 Customer First, I'm sorry.

19 A. No. Pa- -- as part of the variance cases
20 for the Customer First implementation, the Company was
21 required to file a variance report detailing how the
22 conversion went.

23 They filed an interim report in -- let me
24 get the month real quick. On -- on June 7th they
25 filed an interim report where it did not really

1 address -- discuss any of the issues really. You
2 can -- I discussed that a little bit on page four of
3 my direct testimony.

4 And then they filed the -- the full
5 report on August 6th, which had more issues.

6 Q. You testified about having quarterly
7 meetings with Liberty or -- yeah, I think they were
8 meetings; is that --

9 A. Yes.

10 Q. -- correct? About --

11 A. That's correct.

12 Q. -- customer service?

13 When were those ongoing?

14 A. They predate my starting at the
15 Commission. I know they are quarterly meetings
16 stipulated by I believe a rate case, but I don't --
17 or -- or the merger, but I don't have the case that
18 that was stipulated in in front of me.

19 Q. So quarterly are -- is it like March you
20 meet and then June and --

21 A. Right.

22 Q. -- so forth? September and December?

23 Was Customer First brought up in any of
24 those quarterly meetings; and if so, when first, to
25 your knowledge?

1 A. Prior to or subsequent the
2 implementation? Because they mentioned in quarterly
3 meetings before the implementation that they were
4 implementing Customer First. But the actual -- if
5 you're talking about specific issues coming out of
6 Customer First, I think the first quarterly meeting
7 where that was discussed would have been in September
8 of 2024.

9 Q. Do you know why those quarterly meetings
10 are held?

11 A. Not off the top of my head. I know we
12 meet with most of the major utilities, just discuss
13 customer service issues either monthly or quarterly
14 depending on the company.

15 Q. Thank you. Appreciate your testimony.

16 A. Thank you.

17 JUDGE HATCHER: Thank you, Mr. Williams.
18 And redirect.

19 MR. VANDERGRIFF: No questions, Your
20 Honor.

21 JUDGE HATCHER: Thank you. Mr. Thomason,
22 appreciate you being here again today.

23 THE WITNESS: Thank you.

24 JUDGE HATCHER: You're excused from our
25 witness stand.

1 Staff, any further witnesses?

2 MR. VANDERGRIFF: Sarah Lange.

3 JUDGE HATCHER: Has everybody gotten a
4 copy of 180 -- proposed Exhibit 108?

5 MR. VANDERGRIFF: Permission to approach.
6 (Witness sworn.)

7 JUDGE HATCHER: Thank you. Please go
8 ahead and have a seat and spell your name for our
9 court reporter, please.

10 THE WITNESS: Sarah Lange, S-a-r-a-h
11 L-a-n-g-e.

12 JUDGE HATCHER: And are there any
13 Commissioner questions for Ms. Lange? Chair Hahn.

14 SARAH LANGE,
15 having been first duly sworn, testified as follows:

16 QUESTIONS

17 BY CHAIR HAHN:

18 Q. Good afternoon, Ms. Lange.

19 A. Good afternoon.

20 Q. Appreciate the exhibit. In OPC's opening
21 statements they showed a video. And I think that one
22 of the folks testifying in the local public hearings
23 had highlighted that White River Co-op was cheaper
24 than what was going to be proposed through the Liberty
25 rate case. And I remember wondering about the per

1 kilowatt hour charge, but also then about the fixed
2 customer charge.

3 Can you -- it looks like -- I see you
4 have White River on here. Can you talk about the per
5 kilowatt hour charge under the new Liberty rates
6 compared to the White River charge and then also the
7 fixed charge?

8 A. Yes. So White River, according to their
9 website -- which I rely on for this sort of thing
10 where they have it and I don't have to make a phone
11 call -- has a customer charge for residential
12 customers of \$35 per month and then a flat energy
13 charge for all kWh in all seasons of just over
14 12 cents per kWh.

15 So for a lot of customers, if they are
16 using kind of -- the breakpoint is somewhere around a
17 thousand kWh-ish -- wait, no. I'm sorry -- sorry.
18 I'm trying to think of the easiest way to say this.

19 If you are looking only at I guess what
20 we call the basic tariff rates, or we can call that
21 for purpose of this hearing the basic tariff rates
22 versus the full bill, that breakpoint where it is
23 cheaper to be a White River customer is probably right
24 around 2,500 kWh a month under the current rates.

25 If you look at the full bill,

1 incorporating things like the FAC and the
2 securitization charges and the MEEIA charge that is
3 currently in effect that will be going away as part of
4 this rate case, if you do include those things, the
5 breakpoint it looks like is probably closer to
6 a thousand -- just -- probably just under a thousand
7 kWh a month.

8 And I apologize and defer to my written
9 piece here if I've got my lines confused. Did that
10 answer your question?

11 Q. Yeah. Thank you very much. I did notice
12 in the stipulation and agreement the fixed charge
13 doesn't ch- -- the residential fixed charge stays at
14 \$13. Is that right?

15 A. That is correct. And that's -- that was
16 a big impetus behind why we put this together for the
17 Commission. You know, just wanting -- wanting to make
18 sure there was an understanding that for customers
19 using kind of less than maybe a thousand kWh a month
20 versus over a thousand kWh a month, that the way that
21 this bill increase hits them is going to change.

22 So, as I said, there's -- there's a lot
23 of moving pieces in Empire's rates over the next three
24 to four months. So what's actually going to happen on
25 a per co- -- kWh basis is that the MEEIA charge drops

1 off and then the FAC base presumably changes in this
2 case some how, some way. I think all the parties that
3 had positions on it were higher than the current FAC
4 base.

5 And so you're going to have this weird
6 situation where each of the three rate phases is going
7 to raise the energy charge of customers by about
8 nine-tenths of a cent per kWh for each month, but then
9 you're going to have that MEEIA charge dropping off,
10 but then you're going to have that FAC base change,
11 but that doesn't get recognized in the FAC rates until
12 six months out.

13 So all that is a very convoluted way of
14 saying that because the customer charge is changed,
15 but -- or is stable but things are moving with the per
16 kWh charge, customers are going to -- different
17 customers are going to experience different impacts
18 over the -- the course of the three years.

19 Q. And then it also says that the summer
20 charges, so the summer per kilowatt hour, is it --
21 that staying constant too?

22 A. No. I'm sorry. That -- that had to do
23 with the rate design aspect. So Empire had proposed
24 to implement a declining block summer charge.

25 Q. Okay.

1 A. And they've had a stable flat customer --
2 or flat summer charge for decades. So that was
3 important to Staff not to disrupt customers with that
4 change in this case.

5 Q. Okay. I see. Thank you.

6 JUDGE HATCHER: Thank you. Are there any
7 other Commissioner questions for Ms. Lange?

8 Okay. Let's go to our
9 recross-examination. And at the end of that, possibly
10 during a redirect, is when I would expect a motion on
11 what we want to do with this document.

12 Recross-examination. Mr. Opitz indicates
13 no questions. Consumers Council. I'll circle back
14 around to Consumer Council. Empire. Public Counsel.

15 MR. WILLIAMS: Thank you.

16 RECROSS-EXAMINATION

17 BY MR. WILLIAMS:

18 Q. Ms. Lange, what are you trying to show
19 with this document?

20 A. Customer impact is going to vary by
21 customer. Some customers when you account for the
22 changes that are happening with whatever change occurs
23 to the FAC base and that MEEIA dropping off, in this
24 first implementation, you know, they might see a 2 or
25 3 percent increase for about six months and then they

1 might see an actual reduction briefly if nothing else
2 changes with the FAC. And who knows what will happen
3 with the FAC six months from now.

4 But then after that, setting aside
5 those -- those FAC changes, securitization charge
6 changes, those sorts of things that are -- are set
7 outside of these rates, that the second rate
8 implementation, the third rate implementation is going
9 to, depending on your choice of denominator, give you
10 changes in the range of just under 5 percent to just
11 under 8 percent per case for -- for two cases.

12 And then I know there was also questions
13 about the impact of the deferred recovery of the
14 97 million and the Customer First. So -- I realized
15 sitting here just now I neglected to include income
16 tax and I neglected to include the effects of
17 amortization expense.

18 But just at a broad level if the same
19 rate design is used in a future rate case that occurs
20 exactly, you know -- rates go into effect exactly four
21 years from when these first -- rates first go into
22 effect and nothing else changes, that the impact of
23 that would be just under two-tenths of a cent for the
24 deferred recovery and just under one-tenth of a cent
25 for the Customer First.

1 Again, recognizing now that I failed to
2 include the amortization expense. Those would both
3 need to be factored up.

4 Q. So can I take from what you've just said
5 that this is giving an idea about some of the
6 magnitudes of impacts, but it shouldn't be read just
7 mathematically?

8 A. I've -- I've never met a customer that
9 used exactly 1,000 kWh each and every month, even if
10 every other bit was right. And -- and every other bit
11 is not going to be exact, that's correct.

12 Q. And then you said it would be at least
13 six -- or six months for a fuel adjustment clause. My
14 recollection is there's a review period, so that it
15 would take at least ten months. Am I not correct?

16 A. I -- I defer to the tariff on that one.
17 I -- I should have printed it out and I didn't.

18 Q. I believe it's six-month accumulation
19 periods and then a four-month review before the rate
20 change associated with an accumulation period actually
21 is implemented.

22 A. That doesn't sound wrong, but I -- I do
23 have to defer to the tariff.

24 Q. Thank you.

25 JUDGE HATCHER: Thank you, Mr. Williams.

1 Mr. Coffman, you had briefly stepped out
2 of the room, but we had finished the Commissioner
3 questions for Witness Lange. Did you have any
4 cross-exam?

5 MR. COFFMAN: No. No, thank you.

6 JUDGE HATCHER: Thank you.

7 That takes us back to redirect.

8 REDIRECT EXAMINATION

9 BY MR. VANDERGRIFF:

10 Q. Good afternoon, Ms. Lange.

11 A. Good afternoon.

12 Q. All right. We're going to lay some
13 foundation for this. Do you recognize the -- the
14 demonstrative exhibit in front of you?

15 A. I do.

16 Q. How do you recognize it?

17 A. I prepared it over the course of the last
18 couple of days.

19 Q. Does it look substantially similar or
20 exactly the same as what you produced before?

21 A. It -- it does. I picked it up off the
22 printer two hours ago.

23 MR. VANDERGRIFF: And with that, we'd
24 like to offer what should be marked as Exhibit 180
25 into evidence.

1 MR. WILLIAMS: I have no objection -- I
2 have no objection as long as it's admitted as a
3 demonstrative evidence.

4 MR. VANDERGRIFF: As a demo- -- as a
5 demonstrative.

6 JUDGE HATCHER: Any objections to the
7 admission of the sheet labeled Monthly Bill Impact for
8 Residential Customers labeled Demonstrative Exhibit
9 180?

10 Hearing no objections, so admitted.
11 (Staff Exhibit 180 was received into
12 evidence.)

13 JUDGE HATCHER: I believe you are
14 excused. Thank you very much for being here.
15 Appreciate that.

16 Staff, any further witnesses?

17 MR. VANDERGRIFF: No further witnesses,
18 Your Honor.

19 JUDGE HATCHER: Thank you.

20 Office of Public Counsel. We have
21 discussed this a bit off the record, but I wanted to
22 make sure that my offer was on the record. That this
23 was an add-on item to our schedule and if OPC would
24 like to present a witness to testify on or about the
25 stipulation, I would invite them to go ahead and do

1 so.

2 MR. WILLIAMS: Thank you, no.

3 JUDGE HATCHER: MECG, same offer. This
4 is kind of a last-minute addition. Did you want to
5 pro- -- produce any witnesses?

6 MR. OPITZ: I don't believe that's
7 necessary, but if the Commission has questions, I
8 would offer that Ms. Maini can be available on Friday
9 morning.

10 JUDGE HATCHER: Noted. Thank you. Could
11 she be available on Thursday?

12 MR. OPITZ: My understanding is she could
13 not be.

14 JUDGE HATCHER: Okay. I will contact all
15 of the counsel if we do request her to come testify.

16 Consumers Council, same offer.

17 MR. COFFMAN: I think we're good. I --
18 I -- if the Commission is interested in learning more
19 about customer service issues and our positions, I
20 would, you know, offer up Jim Thomas. I think we can
21 probably make him available in some way. But
22 otherwise, I think we're good on the record.

23 JUDGE HATCHER: Thank you. That was all
24 of the participating parties we have. I believe that
25 concludes the Commission's questions on this add-on

1 item of the stipulation and agreement.

2 Commissioners, I'm going to make a few
3 announcements, but we're wrapping up for today.

4 For the counsel and those listening
5 online, we will come back tomorrow. We have three
6 issues; Customer Experience, which will be the
7 appearance of Company Witness John Reed. We have the
8 FAC, and we have the Ozark -- the Ozark issue, which
9 will be the appearance of Company Witness
10 Berkstresser.

11 Are there any issues that I have left off
12 of our agenda? Do we have any items, any points of
13 discussion? We are ready to adjourn in the next
14 30 seconds or so.

15 Mr. Williams.

16 MR. WILLIAMS: Are you going to take them
17 in the order in which they appear on the hearing
18 schedule?

19 JUDGE HATCHER: I hadn't given that any
20 thought. Do you have some suggestions?

21 MR. WILLIAMS: I do not.

22 JUDGE HATCHER: I believe Customer
23 Experience was listed first.

24 MR. WILLIAMS: The listing I see shows
25 John Reed for Customer Experience, then the FAC

1 issues, and then the Ozark Brane -- Beach crane
2 extension just Mr. Burkett -- Berkstresser --
3 Berkstresser.

4 MS. CARTER: Berkstresser. If we perhaps
5 want to start with Mr. Berkstresser's issue? Just
6 because the -- I imagine the other ones will be longer
7 and he's not included in the FAC party.

8 JUDGE HATCHER: Do any parties have any
9 input on taking Mr. Berkstresser and the Ozark issue
10 first?

11 MR. VANDERGRIFF: No objections.

12 MR. WILLIAMS: We're flexible. I just
13 thought there might be some accommodations.

14 JUDGE HATCHER: Sold. Mr. Berkstresser,
15 if you are listening, please be prepared to testify at
16 9:00 a.m. If he is not, I trust his counsel will
17 inform him. So that takes care of Ozark. That will
18 be 9:00 a.m.

19 My inclination would then be to go to
20 Reed. Because, again that will be a single witness,
21 single issue. I predict that it would likely be
22 shorter than the FAC. And then we conclude on the FAC
23 with the -- the normal introduction of witnesses,
24 cross, Commission. I'm seeing nods. Everyone agrees?
25 Are there any opposing or alternate discussion items?

1 MR. WILLIAMS: Judge, I'll point out that
2 Mr. Reed is a Company witness on both the FAC and the
3 customer experience. I don't know if they want to
4 bring him up and down or what order they may want to
5 take him in, but.

6 JUDGE HATCHER: No, I'm going to -- I'm
7 going to be doing it just as awkward tomorrow as I did
8 it today. We'll have Mr. Berkstresser come up for
9 Customer Experience. Depending on how that goes, we
10 might dismiss him -- no, because he's a Company
11 witness. He would be one of the first ones up. We'll
12 deal with that -- that's a game-time decision. Good
13 point, Mr. Williams. Thank you.

14 All right. That is it. Last
15 announcement. Tomorrow 9:00 a.m., the Ozark issue
16 with Mr. Berkstresser, followed by Customer
17 Experience. Yeah, we're going to have to put in the
18 Customer Experience in there in the middle. Yeah,
19 we'll go Ozark first, Customer Experience second, FAC
20 third.

21 Thank you all. We are -- yes,
22 Mr. Flaherty.

23 MR. FLAHERTY: Yes. I'm not going to
24 participate tomorrow. Is it okay if I'm excused from
25 tomorrow's hearing?

1 JUDGE HATCHER: Yes, that would be fine.

2 MR. FLAHERTY: Thank you very much.

3 JUDGE HATCHER: I'm refraining from
4 making dad jokes.

5 Excellent. We are adjourned for the day.
6 Thank you all.

7 (Whereupon, the proceedings were
8 adjourned at 2:47 p.m., to reconvene on October 16,
9 2025 at 9:00 a.m.)

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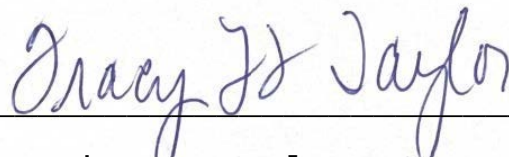
REC'D

STAFF:

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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 Thorpe Taylor, CCR, RPR

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