

Exhibit No.:
Issue(s): *Policy*
Witness: *James A. Busch*
Sponsoring Party: *MoPSC Staff*
Type of Exhibit: *Direct Testimony*
Case No.: *ER-2024-0261*
Date Testimony Prepared: *July 2, 2025*

MISSOURI PUBLIC SERVICE COMMISSION
INDUSTRY ANALYSIS DIVISION

DIRECT TESTIMONY
OF
JAMES A. BUSCH

THE EMPIRE DISTRICT ELECTRIC COMPANY,
d/b/a Liberty

CASE NO. ER-2024-0261

Jefferson City, Missouri
July 2025

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1 Q. What is Staff's recommended revenue requirement disallowance for Empire in
2 this rate proceeding?

3 A. It is Staff's recommendation that the Commission reduce what would have
4 normally been its authorized revenue requirement by an amount that would be equivalent to a
5 reduction in ROE by 100 basis points.

6 Q. Do other Staff witnesses address billing issues and ROE?

7 A. Yes. Staff expert Charles Tyrone Thomason has extensive testimony on the
8 various billing issues experienced by Liberty's customers. Further, Staff has hired expert
9 Christopher C. Walters to provide Staff's ROE/Cost of Capital testimony. In his testimony,
10 Mr. Walters provides an analysis based on a normal review of a company's risk profile and
11 what would generally be a just and reasonable ROE. My testimony takes Mr. Walters testimony
12 and recommends a disallowance due to circumstances that would generally not be considered
13 by a witness testifying on ROE/Cost of Capital in a rate proceeding.

14 Q. Is this the only adjustment that Staff is making in regards to the billing
15 software issue?

16 A. No. Staff expert Matthew Young also provides testimony sponsoring a further
17 disallowance of various capital costs and operations and maintenance expense that Empire has
18 included in its rate case that should be removed from customer rates at this time. Also, Staff
19 expert Melanie Marek provides testimony regarding a disallowance of executive compensation
20 regarding incentives related to customer billing.

1 Q. What is Customer First?

2 A. Generically, Customer First is Liberty's attempt to transition its old customer
3 information system with a series of business transformations and software programs, etc.,
4 to continue providing safe and reliable service to its customers.¹

5 Q. Has Customer First allowed Liberty, and specifically Empire, to "continue to
6 provide safe and reliable service to its customers?"

7 A. No.

8 **REVENUE REQUIREMENT ADJUSTMENT**

9 Q. With respect to a regulated utility, what is meant by Revenue Requirement?

10 A. Revenue requirement is the amount of revenues that a utility is authorized to
11 collect from its ratepayers in order to cover its Cost of Service. Once the Commission Orders
12 a revenue requirement, that total is divided by billing determinants to determine the actual rates
13 to be charged to the utility's customers.

14 Q. How is the revenue requirement determined?

15 A. The basic formula for revenue requirement is

16
$$\text{Revenue Requirement} = \text{Net Rate Base} * \text{ROR} + \text{Expenses}^2$$

17 Q. Staff is proposing disallowances to certain rate base and expenses based on
18 Empire's failure to provide safe and adequate service at just and reasonable rates, why is Staff
19 making an additional disallowance?

20 A. Staff does not believe that the disallowances as proposed in Staff experts Young
21 and Marek's testimony are significant enough in this situation. Staff's proposal as outlined in

¹ Direct Testimony, Charles Tyrone Thomason, page 2, lines 18 – 21, page 3, lines 1 – 4.

² ROR is Rate of Return. Expenses include operations and maintenance, administrative, and depreciation.

1 this testimony for a further disallowance to Empire's revenue requirement will send an
2 appropriate signal to Empire, its shareholders, and most importantly, Empire's customers.

3 Q. What is Staff's rationale for recommending this disallowance to
4 revenue requirement?

5 A. Empire has been granted authority to operate as a legal monopoly in the
6 State of Missouri. This regulatory compact that Empire has voluntarily agreed to, states that
7 Empire will be shielded from competition, but in turn, must provide safe and adequate service
8 to all customers who are located within its legally defined service territory. As outlined in great
9 detail by Staff expert Thomason, Empire has broken this regulatory compact. The only way to
10 try to right this wrong is for the Commission to let Empire's shareholders know that they have
11 failed in their end of the bargain by authorizing a lower revenue requirement. To get to this
12 lower revenue requirement, it is Staff's position that a reduction equivalent to 100 basis points
13 of ROE is appropriate.

14 Q. Does Staff normally recommend adjustments to revenue requirement such as
15 this based on factors such as customer satisfaction or customer dissatisfaction with a utility?

16 A. No. Staff does not normally recommend adjustments to revenue requirement
17 through changes to ROE based on a utility's performance. Staff is typically hesitant to make
18 these types of recommendations because Staff does not want to set a precedent for a utility to
19 claim that it is providing superior customer service thus it is deserving of an increase in its ROE
20 or a generally higher revenue requirement. However, in this case, the level of what can only be
21 described as incompetence by Empire's management is so egregious that Staff is breaking with
22 its general policy and is making a recommendation to reduce Empire's revenue requirement
23 equivalent to a reduction of ROE in this case.

1 Q. Is this rate proceeding the extent of Staff's review of the
2 Customer First transition?

3 A. No. The Commission opened an investigatory docket, Case No. OO-2025-0233,
4 on February 27, 2025. In its Order opening the investigatory docket, the Commission ordered
5 that its "Staff shall conduct an investigation of Liberty Utilities' electric, gas, and water
6 customer service and billing practices and file a report of its investigation when it has completed
7 the investigation."³

8 Q. Why did the Commission open an investigatory docket?

9 A. In its Order, the Commission stated, "[r]ecently, the Commission has had
10 numerous inquiries, complaints, comments, and testimony about issues with Liberty Utilities'
11 billing and customer service. These inquiries have come through the Commission's customer
12 service hotline, comments and testimony submitted at local public hearings for Liberty Utilities
13 rate cases, and constituent inquiries received by Missouri's legislators. Because of these
14 persistent concerns,..."⁴

15 Q. Has Staff completed its investigation in that proceeding?

16 A. No. Staff is still in the process of gathering information in that proceeding.

17 Q Does Staff have an anticipated date in which it will file its
18 completed investigation?

19 A. No. Unfortunately, Staff continues to find new information that needs to be
20 further investigated.

21 Q. How is Staff gathering information for its investigation?

³ Commission Order OO-2025-0233 page 1.

⁴ *Ibid*

1 A. Staff has conducted its investigation in many ways. First, it has reviewed
2 previous comments and complaints it has received and followed up those comments with
3 reaching out to customers. Second, Staff has submitted various Data Requests (“DR”) to
4 Liberty asking for more information. Third, Staff has numerous in-person meetings with
5 members of Liberty as well as officials from the Office of the Public Counsel (“Public
6 Counsel”). Finally, in conjunction with Public Counsel, Staff recently hosted four townhall
7 forums in various areas of Liberty’s service territory that appeared to have most of the billing
8 issues. Combined, approximately 500 – 600 customers attended the townhalls to discuss
9 various issues that they have encountered with Liberty over the past year or so. Three of them
10 lasted four hours and the other was cut short after three hours to allow the parties to get a second
11 townhall later that night.

12 Q. What was the general sentiment at those public townhalls?

13 A. There were four general themes that ran through the discussions.

- 14 1) Anger and confusion over the lack of consistent billing provided to
15 customers.
- 16 2) Anger and confusion over the lack of communication between the
17 utility regarding billing issues and what to do.
- 18 3) Anger and confusion over a lack of understanding of the issue, how to
19 fix it, and when it would be fixed.
- 20 4) And finally, customers insist that there has to be some accountability
21 from Liberty over the prolonged period of billing issues.

22 For any further discussion of the billing issues and concerns related to Customer First,
23 please review Staff expert Thomason’s direct testimony.

24 Q. Have the issues with Customer First only impacted customer bills?

25 A. No. Due to the lack of actual data, Empire’s ability to provide basic information
26 regarding billing determinants, which are crucial for the establishment of rates, has been

1 hindered in this case. These issues have had impacts not only in this proceeding, but also
2 Liberty's recently completed water and gas rate cases.⁵ For a review of the issues that Staff has
3 had in this case, please review the direct testimony of Staff expert Kim Cox.

4 Q. Is this the first time that Liberty has had customer service issues addressed by
5 the Commission?

6 A. No, in ER-2019-0374 the Commission noted that "[it] is concerned with
7 Empire's customer service. Much of that concern related to the large number of estimated bills
8 received by Empire's customers and the customer service they receive when trying to
9 understand and resolve issues with estimated bills."⁶ Later in that same Order, the Commission
10 further stated that it, "believes it is important to monitor Empire's progress related to meter
11 reading and billing."⁷

12 Q. Does it appear that Empire has taken heed of the Commission's concerns with
13 respect to customer service issues?

14 A. No. While Empire did make customer service improvements after that
15 proceeding, it appears to Staff that Empire has regressed.

16 Q. Should the Commission send a louder message to Empire and the entire
17 regulatory community due to the worsening customer service?

18 A. Yes.

19 Q. What is Staff's recommendation to the Commission in this case that would send
20 that message?

⁵ WR-2024-0104 and GR-2024-0106.

⁶ Commission Report and Order, ER-2019-0374, page 144.

⁷ Commission Report and Order, ER-2019-0374, page 145.

1 A. Staff has determined that the Commission should authorize a lower revenue
2 requirement based on a 100 basis point reduction in ROE than what would normally be
3 authorized. This should be significant enough to get Liberty's attention to fix the issue
4 immediately and should also be seen as a signal to customers that the Commission understands
5 the anger, confusion, and harm that they have experienced and that the Commission is willing
6 and able to address those concerns. Finally, it would be a signal to other utilities to ensure that
7 these types of issues are addressed in a timely manner.

8 Q. Could you provide an example of what Staff's recommendation would look like
9 in practice?

10 A. Yes. Assume that based on the evidence regarding ROE, that the Commission
11 would authorize a revenue requirement based an authorized ROE of 9.5%. If the Commission
12 agrees with Staff's recommendation of lowering Empire's authorized revenue requirement by
13 an amount equivalent of a ROE reduction by 100 basis points, the Commission would determine
14 the impact of that reduction and thus lower the revenue requirement by that amount.

15 Q. Based on Staff's cost of service calculation, how much would revenue
16 requirement be reduced based on a taking 100 basis points away from its
17 recommended 9.5% ROE?

18 A. The impact of this recommendation is a reduction in revenue requirement of
19 \$17,726,292. Please see Staff expert Matt Young's testimony and Staff's Accounting
20 Schedules for Staff's overall revenue requirement recommendation.

21 Q. Why doesn't Staff just recommend a ROE of 8.5%?

1 A. Staff understands that the Commission has to meet the requirements of Hope
2 and Bluefield as discussed in the direct testimony of Staff expert Walters.⁸ Furthermore, Staff
3 is well aware of how Commission decisions are scrutinized by the investment community.
4 Staff does not want that community to perceive that Commission is departing from precedent
5 by authorizing what may be perceived as a low ROE, even though it is justifiably warranted.
6 Staff instead wants it to be understood that if the utility adequately performs to standards,
7 then it would receive a ROE that is consistent with other utilities and the appropriate authorized
8 revenue requirement that goes with that. Staff also believes that if the Commission adopts
9 Staff's recommendation, it will be easier to point out that the Commission is making a specific
10 disallowance for a specific issue that can be seen by the investment community, fellow utilities,
11 shareholders, and consumers.

12 Q. How did Staff determine that a revenue requirement disallowance equivalent to
13 a reduction to ROE of 100 basis points is the appropriate disallowance?

14 A. Staff expert Thomason does an excellent job of delineating all of the issues that
15 Staff has uncovered so far regarding Customer First. He breaks the issues into three broad
16 categories, Reliable Utility Service, Just and Reasonable Rates, and Used and Useful System.
17 Within each of these broad categories, he breaks down the issues with Customer First.
18 Staff determined that with each of these problems, there should be a specific reduction of the
19 authorized revenue requirement equivalent to a reduction in ROE.

20 Q. What is Staff's recommendation regarding the Reliable Utility Service issues as
21 described in Staff expert Thomason's testimony?

⁸ Direct Testimony, Christopher C. Walters, page 26, lines 9 – 22, page 37, lines 1 – 9.

1 A. Expert Thomason points out the concerns with Customer First that show that
2 Liberty's customers are not receiving reliable customer service. It is imperative that customer's
3 receive reliable service. Reliable service does not just mean that the lights come on when
4 required. It also means that customers are billed appropriately, accurately, and on-time.
5 It means that customers do not receive no bills for months, or multiple bills within days of each
6 other. It means that when a customer pays, the amount is properly credited. It means that
7 customer concerns are addressed quickly and with as little stress on the customer as possible.
8 These issues are both large in scope and have impacted a large number of customers. Due to
9 Liberty's inability to maintain safe, adequate, and reliable service, Staff recommends that these
10 issues are worth a lower revenue requirement equivalent to a 50 basis point reduction when
11 combined with Staff's other recommendations in this testimony.

12 Q. What is Staff's recommendation regarding Just and Reasonable Rates as
13 described in Staff expert Thomason's testimony?

14 A. Expert Thomason points out the various concerns that Staff has discovered
15 regarding the AMI meters, new meter sets, TOU rates, and other incorrect charges, which
16 indicates that the customers are not receiving just and reasonable rates charged on their bills.
17 Liberty has to be able to read bills and have a good estimation process when unable to read the
18 bills. Liberty has to be able to set new meters when a customer is initiating service. Liberty
19 has to be able to appropriately charge its customers through the correct tariffed rate as well as
20 not including incorrect charges. These issues have impacted many customers and caused
21 confusion, frustration, and harm. Due to Empire's inability to bill its customers a just and
22 reasonable rate, Staff recommends that these issues are worth a lower revenue requirement

1 equivalent to a 25 basis point reduction when combined with Staff's other recommendations in
2 this testimony.

3 Q. What is Staff's recommendation regarding Used and Useful System issues as
4 described in Staff expert Thomason's testimony?

5 A. Expert Thomason points out the concerns with Customer First that show that
6 Empire's customers are not receiving reliable customer service due to the system not being
7 completely used and useful. Staff expert Young also has testimony that recommends a
8 disallowance of the entire Customer First program due to these issues. These issues also impact
9 a large majority of Empire's customers. Based on Staff's recommendation to disallow the
10 capital and Operations and Maintenance expenses related to Customer First and its lack of being
11 used and useful, Staff recommends only a revenue requirement reduction equivalent to a 25
12 basis point reduction when combined with Staff's other recommendations in this testimony.

13 Q. Based on your nearly 30 years of working in the utility regulatory field in the
14 state of Missouri, where does this customer service failure rank?

15 A. As I have seen this situation unfold and continue over these past few months,
16 I have searched my own memory, plus talked to other individuals who have had longstanding
17 careers in this field. As far as I can tell, this would rank as the worst customer service failure
18 to my knowledge.

19 Q. Please reiterate Staff's recommendation regarding its proposed disallowance of
20 Empire's authorized revenue requirement equivalent to a 100 basis points in this proceeding.

21 A. Based on the evidence provided by Staff experts, Thomason, Young, Cox, and
22 Marek, Staff recommends an additional disallowance in revenue requirement equivalent to a
23 reduction of 100 basis points to ROE.

1 Q. Does Staff have an alternative recommendation if the Commission does not
2 agree with Staff's primary recommendation?

3 A. Yes

4 Q. What is Staff's alternative recommendation?

5 A. If the Commission does not agree with Staff's overall recommendation to reduce
6 revenue requirement by an amount equivalent of a 100 basis point reduction to overall ROE,
7 Staff recommends that it only authorize an ROE that matches the low end of the ROE scale.
8 For Staff's recommendation in Expert Walters testimony, that would be an ROE of 9%.

9 Additionally, due to the specific issue with AMI meters in Staff expert Thomason's
10 testimony,⁹ Staff recommends that the Commission not approve a rate of return ("ROR") on
11 AMI meters. In other words, remove the capital amounts associated with AMI meters from
12 Rate Base, and only allow Empire to receive a return of the AMI meters, i.e. Depreciation
13 Expense, but not a return of the investment, i.e. removed from rate base and no ROR.

14 Q. Does this conclude your direct testimony?

15 A. Yes it does.

⁹ Thomason Direct, pages 46 – 49, page 51, lines 16 – 17, and page 52, lines 1-4.

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of the Request of The Empire)
District Electric Company d/b/a Liberty for)
Authority to File Tariffs Increasing Rates)
for Electric Service Provided to Customers)
in Its Missouri Service Area)


Case No. ER-2024-0261

AFFIDAVIT OF JAMES A. BUSCH

STATE OF MISSOURI)
)
COUNTY OF COLE) ss.

COMES NOW JAMES A. BUSCH and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing *Direct Testimony of James A. Busch*; and that the same is true and correct according to his best knowledge and belief.

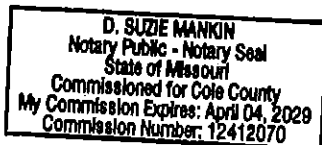
Further the Affiant sayeth not.

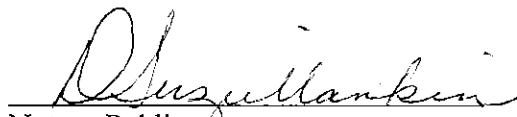


JAMES A. BUSCH

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 1st day of July 2025.





Notary Public

Brief Work History

Currently, I am the Division Director of the Industry Analysis Division of the Missouri Public Service Commission (PSC or Commission). I have over 25 years of experience in the field of public utility regulation. I spent two and a half years working as an Economist I in the PSC's Procurement Analysis Department working primarily on hedging programs for natural gas procurement and reviewing and designing incentive plans. I then worked for almost five and a half years with the Missouri Office of the Public Counsel (Public Counsel) as a Public Utility Economist. During my tenure at Public Counsel, I worked on numerous issues in the electric, natural gas, and water/sewer industries. I then transferred back to the PSC as an Economist III in the Commission's Energy Department. While employed in the Energy Department, I worked exclusively on electric industry issues including conducting rate design/class cost of service studies, demand-side management, and integrated resource planning. In 2008, I was promoted to be the Manager of the Water and Sewer Department supervising a staff of seven technical experts. My duties as the Manager of Water and Sewer involve all aspects of the Commission's regulation of the water and sewer industries including customer complaints, reviewing testimony, setting policy, and working with the utilities to promote best practices in their provision of safe and adequate service at just and reasonable rates. In 2021, I was promoted to my current position. As Director, I oversee departments that have general regulatory oversight of the Electric, Natural Gas, Water, Steam, and Telecommunications industries, as well as the PSC's Manufactured Housing Department. I am responsible, with the other Staff Division Directors, to establish policy goals that Staff takes in all cases in front of the Commission. Also, I am a member of the National Association of Regulatory Utility Commissioners (NARUC) Subcommittee on Water and the NARUC Subcommittee on Rate Design.

Furthermore, I have been a member of the Adjunct Faculty at Columbia College and Stephens College. I have been teaching at Columbia College since 2000. Courses that I teach or have taught include introductory micro- and macroeconomics, Intermediate Microeconomics, and Managerial Economics. These courses are taught either on-site or over the internet. I was the developer of the Intermediate Microeconomics course currently being offered at Columbia College. At Stephens College, I taught a macroeconomics course and an Entrepreneurial Finance Course in 2007.

Education

Masters of Science – Economics
Southern Illinois University at Edwardsville

Bachelors of Science – Economics
Southern Illinois University at Edwardsville

<u>Company</u>	<u>Case No.</u>
Union Electric Company	GR-97-393
Missouri Gas Energy	GR-98-140
Laclede Gas Company	GO-98-484
Laclede Gas Company	GR-98-374
St. Joseph Light & Power	GR-99-246
Laclede Gas Company	GT-99-303
Laclede Gas Company	GR-99-315
Fiber Four Corporation	TA-2000-23; et al
Missouri-American Water Company	WR-2000-281/SR-2000-282
Union Electric Company d/b/a AmerenUE	GR-2000-512
St. Louis County Water	WR-2000-844
Empire District Electric Company	ER-2001-299
Missouri Gas Energy	GR-2001-292
Laclede Gas Company	GT-2001-329
Laclede Gas Company	GO-2000-394
Laclede Gas Company	GR-2001-629
UtiliCorp United, Inc.	ER-2001-672
Union Electric Company d/b/a AmerenUE	EC-2001-1
Laclede Gas Company	GR-2002-356
Empire District Electric Company	ER-2002-424
Southern Union Company	GM-2003-0238
Aquila, Inc.	EF-2003-0465
Missouri-American Water Company	WR-2003-0500
Union Electric Company d/b/a AmerenUE	GR-2003-0517
Aquila, Inc.	ER-2004-0034
Aquila, Inc.	GR-2004-0072
Missouri Gas Energy	GR-2004-0209
Empire District Electric Company	ER-2004-0570
Aquila, Inc.	EO-2002-0384
Aquila, Inc.	ER-2005-0436
Empire District Electric Company	ER-2006-0315
Kansas City Power & Light	ER-2006-0314
Union Electric Company d/b/a AmerenUE	ER-2007-0002
Aquila, Inc.	EO-2007-0395
Missouri-American Water Company (Live)	WC-2009-0277
Missouri-American Water Company	WR-2010-0131
Review of Economic, Legal and Policy Considerations Of District Specific Pricing and Single Tariff Pricing (Live)	SW-2011-0103
Timber Creek Sewer Company	SR-2011-0320
Missouri-American Water Company	WR-2011-0337
Emerald Pointe Utility Company	SR-2013-0016

City of Pevely and CPWSD C-1 of Jefferson County	WC-2014-0018
Hickory Hills Water and Sewer Company, Inc	SR-2014-0166/WR-2014-0167
Peaceful Valley Service Company (Live)	SR-2014-0153/WR-2014-0154
Central Rivers Wastewater Utility	SR-2014-0247
Missouri-American Water Company	WR-2015-0301
Ridge Creek Water, LLC	WO-2017-0236
Missouri-American Water Company	WO-2018-0059
Missouri-American Water Company	WR-2017-0285
Liberty Utilities (Missouri Water), LLC and Ozark	WM-2018-0023
Liberty Utilities (Missouri Water), LLC	WR-2018-0170
Osage Utility Operating Company (Live)	WA-2019-0185
Confluence Rivers Operating Company	WA-2019-0299
Elm Hills Operating Company	WR-2020-0275
Missouri-American Water Company	WR-2020-0344
Union Electric Company d/b/a Ameren Missouri	EA-2023-0286