

Exhibit No.: ____
Issues: Money Pool, Affiliate
Transactions, Variances
Witness: Mark T. Timpe
Type of Exhibit: Direct Testimony

MISSOURI PUBLIC SERVICE COMMISSION

CASE NO. AO-2018-0179

**IN THE MATTER OF THE APPLICATION OF
THE EMPIRE DISTRICT ELECTRIC COMPANY, THE EMPIRE DISTRICT
GAS COMPANY, LIBERTY UTILITIES (MIDSTATES NATURAL GAS) CORP.,
AND LIBERTY UTILITIES (MISSOURI WATER) LLC
FOR AN AFFILIATE TRANSACTIONS RULE VARIANCE**

DIRECT TESTIMONY

OF

MARK T. TIMPE

****public version****

December 21, 2018

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DIRECT TESTIMONY OF MARK T. TIMPE

Q. Please state your name and business address.

A. My name is Mark T. Timpe. My business address is 602 S. Joplin Avenue, Joplin, Missouri.

Q. By whom are you employed and in what capacity?

A. I am employed by Liberty Utilities Service Corp., a subsidiary of Algonquin Power & Utilities Corp. (“APUC”), as the Director, Treasury for Liberty Utilities Co. (“LUCo”). I am responsible for, among other things, the day to day funding needs of all LUCo subsidiaries and management of banking services. LUCo is a subsidiary of APUC and the direct or indirect owner of various regulated utilities, including The Empire District Electric Company, The Empire District Gas Company, Liberty Utilities (Midstates Natural Gas) Corp., and Liberty Utilities (Missouri Water) LLC (collectively, the “Applicants”).

Q. Please provide a brief overview of your experience and education.

A. I received a bachelor’s degree in Business Administration from St. Louis University in 1981 and a Master of Business Administration from St. Louis University in 1985. Following an initial 11-year career in banking, I was the treasurer of a Joplin Missouri-based truckload carrier, Contract Freighters, Inc., for 15 years and director of finance for just less than seven years with the successor company, Con-way, Truckload, Inc. In August 2014, I was hired as Director of Financial Services for The Empire District Electric Company and in October 2014 was elected its Treasurer. I continued in that capacity until the acquisition of Empire by an affiliate of LUCo, which was effective January 1, 2017, at which time I became Director, Treasury of LUCo. I have extensive

1 experience in the areas of banking, finance, contract review and administration and
2 retirement plan investments.

3 **Q. Have you previously testified in any utility regulatory proceedings?**

4 A. Yes. I provided direct testimony supporting LUCo's money pool applications in
5 Massachusetts and Illinois. I have also provided direct testimony on the issuance of long-
6 term indebtedness in LUCo's current St. Lawrence Gas Company Inc. ("St. Lawrence
7 Gas") acquisition proceeding before the New York Public Service Commission.

8 **Q. What is the purpose of your direct testimony in this proceeding?**

9 A. The purpose of my testimony is to support the Applicants' request for their application
10 for variances from the Commission's electric and gas Affiliate Transaction Rules
11 ("Rules") to allow them to participate in a cash management program, known as a money
12 pool, for LUCo's regulated subsidiaries.

13 **Q. When did the Applicants file their application for money pool approval and what
14 has transpired since that time?**

15 A. The Applicants originally filed their application for variance from the Rules with the
16 Commission on December 29, 2017, and, since that time, have held several discussions
17 with both the Commission Staff ("Staff") and the Office of Public Council ("OPC"). As
18 part of this process, several data requests were both requested and responded to.

19 The Applicants, Staff, and OPC have continued to discuss various issues and concerns
20 raised by Staff and OPC, including holding a meeting at Staff's office on July 19, 2018
21 during which the Applicants, represented by myself and Applicant Counsel, Diana Carter,
22 and members of Staff and OPC were in attendance. Following this meeting, Staff
23 prepared a proposed term sheet ("Term Sheet") to serve as the basis for defining and

1 resolving the remaining issues. OPC also added issues to or re-characterized certain of
2 the issues in the Term Sheet after its issuance.

3 The Applicants have provided written responses to the Term Sheet, and the parties
4 (Applicants, Staff, and OPC) have had subsequent conference calls to further discuss the
5 issues. At this point, the Applicants believe they have reached agreement with Staff on
6 all issues identified in the Term Sheet.

7 **Q. What is the rationale for the requested variance from the Rules?**

8 A. LUCo desires to employ a money pool, a cash management tool commonly used by
9 corporations, including public utilities, in order to minimize external borrowing and
10 associated costs and/or invest all available cash throughout its organization. Upon
11 Commission approval, the Applicants would become participants in the proposed money
12 pool.

13 **Q. Has the Commission previously approved money pools for other public utilities
14 operating in Missouri?**

15 A. It is my understanding that financial agreements, similar to the money pool proposed by
16 the Applicants, have been approved for Ameren and Spire (f/k/a Laclede Gas).

17 **Q. Aside from the variances requested from the Rules in order to permit participation
18 in the money pool, are the Applicants requesting anything else?**

19 A. Yes. Once LUCo ** _____
20 _____,** the Applicants request that they
21 be exempted from the competitive bidding requirements of the Rules as it relates to the
22 cost of borrowed funds.

1 **Q. Please explain the good cause for the requested variance (why the requested**
2 **variance from the competitive bidding requirement is necessary, appropriate, and in**
3 **the best interest of the Applicants' customers).**

4 A. As will be discussed below, the interest charges to money pool borrowing participants
5 will be based on either LUCo's Credit Facility or its ** _____
6 _____.** Both of these funding vehicles are based on LUCo's investment grade
7 credit ratings. The borrowing rates are already competitively set by the very dynamic
8 commercial loan and commercial paper markets. These markets effectively provide
9 continuous bidding which well exceeds any annual competitive bidding requirement.
10 Competitive forces amongst LUCo's bank group participants will also ensure that best
11 available credit pricing and fees are made available to LUCo which in turn will be passed
12 along to money pool participants.

13 **Q. Have the Applicants participated in a Money Pool in the past?**

14 A. Yes. The Empire District Electric Company has an internal money pool which operates
15 in accordance with its Cost Allocation Manual. The participants in this money pool are:
16 The Empire District Electric Company, The Empire District Gas Company, and Empire
17 District Industries, Inc. Upon approval of the requested variance, and once the LUCo
18 money pool is operational, Empire District Industries, Inc. will no longer receive funding
19 from the Empire money pool, as it is a participant in LUCo's non-regulated money pool.

20 **Q. What are the benefits of the Money Pool?**

21 A. Customers of the Applicants will benefit from the Applicants' participation in the money
22 pool by way of receiving the lowest cost available financing and higher interest income
23 earned on excess fund balances. As participants in the Money Pool, the Applicants will

1 have an opportunity to earn a higher rate of return on its excess cash than what it could
2 earn on those funds in a stand-alone money market fund, as any portion of its excess
3 funds lent to borrowing participants will receive interest at the higher loan rate, in
4 addition to the remaining funds being invested in high grade overnight money market
5 instruments. There will also be benefits when the Applicants borrow from the money
6 pool, because the loan interest rate is based on the lowest available borrowing rate under
7 the LUCo Credit Agreement or, in the future, **** _____,**** the pricing
8 for which is based on LUCo's investment-grade credit rating. The borrowing rates
9 available to participants are expected to be as low as, if not lower than, the rates
10 participants could otherwise obtain for themselves.

11 Interest rates paid by money market funds vary, but today's rates for high quality
12 government money market funds are generally in the range of 2.0 percent basis points as
13 of the month of November 2018, which is significantly below the interest rate a
14 participant can receive through lending excess funds to the money pool. Per Section 1.05
15 of the Money Pool Agreement, borrowers will pay the lowest rate available under the
16 LUCo Credit Agreement, which will be **** _____,**** which,
17 as of December 1, 2018, translates to an indicative rate of approximately **** _____****
18 percent. This arrangement also lessens the potential for excess funds to be left sitting idle
19 in checking or other bank accounts paying low rates of interest or not invested due to an
20 insufficient investment amount.

21 **Q. Are you sponsoring schedules supporting the Application in this proceeding?**

22 A. Yes, I am presenting Schedule LU-MTT-1, the Money Pool Agreement which sets forth
23 the terms and conditions upon which utilities would borrow and lend money. In addition,

1 I am presenting Schedule LU-MTT-2, a list of the regulated entities anticipated to
2 participate in the Money Pool Agreement.

3 **Q. Are there other LUCo's subsidiaries which may become money pool participants in**
4 **the future?**

5 A. Yes. LUCo has regulated utilities in Arizona, California, and Texas for which money
6 pool participation approval has not yet been requested but is expected to be in the future.
7 Additionally, LUCo has an acquisition approval case pending in the State of New York
8 related to the purchase of St. Lawrence Gas and, as part of that case, LUCo has requested
9 approval to include St. Lawrence Gas (the regulated utility) in the money pool. As LUCo
10 makes future acquisitions of regulated entities, it is anticipated that money pool
11 participation would become part of those acquisition approval cases as well.

12 **Q. Does LUCo operate any other money pools?**

13 A. Yes. LUCo has created a separate money pool strictly for its non-regulated entities. The
14 money pool agreement for the non-regulated entities is patterned after the money pool
15 agreement for LUCo's regulated utilities.

16 **Q. Will there be any sharing of funds between the regulated utility money pool and the**
17 **non-regulated entity money pool?**

18 A. No. Excess funds contributed by regulated entities will only be lent to other regulated
19 participants and vice versa. Additionally, LUCo can only act as a lender of funds to the
20 regulated money pool and is prohibited from borrowing from the regulated money pool.

21 **Q. Please describe the Applicants' current short-term facilities.**

22 A. Currently, the Applicants have one source of short-term borrowing to meet their liquidity
23 needs: intercompany advances provided from time to time by LUCo. LUCo either meets

1 these liquidity needs from its own cash or from draws on its \$500 million multi-bank
2 revolving credit agreement provided by JPMorgan Chase Bank, N.A., Wells Fargo Bank,
3 and Bank of America (“Lead Banks”) and the other lender parties thereto dated February
4 23, 2018 (“LUCo Credit Agreement”).

5 **Q. Please describe the Money Pool Agreement for which the Applicants seek approval.**

6 A. The Money Pool Agreement is a cash-management arrangement among regulated
7 subsidiaries of LUCo under which the parties to the agreement may lend to (when they
8 have excess cash) or borrow from (when they have short-term cash needs) each other.
9 Participants in the money pool are not subject to borrowing limits, since investment-
10 grade rated LUCo guarantees all loans made from the money pool. The Applicants have
11 not yet executed the Money Pool Agreement as its participation as a lender under the
12 Money Pool Agreement is subject to the regulatory approval requested here.

13 The Money Pool Agreement will allow for an efficient use of funds among LUCo’s
14 regulated utility operations and will minimize external short-term borrowing when excess
15 cash exists within the regulated utility group. The interest rate applied to all borrowing
16 under the Money Pool Agreement is equal to the lowest rate payable on borrowings under
17 the LUCo Credit Agreement, determined as if a 30-day interest period had occurred
18 under the LUCo Credit Agreement as of the first day of the month in which the
19 applicable contribution to or borrowing from the Money Pool occurs. The borrowing rate
20 of interest is also the interest rate paid to Money Pool participants who contribute excess
21 funds, to the extent said funds are lent to borrowing participants. Any excess funds after
22 borrowing participant needs have been met will be invested into qualifying highly liquid
23 and high-quality investment vehicles as outlined in the Money Pool Agreement.

1 Participants contributing excess funds to the money pool will receive a pro-rata share of
2 all loan and/or investment interest.

3 **Q. Is the lowest borrowing rate available under the LUCo Credit Agreement the only**
4 **basis for participant borrowing?**

5 A. Currently, yes. However, in the very near future, LUCo expects ** _____
6 _____** which will provide an even lower cost of funds to the
7 money pool.

8 **Q. Who are the parties to the Money Pool Agreement?**

9 A. The anticipated parties to the Money Pool Agreement are listed on Schedule LU-MTT-2.
10 These entities are regulated subsidiaries owned either directly or indirectly by LUCo.

11 **Q. How will the Money Pool operate?**

12 A. Each day, the cash needs of each of the parties will be determined by me or my designee.
13 Daily bank balance information will be reviewed each morning for each party
14 participating in the money pool and used, along with any other known funds needs for
15 that day, to assess whether the individual parties require funds or have excess funds. All
16 excess funds will then be contributed to the money pool with excess funds loaned to
17 participants in need of funds. Should the quantity of excess funds be insufficient to fund
18 participant borrowing needs, the next source of funds will be LUCo's own cash on hand.
19 If the combination of excess funds and LUCo's excess cash, if any, be insufficient to
20 fund participant borrowing needs, then LUCo will initiate a draw on the LUCo Credit
21 Agreement or, in the future, ** _____**.

1 **Q. How will interest be paid by the borrowing parties?**

2 A. As previously noted, all funds borrowed from the Money Pool shall bear interest at the
3 interest rate equal to the lowest rate payable on borrowings under LUCo's Credit
4 Agreement. LUCo, in its role as the administrative agent for the parties, will be
5 responsible for determination of all applicable interest rates and charges to be applied to
6 borrowings made and will, through its internal accounting processes, bill, collect and
7 remit loan interest payments. Once LUCo ** _____
8 _____,** interest charged and paid will be based on the interest cost associated ** _____
9 _____.**

10 **Q. Are there any costs for the Applicants' participation in the Money Pool?**

11 A. Yes. Section 1.07 of the Money Pool Agreement discusses the costs of participation,
12 which refers to certain costs that LUCo will incur to administer the Money Pool.
13 Specifically, LUCo pays its banks a credit ratings-based commitment fee, currently set at
14 ** _____,** for the \$500 million facility that it will rely on to backstop the
15 Money Pool. The annual commitment fee associated with the \$500 million facility is
16 currently **\$ _____** (paid in quarterly installments). At this point in time, there is no
17 other cost applicable under 1.07.

18 As noted in Section 1.07, the annual commitment fees will be allocated first based on
19 usage, with any unallocated portion assigned based on a four-factor methodology.

20 **Q. Is the fee sharing methodology noted in Section 1.07 of the money pool agreement**
21 **appropriate?**

22 A. Yes. Those who are borrowers under the money pool will bear their fair share of the
23 costs of the LUCo Credit Facility. Likewise, since all of the participants benefit from the

1 existence of the LUC Credit Facility, by way of knowing they have credit available on
2 demand when needed to support their operations and capital expenditure programs, it is
3 only appropriate that each participant absorb its apportionment of the LUCo Credit
4 Facility fees. Furthermore, the participants in both the regulated and unregulated money
5 pools will share proportionately in these costs. As such, the money pool is designed to
6 prevent any cross-subsidization amongst its participants.

7 **Q. What steps will be taken to ensure the respective entities are properly allocated the**
8 **money pool costs mentioned above?**

9 **A.** On a quarterly basis, I or my designee will run reports in JPMorgan's treasury
10 management system which will show the money pool activity of each participant,
11 including borrowing and investing by day. These reports will be used to determine the
12 average balances for borrowing participants which is the basis for allocating fees under
13 Section 1.07(a) of the money pool agreement. Then having allocated the line of credit
14 fees based on actual borrowing activity, any unallocated line of credit fees will be
15 apportioned based on the four-factor methodology noted in Section 1.07(b) of the money
16 pool agreement. It is important to note that the cost allocation methodology set forth in
17 Section 1.07 has been acceptable to the public service commissions in Massachusetts,
18 New Hampshire, and Illinois, to-date.

19 **Q. Are money pool participants required to post collateral or pledge utility assets in**
20 **order to participate?**

21 **A.** No, there are no such requirements.

1 **Q. Are the interest rates charged, the interest paid on excess funds, and the sharing of**
2 **LUCo Credit facility fees paid by participants fair and equitable and compliant with**
3 **the Rules?**

4 A. Yes. The interest rates and line of credit fees charged are based on LUCo's investment
5 grade credit ratings and LUCo obtains regular updates from its Lead Banks to ensure that
6 the pricing (credit spreads and fees) under the LUCo Credit Facility is the best available
7 for its given credit rating and industry. These rates and fees are competitively set by the
8 investment-grade commercial loan market. The interest rate paid for excess funds is also
9 far in excess of what an investor would find in a high-quality short-term money market
10 fund, whether the interest rate paid is based on the LUCo Credit Facility borrowing rate
11 or the rates for commercial paper.

12 **Q. Under what conditions may parties withdraw from the Money Pool?**

13 A. Parties may terminate their participation in the Money Pool any time, without penalty.

14 **Q. When do the Applicants need the Commission's approval of their Application?**

15 A. The Applicants are requesting that the Commission approve their application for variance
16 from the Rules, and the aforementioned variance from competitive bidding for borrowing
17 rates, as soon as practicable so that the Applicants and their customers may begin
18 receiving the benefits from this Money Pool arrangement.

19 **Q. Does this conclude your direct testimony?**

20 A. Yes, it does.