Exhibit No.: ______________
Issue(s): Customer First and Related CAPEX and OPEX/Customer Experience/Late Fees/ Property Tax/Disconnection Policy/Future 3rd Party Audits/Customer First Investigation and Future Complaint Case
Witness/Type of Exhibit: Marke/Direct
Sponsoring Party: Public Counsel
Case No.: ER-2024-0261

DIRECT TESTIMONY

OF

GEOFF MARKE

Submitted on Behalf of the Office of the Public Counsel

THE EMPIRE DISTRICT ELECTRIC COMPANY D/B/A LIBERTY

FILE NO. ER-2024-0261

*** ______________________________ ***
Denotes Highly Confidential Information that has been redacted.

** ______________________________ **
Denotes Confidential Information that has been redacted.

July 2, 2025

PUBLIC

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DIRECT TESTIMONY

OF

GEOFF MARKE

THE EMPIRE DISTRICT ELECTRIC COMPANY
d/b/a LIBERTY

CASE NO.: ER-2024-0261

I. INTRODUCTION

Q. Please state your name, title and business address.

A. Geoff Marke, PhD, Chief Economist, Office of the Public Counsel (OPC or Public Counsel), P.O. Box 2230, Jefferson City, Missouri 65102.

Q. What are your qualifications and experience?

A. I have been in my present position with OPC since 2014 where I am responsible for economic analysis and policy research in electric, gas, water, and sewer utility operations.

Q. Have you testified previously before the Missouri Public Service Commission?

A. Yes. A listing of the Commission cases in which I have previously filed testimony and/or comments is attached in Schedule GM-1.

Q. What is the purpose of your direct testimony?

A. The purpose of my direct testimony over Liberty Utilities ("Liberty" "Empire" and whose parent company is at times referred to as "Algonquin" or "APUC") Utilities filed rate case is four-fold and is as follows:

I. An introductory summary of the positions of the witnesses filing testimony for the OPC;

II. An abridged retrospective overview of the managerial decisions of Liberty that preceded this filing;

III. A review of the challenges facing Liberty and its customers with particular focus on the 14-month (and counting) damage Liberty's "Customer First" investment has made on its customers and communities; and

IV. My recommendations to the Commission on cost disallowances and what further actions need to follow.

Part IV includes specific cost disallowance recommendations for Liberty's "Customer First" billing program ($23,729,203), "the return on" portion of its meter accounts ($1,428,817 and $2,793,881) and O&M expenses related to contractual customer service representatives (TBD pending discovery response and true-up), contractual meter readers (TBD pending discovery response and true-up), and excessive postage billing (TBD pending discovery response and true-up). I also recommend the Commission factor in an additional 25-basis point reduction to its allowed ROE to recognize the poor customer experience Liberty has provided.

I also provide recommendations regarding late fees, property taxes, disconnection policy, future 3rd party audits, and performance metrics related to the Company's Customer First platform. I conclude with an overall recommendation regarding future filing requirements on mitigating the Company's unsustainable cost of service and briefly discuss the status of OPC's current investigation into the Company's Customer First platform and potential future complaint case proceedings.

This has proven to be a time and labor-intensive case with much new information that is still coming to light as a result of the Commission-ordered investigation into Liberty's billing and customer service practices as well as the volume of other proceedings before the Commission. As such, I reserve the right to provide additional information and amended analysis in future testimony based on our ongoing review of the Company's case-in-chief, responses to OPC's discovery requests, and input from the public at large.

My silence regarding any issue should not be construed as an endorsement of, agreement with, or consent to Liberty's filed position.

Q. Would you please provide an overview of the substance of the direct testimonies of Public Counsel's witnesses?

A. The Missouri Office of Public Counsel's witnesses and the substance of their testimonies follow:

<u>Mr. David Murray, CFA (Utility Regulatory Manager)</u>

Mr. Murray sponsors the rate-of-return ("ROR") testimony in which he recommends Empire's authorized ROR be premised on the following parameters:

1. A capital structure consisting of 45% common equity and 55% long-term debt;
2. An authorized ROE of 9.25%; and
3. An embedded cost of long-term debt of 4.30%.

After combining these parameters, Mr. Murray's recommended ROR is 6.53%.

Based on the Company's estimated rate base provided with its direct testimony, Mr. Murray's recommended ROR would generate approximately $167.4 million in revenues (approximately $200.8 million if grossed up for income taxes).

Mr. Murray's recommended ROE in this case is 25 basis points lower than his recent recommended ROEs of 9.5% for electric utility rate cases involving Ameren Missouri and Evergy Missouri West. Mr. Murray's lower recommended ROE for Empire is justified based on Empire's customer service and financial transparency issues. Finally, Mr. Murray raises transparency issues, specifically continued non-disclosure of corporate board and committee minutes.

<u>Mr. John Riley, CPA (Utility Regulatory Supervisor)</u>

Mr. Riley notes that Liberty has included $71,035,925 deferred tax assets to rate base which have not been included in prior cases. Liberty is recommending a newly proposed EADIT tracker to claw back nearly $21 million it claims was "over-refunded" to ratepayers. This recommended reduction to rate base would reduce revenue requirement by approximately $8.57 million.

Additional tax deductions ($3,750,997) and unrecorded asset sales revenues ($1,456,221) along with reinstalling revenues associated with the Neosho Ridge wind outage ($4,316,661) will reduce revenue requirement by a tax adjusted amount of $12,504,853.

Mrs. Lena M. Mantle, PE (Senior Analyst)

Mrs. Mantle's testimony discusses the nature of Liberty's original filing and explains how Liberty has misrepresented to its residential customers the total impact of its request. Her testimony also recommends that the Commission terminate Liberty's fuel adjustment clause ("FAC"), or, at a minimum, alter its sharing mechanism from 95/5 to 50/50.

Mr. Jordan Seaver (Policy Analyst)

Mr. Seaver's testimony describes Liberty Utility's parent company, Algonquin Power & Utilities Corp., corporate goal of achieving net-zero carbon emissions for owned and regulated affiliates, and how it has proven to be insensitive to the particular conditions, prerogatives, and needs of the customers of Southeast Missouri and Liberty itself. Mr. Seaver also provides testimony regarding the GRIP application project for grid hardening. He supports the receipt of federal dollars in support of the project but, due to the lack of required infrastructure inspection from 2024, which appears to be a direct result of the failure of the Customer First program software, he includes placeholder testimony that discusses future cost disallowances. Finally, Mr. Seaver also provides placeholder testimony regarding potential future cost disallowances associated with external litigation and lawsuit settlements that are dependent on responses to future discovery from Liberty.

Mr. John A. Robinett (Utility Engineering Specialist)

Mr. Robinett proposes depreciation rates for Liberty's generation fleet. Mr. Robinett discusses issues and concerns related to Liberty's actions at Riverton units 10 and 11 and recommends a disallowance of the repair costs for unit 10. He proposes the creation of a regulatory assets and a five-year amortization of the balances remaining for Riverton units 10 and 11 once the repair cost disallowance is factored in. This regulatory asset means the plant-in-service is removed from plant-in-service and no longer receiving depreciation expense on the assets' remaining balances. Mr. Robinett goes on to discuss issued he previously raised in Case Number EA-2023-0131, Liberty's application for a CCN related to Riverton Units 13 and 14, about the capacity of units and his concerns related to Liberty's now pending CCN application for more natural gas fired generation. Additionally Mr. Robinett discusses his concerns related to stranded assets being created by Liberty in account 370 non-AMI meters. Finally he recommends an isolated adjustment for accrual of depreciation expense through the effective date of new rates.

Mrs. Angela Schaben (Utility Regulatory Auditor)

Mrs. Schaben's testimony provides evidence that Liberty's A&G costs per customer is significantly higher than the other Missouri electric IOUs. Additionally, Mrs. Schaben shows that Liberty's share of costs allocated by the parent company are not proportionate to the benefits ratepayers receive from said costs. For Liberty's customers to achieve some sort of merger benefits, Mrs. Schaben recommends the Commission order Liberty's A&G align with the A&G expenses per customer of its Missouri electric investor owned utility peers, which results in a revenue requirement reduction of $41,572,960. Additionally, Mrs. Schaben provides testimony on regulatory trackers, and proposes additional FAC reporting requirements including increasing Transmission Congestion Rights revenue to **__________ ** based on the 5-year average of TCR revenues.

Mr. Manzell M. Payne (Utility Regulatory Auditor)

Mr. Payne's testimony describes Liberty's Market Price Protection Mechanism ("MPPM"), wind turbine collapses, wind turbine blade failures, transformer failures, and wildlife environmental issues. Mr. Payne relates the issues faced at Liberty's wind facilities and how they relate to the MPPM. Ultimately, Mr. Payne's testimony points to the lack of transparency by the Company in relation to the MPPM, which increases the risk to customers for the wind projects, which goes against the spirit of the MPPM. Mr. Payne recommends that the Commission first, not approve any tracking mechanisms related to wind facilities or environmental compliance. Second, that the Company improve its MPPM reporting to include regular disclosure of curtailed MWh, estimated lost revenues, and outage impacts. And third, recommends that the Company improve its internal controls and managerial practices.

II. RELEVANT MANAGERIAL AND CORPORATE ACTIONS THAT PRECEDED THIS FILING

Empire District Electric's Resource Position Before the Acquisition

Q. Where was Empire's last triennial IRP docketed before Liberty acquired Empire?

A. Case No. EO-2016-0223.

Q. What was the state of Empire's generating resource needs then?

A. Because of planned investment in Asbury (scrubbers) and Riverton 12 (an additional 100 MW) Empire's management concluded that it had no further need for capacity until 2029 and had no need to sponsor a demand-side management portfolio. Table 1 includes Empire's 20-year preferred plan (Plan 5), including future investments and retirements:

Table 1: Empire's Twenty-Year Preferred Supply-Side Additions/Retirements (2016)[1]

Year	Common to All IRP Plans (Applies to Preferred Plan)	Plan 5 (Preferred Plan)
2016	By Mid-2016, Riverton 12 begins combined cycle operation (100 MW addition to the Empire system)	
2017		
2018		
2019		
2020		
2021		
2022		
2023	Energy Center Unit 1 assumed to retire for IRP purposes (82 MW loss)	
2024		
2025		
2026	Energy Center Unit 2 assumed to retire for IRP purposes (82 MW loss)	
2027		
2028	Meridian Way 105 MW Wind PPA expires (19 MW loss)	
2029		100 MW Combined Cycle, 100 MW Wind Resource
2030	Elk River 150 Wind PPA expires after 5-year extension (17 MW loss)	
2031		150 MW Wind Resource
2032		
2033	Riverton Units 10 and 11 assumed to retire for IRP purposes (33 MW loss)	
2034		
2035	Asbury Unit 1 assumed to retire for IRP purposes (194 MW loss)	200 MW Combined Cycle

Q. Before Liberty acquired Empire had Empire's retail customers in Missouri experienced large rate increases?

A. Yes. As a result of Empire's "long" capacity position, its Missouri retail customers had experienced a compounded increase in Empire's rates over the prior decade of 62.23% as seen in Table 2.

[1] EO-2016-0223. The Empire District Electric Company Triennial Compliance Filing. Volume 7 Resource Acquisition Strategy Selection 7-9.

Table 2: Empire Rate Case History 2007-2016

Case Number	Dollar Value	Percent Increase
ER-2006-0315	$29,300,000	9.96%
ER-2008-0093	$22,040,395	6.70%
ER-2010-0130	$46,800,000	13.90%
ER-2011-0004	$18,685,000	4.70%
ER-2012-0345	$27,500,000	6.85%
ER-2014-0351	$17,125,000	3.88%
ER-2016-0023	$20,400,000	4.46%
Total Dollars	$181,850,395	
Total Compounded Increase		62.23%

Q. Did Empire solicit buyers for its sale?

A. Yes. Per the on-the-record discussion of the acquisition:

> Commissioner Rupp: Did you seek out Empire or did Empire seek out you?
>
> Mr. [Peter] Eichler: Empire I believe was undergoing a strategic evaluation process for their alternatives for their ownership, and Algonquin participated in that process.[2]

Q. Why did Empire sell itself?

A. I believe they received a generous offer ($2.3B).[3] Although the offer was downplayed in the Companies' testimony at the time. Instead, Brad Beecher, Empire's president, argued that the Commission should approve the deal because small utilities like Empire were going the way of the dinosaurs, and that this acquisition would generate savings to Empire's

[2] Case No. EM-2016-0213. On-the-Record Transcript August 30, 2016. P. 54, 8-13.
[3] Walton, R. (2016) Canada's Algonquin Power & Utilities finalize Empire District acquisition *UtilityDive*. https://www.utilitydive.com/news/canadas-algonquin-power-utilities-finalize-empire-district-acquisition/433129/

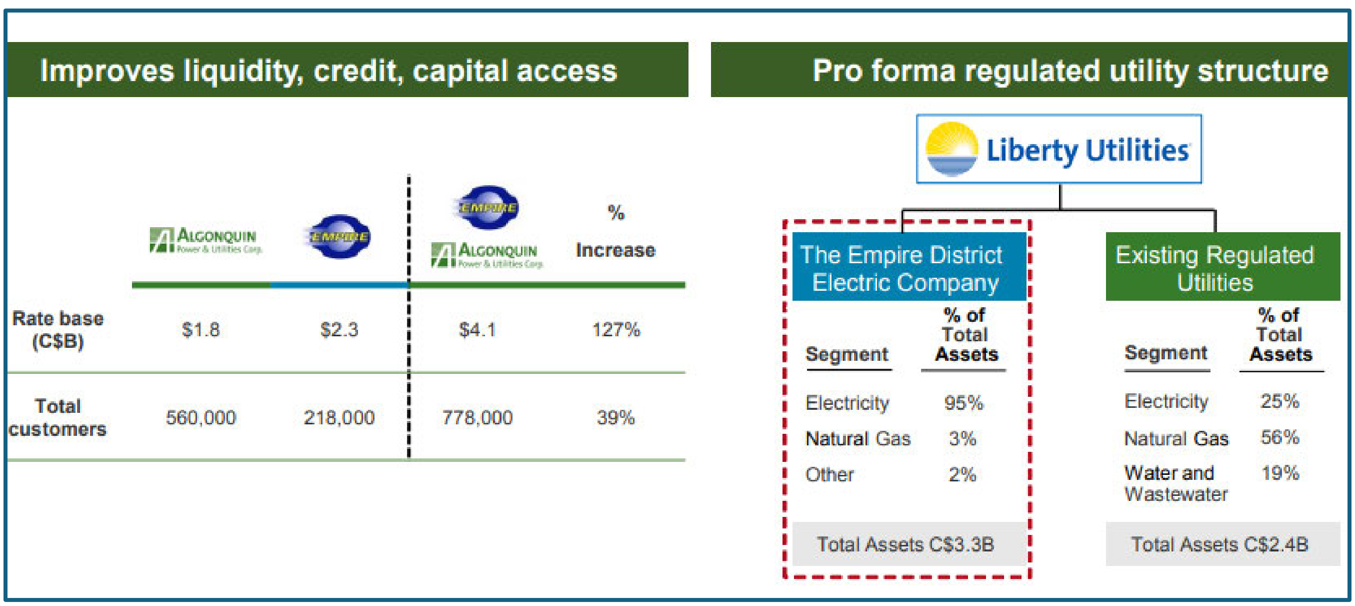
customers through scale economies. Replying to my concerns expressed in rebuttal testimony, Mr. Beecher stated:

> Therefore, despite the OPC's apparent desire for a "local" hometown utility, in many instances the reality is that the capital demands and capital scale of the industry have outgrown that same local utility, and its customers today are subject to the decisions of other corporations in other locations. In Algonquin, we have found a partner that not only helps with the scale issues mentioned above, but also has a commitment to maintaining the "local" feel through its business model[4]

Q. When Liberty acquired Empire, which had the larger rate base?

A. Empire had a rate base of $2.3B across multiple utilities (electric, gas, and water) while Liberty's (Algonquin in the figure) affiliates had a total rate base of $1.8B at the time as seen in Figure 1.

<u>Figure 1: Algonquin PowerPoint Over the Acquisition of Empire District Electric</u>[5]



[4] Case No. EM-2016-0213 Surrebuttal Testimony of Brad Beecher p. 7, 1-6.
[5] Case No. EM-2016-0213 Rebuttal Testimony Ara Azad Attachment AA-R1 p. 18.

Q. Did anyone identify any explicit economies scale from the acquisition?

A. Only one.

Ironically, Liberty explicitly identified Empire's then-existing bill printing process as a specific scale benefit. Liberty President David Pasieka stated:

> [O]ur teams have already identified opportunities where the business combination can result in greater scale benefiting customers and the respective companies. One example is the bill printing process; Empire owns a sophisticated bill printing machine located in Joplin that has some excess capacity available. Liberty Utilities currently outsources its bill printing function. By combining our respective bill print requirements at the Joplin facility, greater utilization of equipment and greater scale can emerge.[6]

There were however, aspirational scale economies identified. In particular, future cost savings from an enterprise-wide consolidated customer information system ("CIS"). Liberty President David Pasieka stated:

> Another opportunity to capture the benefit of scale is the potential combination of our respective needs for customer information systems ("CIS"). At present, Empire is undertaking an upgrade of its current CIS, after which the system will no longer be supported by the vendor. Similarly, Liberty Utilities, as part of a continual review of its systems and operations, is currently evaluating its CIS needs and capabilities. As a result, this presents a unique opportunity to achieve greater scale through the adoption of one CIS to serve all Liberty Utilities operations.[7]

Q. Did anyone tout any other acquisition benefits?

A. Yes. A fair amount of testimony was put forward that Liberty was well-versed in the development and management of non-regulated renewable energy sources.

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[6] Case No. EM-2016-0213 Direct Testimony of David Pasieka. p. 16, 16-21.
[7] *Ibid*., p. 17, 5-11.

Q. Did not Liberty pay a large acquisition premium for a small investor-owned electric utility in Southeast Missouri with rates that were already comparatively high in the Midwest region and where there was little apparent need for future capital investment?

A. That is correct.[8] The Canadian utility Algonquin/Liberty paid a 21% premium to acquire a small investor-owned electric utility in southwest Missouri whose customers were weathering frequent and costly rate increases, but were assured that Empire would not need additional large capital additions to meet their needs for a time. With that acquisition, Algonquin/Liberty obtained a utility that was both long on capacity and already heavily invested in meeting future environmental compliance regulations. In short, there was very little "headroom" for additional investment or growth.

Project Red Balloon

Q. Were Algonquin and Liberty aware that Empire had no apparent need for near-term capital investments in generation absent new stricter limitations on pollutant emissions?

A. Yes. The OPC was able to obtain an internal Due Diligence Report for APUC's acquisition of Empire titled, ***Project Red Balloon*** ("PRB report"), dated February 5, 2016, that substantiates APUC's/Liberty's perception of Empire and its thoughts on possible investments. I will say that the entirety of the report appears predicated on the Clean Power Plan coming to fruition and Missouri increasing its Renewable Portfolio Standard ("RPS") requirements.[9]

Q. How is Empire characterized in the PRB report?

A. The Executive Summary states:

*** ____

____

____

---

[8] Algonquin also acquired Empire's other affiliates as well in the transaction.
[9] See GM-2 for a HC copy of Project Red Balloon.
[10] Ibid.

Q.

A.

Q.

A.

[11] *Ibid*.

Q. ______________________________

A. ______________________________

______________ ***

Q. Are there any public documents which support that before Liberty acquired Empire Algonquin intended to "Green" Empire's generation portfolio after Liberty acquired Empire?

A. Plenty. During Algonquin Power & Utilities Q1 2016 Results – Earnings Call, CEO Ian Robertson had the following exchanges with analysts on the investment opportunities present in Empire:

<u>May 13th, 2016 10:00AM ET 2</u>

> **Rupert Merer [analyst]**
>
> So with the IPP [independent power producer or non-utility generator] business, you talked a little in your comments about potential for growth there. Do you see that growing from 25% of the business to something bigger again? How do you view the future opportunities, thinking maybe a little more long-term?

Ian Robertson [Chief Executive Officer, Algonquin Power & Utilities Corp.]

And as I've often articulated, one of the huge benefits of bringing Empire into the Algonquin portfolio is that, we will call it the headroom. It's occasioned by that in terms of being able to grow the IPP business. (emphasis added) We obviously love the opportunity where our entrepreneurial spirit can be brought to surface opportunities in the IPP business. So you should definitely expect us to be sort of continually aggressive on finding IPP opportunities. As I mentioned earlier, I think the tailwinds for the sector are quite strong, with the extension of the PTCs and the ITCs.

I think the continued environmental pressures, and maybe most importantly, the continued economic trends that make wind, certainly today, and solar, hopefully tomorrow, just the economic choice for providing new energy.

So Rupert, the foot is not coming off the gas pedal at all on the IPP side of the business, and we're certainly, you would expect to see that pendulum quite happily swing back toward the 50/50, unless of course we can keep growing the utility business and keep it there. But no way are we taking our foot off the gas on the IPP side. . . .

Eric Tang [analyst]

That answers it fair enough. Just going back to the Empire acquisition. What is your long-term accretion, I guess target budget for beyond three years? Do you have a target in mind at the moment?

Ian Robertson

From an accretion point of view, three years out, obviously we are hoping to bring more to the investment opportunity that was clearly in the portfolio of CapEx that was reflected in our acquisition numbers. Those were numbers that were frankly

> cribbed from the existing Empire management team. This gets back to the comment earlier where our real objective is to make sure that one plus one equals more than two in terms of being able to find growth opportunities. **<u>We've talked about them in the past, this idea of greening the Empire portfolio. The idea of bringing more natural gas and renewables to the Empire mix. Those are all part of the longer-term thesis associated with this opportunity.</u>** (emphasis added)[12]

Q. Did Algonquin express the same view after this Commission approved Liberty's acquisition of Empire?

A. Yes. As shown in Figures 2 and 3 from the Algonquin Power & Utilities Corp. Investor Presentation on November 8, 2016 at the 51st 15 EEI ("Edison Electric 16 Institute") Financial Conference in Phoenix, Arizona.

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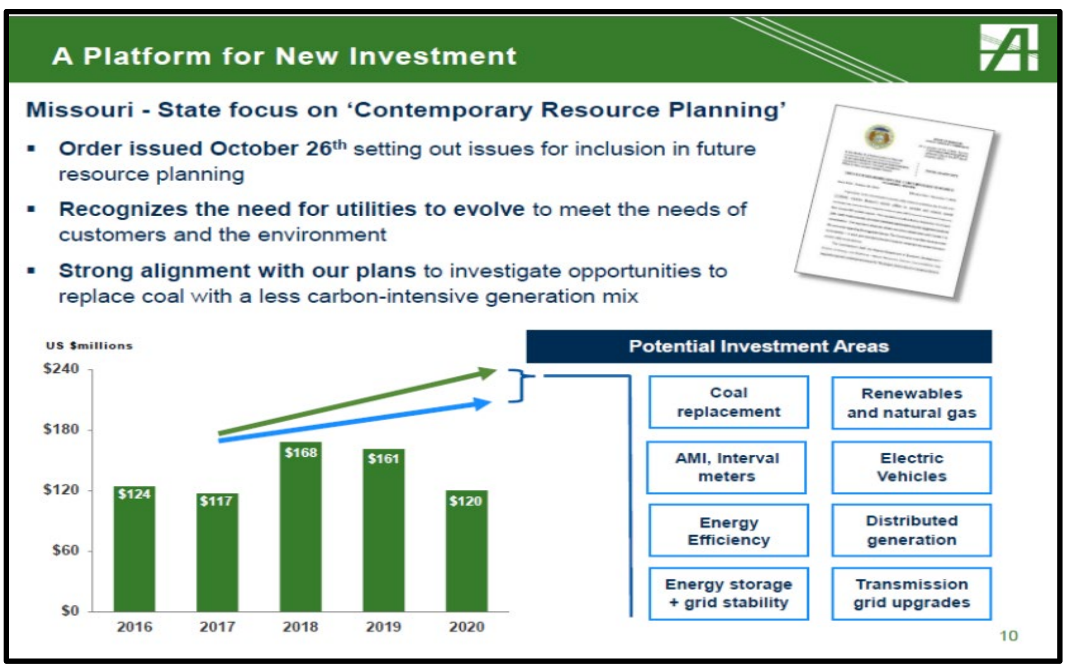
[12] Seeking Alpha (2016) Algonquin Power & Utilities (AQUNF) CEO Ian Robertson on Q1 2016 Results—Earnings Call Transcript. https://seekingalpha.com/article/3974966-algonquin-power-and-utilities-aqunf-ceo-ian-robertson-q1-2016-results-earnings-call

Figure 2: Greening of Empire Portfolio (Nov. 8, 2016)

Figure 3: Platform for New Investment (Nov. 8, 2016)



The Asbury Power Plant & Storm Uri

Q. Does the PRB report address Asbury?

A. Yes. It states:

> The only significant environmental issue observed is the existing and retired impoundments, ponds, and landfills that are subject to new rules. A new landfill will be required for fly and bottom ash. The five (5) year capital budget includes $3.5M for retirement of the existing landfill and $3.2M for construction of the new landfill. Future remediation of the ponds may require draining, filling, capping and covering of substantial acreage. **The current scheduled retirement of Asbury is 2035. Impact on the facility resulting from the Clean Power Plan will be determined by market impact after implementation of the MO State final compliance plan, which will not be submitted to EPA until 2018.** (Emphasis added).

Again, the PRB report emphasized sweeping federal regulatory action as a deterministic factor potentially influencing the long-term viability of Asbury. Sweeping federal regulatory action that did not come to fruition. Similar sentiment was echoed in the public comments in Case No. EO-2018-0092 by former Empire employees, for example:

> Yesterday, it was made public knowledge that Empire District Electric Company, now under the control of Algonquin Power & Utilities Corporation intends to shut down or divest their interests in the Asbury Generating station in Asbury, MO. Having worked for the utility, I have been aware of their desire to close this plant shortly after the deal was announced to sell to Algonquin. Roughly two years ago, Empire spent approximately $110 million to perform an environmental retrofit of this facility to add/expand an Air Quality Control System (AQCS). In shutting down this facility, this constitutes gross misconduct on behalf of the utility in the rate making process. Empire, due to two recent and costly capital projects enjoys the highest rates in Missouri. Empire now desires, and has desired, to construct all renewable energy and move away from a carbon footprint altogether which will likely result in future closures. It is distressing to see a utility place such a high

> emphasis on unreliable and costly sources of energy. I strongly encourage the commission to file an involuntary rate case/intervene in this matter against Empire and seek reduction to their previously awarded rate increase in an effort to better serve the citizens and rate payers the commission is designed to protect from such unethical business practices.[13]
>
> Spencer Harding, Joplin, MO.

Despite having fifteen years of remaining useful life, Empire quit delivering coal to Asbury so that it last ran in December , 2019, and retired Asbury on its books in March 2020.

Q. Are Empire's retail customers paying for the approximate $119M undepreciated balance that remained for Asbury after Liberty retired it?

A. Yes. Empire's current and future retail customers will be paying off the remaining book value of that asset for the next thirteen years as an additional securitization surcharge on their electric bills.

Q. Are Empire's retail customers paying for any other costs through that same securitization surcharge?

A. Yes. Less than one-year after the premature retirement of Asbury Empire incurred approximately $200 million in fuel-related costs due to Winter Storm Uri. In February 2021, much of the Midwest, including Missouri, experienced unseasonably cold temperatures which resulted in rolling electrical blackouts and extreme natural gas price spikes. Like Asbury costs, Empire recovered those costs from the bonds for which Empire's customers are paying securitization charges on their bills today.

Q. If Empire could have run Asbury during Storm Uri would it have offset some (or all) of the $200 million in related fuel costs that Empire incurred?

A. I do not see how it could not have.

[13] Case No. EO-2018-0092 Public Comment No. P201800823

Q. Would customers be better off today if Asbury were still part of Empire's generating portfolio?

A. Without a doubt. Above and beyond the aforementioned $300 M in securitization costs, the Asbury Power Plant would have been uniquely valuable under today's eroding Southwest Power Pool resource adequacy margins.

Ratepayer-Backed Merchant Generation Wind

Q. Did Liberty replace the 213 MW capacity of Asbury?

A. In part. It never has fully replaced that capacity, but Empire did increase its rate base by more than 40% by charging ratepayers over a billion dollars for 600 MW of Company-controlled wind farms.

Q. What is the Market Price Protection Mechanism ("MPPM")?

A. It is supposed to partially protect Empire's Missouri retail customers if Empire's investment in 600 MW of wind turns out to be uneconomic.

Q. Is the MPPM benefitting Empire's retail customers in Missouri?

A. It depends on what you count as costs and what you count as benefits. I encourage the Commission to review OPC witnesses Mantle and Payne's direct testimony on that question. Challenges associated with blown Mexican transformers, and the "taking" of over a 1,000 bats and at least one protected bald eagle do negatively color the performance of these wind farms to date.

Hedging Losses and Refusal to Flow Federal Tax Benefits to Customers

Q. How have Empire's gas hedging practices affected its retail customers?

A. Adversely. Between 2008 and 2017 Liberty lost approximately $100 M due to its natural gas-related hedging practices. The Company did not change its hedging practices for a decade despite year-over-year losses and in the face of Shale Gas Revolution.[14] The interplay between Liberty's hedging practices and Liberty's 95/5 FAC sharing mechanism

[14] See Case No. EO-2017-0065

was an issue in Liberty's 2020 rate case. Commissioner Scott Rupp summarized the concerns well in an Agenda discussion:

> Yeah, no, I'm gonna I disagree there, I think if you ever had a situation that would justify changing to an 85-15, this is it. Um, you know, Commissioner Kenny was correct they, they had some issues with hedging, just for those that are new, newer to the Commission, um, you know, they had hedging practices going back, uh, you know, in since 2002 they were using their same hedging uh strategy, well, then the Shale Gas Revolution happened, and the price of natural gas you know dropped.
>
> And it continued to drop, and it stayed dropping, and it has been that way, you know, and until now. You know over a period of what is now 18 years. Throughout that time, they did not change their hedging practice and they had lost an excessive over um 100 million dollars, uh you know on their hedging practices but never bothered changing them. Because in my opinion, there was no incentive to change them. 95:5, I mean they just were only exposed to a smaller amount of risks and so they continued even when you had utilities of the same size all across the country that have all had changed their hedging practices in the mid-2000s and late uh 2000s, um, and yet some of them that is completely quit hedging due to the Shale gas Revolution and the long natural gas.
>
> And you know, all estimations are there's a big supply of natural gas. It was only until OPC shined the light on their hedging practices and the amount of consistent losses over a long period-of-time that that this was brought to light. We made a big stink about it in a previous case a lot of the government evidence was brought up. It was only at that time that light was shined on their continual losses, year-after-year, decade-over-a-decade, that they decided, "Well, maybe, yeah we should probably change something. And maybe it was incorrect, and so when you shine the light on stuff, it kind of exposes stuff, and really what it exposed to me was the lack of incentive at the 95.5 for them to act prudently. And so, and this wasn't a "we're going to cherry pick one year out and or two years and say well you should have done better." You know, you look at the consistency of something that's happened over a decade long and they're using the same policy over and over and over, uh with continual losses you know it shows us that in my opinion, you know, just a lack of an incentive there for them to make a change.
>
> And I think that is when we had, uh you know, some other case discussions on the fuel adjustment clause you know this 95:5 was just randomly picked out of the air when it was first created, you know, and it was thought it would be revisited. It was kind of like a settlement of like, hey, well, we can just pick this and we'll come back

> to it, and unfortunately that has just become the status quo. And we had a case, in the Ameren case, where you know OPC brought forth, that, you know, maybe it should be changed, and I believe almost every Commissioner made comments that yeah there is a good argument for revisiting things but in the Ameren case there was really no evidence to show that they had even had any issues with, uh you know, an incentive for not changing a policy based off of of things and so in that case uh you know we decided to keep it at 95:5 but, here we have a, here we have a case where we have 15, 16, 17, year history of somebody not having an incentive to change their ways until it was exposed uh and stuff and they were kind of like oh wow maybe we should because there was massive pushback I think changing into an 85 uh 15 would provide them more incentives because I think if you go back over the total number of losses that they've had on that hedging practice over the 10, 12, 13, 14, 15-years, I think, if they had that extra exposure on that 10 I think they would have addressed it I think they would have said, oh wow, you know we're actually starting to feel the impact of this we probably should make some change versus like well it's only five percent and the customers are bearing most of it, so I think the incentive in this case would have been there for them to make the change if it was at 85:15.
>
> Which, I think is why we have, you know, this sharing mechanism is to provide incentives to the utility to make that change. So I think the fact that there was lack of incentives with those massive losses over a long period-of-time to change their practice shows that in this particular utility not all utilities, not a system-wide change but in the facts of this case, and the previous facts of how this company has operated, that the 95.5 has not produced the incentive for them to act in the best interest of customers and therefore I think it should be changed to 85:15.[15]

In addition to losses related to bad hedging practices, Liberty was also the only utility in Missouri to refuse to flow the reduction in its annual base rate revenue requirement of $17,837,022 from the 2017 Tax Cuts and Jobs Act to ratepayers and forced a contested hearing and a direct order from the Commission to flow benefits back to ratepayers.[16]

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[15] AGND-2020-0043 https://psc.mo.gov/VideoDetail.aspx?Id=6230 5/21/20, 43:50
[16] See Case No. ER-2018-0366

Algonquin Acquisitions, Unsustainable Debt, and Non-Regulated Assets

Q. Are you aware of other evidence which shows cost impacts to Empire's customers due to Liberty's and Algonquin's management decisions?

A. There are some examples worth addressing including:

Montana Water Company

Shortly before Empire was acquired, Algonquin ran into legal problems as the Montana Public Service Commission moved to sue the utility for the unauthorized sale and transfer of the Missoula Water System. On July 7, 2016, Liberty Utilities was fined $150K and rates were reduced $1.1M by the Montana Public Service Commission for having evaded Montana regulatory protocol by conducting an unauthorized sale of a Montana-based water utility (Mountain Water Company). The fine assessed represented the statutory maximum. According to a press release from the Montana Public Service Commission, Commissioner Bob Lake stated:

> I'm disappointed that Liberty…chose to circumvent the PSC's process put in place to ensure that consumers aren't harmed when a utility changes hands. . . **It was completely inappropriate for Liberty Utilities to skirt the laws of our state** (emphasis added).[17]

This sentiment was shared by Montana Public Service Commission Chairman Brad Johnson:

> I believe that Liberty's actions are a direct attack on the Commission's authority to review this purchase application, and that, frankly, is unacceptable. **Those really harmed by Liberty's actions are the customers of Mountain Water**, and we are determined to ensure no further harm comes to these consumers while the water system is under our jurisdiction to regulate (emphasis added).[18]

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[17] See GM-3 Montana Public Service Commission. (2016). Public Service Commission moves to sue utility companies for unauthorized sale and transfer of Missoula water system [Press release]
[18] *Ibid*.

Jacksonville Electric Authority

Shortly after the Empire acquisition, Liberty made a bid for the City of Jacksonville, Florida's electric utility. Although the bid was rejected, it is informative to see Liberty's representations about its regulated utilities, including specific references to those in Missouri.

Q. What representations did Liberty make to the City of Jacksonville, Florida, regarding its commitments to its customers?

A. Liberty stated:

> The Respondent measures and benchmarks its customer interaction performance with all the industry best practices and protocols and procedures including tracking customer calls, measuring call wait times, tracking disconnected or dropped calls, measuring average interaction times and tracking resolution success metrics. The Respondent tracks its overall performance in relation to its customer interactions with a number of third-party evaluations including but not limited to bi-annual JD Power assessments. **Respondent's respective utility operations consistently rank in the top quartile of its peer group in these third party assessments.**[19] (Emphasis added). [20]

Q. Did Liberty accurately portray its Missouri electric operations to the City of Jacksonville?

A. No. According to J.D. Power scores Empire provided to the OPC through discovery, in 2018 JD Power & Associates ranked Empire 116 out of 138 electric utilities resulting in a *bottom* quartile placement.

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[19] There were many more misrepresentations made in the failed Jacksonville bid. Interested readers are encouraged to see GM-4, specifically pages 4-22 where I provide greater detail on that proposal.
[20] See GM-5.

Importantly, Liberty's J.D. Power rankings would just get progressively worse. In 2024, Liberty would rank 144 out of 151 electric utilities. This score and the inferences that can be drawn from it will be expounded on in greater detail later in my testimony.

Kentucky Power

Q. Has anyone recently rebuffed a Liberty attempt to acquire a large regulated utility in the United States?

A. Yes. FERC twice rejected Liberty's attempted \$2.65B deal to acquire American Electric Power's affiliate Kentucky Power in 2022 and again in 2023. FERC said the Companies failed to show how it wouldn't lead to increased transmission rates which was consistent with the arguments offered by the Kentucky Public Service Commission and the Kentucky Attorney General's Office.[21]

Q. Have there been any other actions by Empire's affiliates of which the Commission should note?

A. Algonquin has recently sold off its non-regulated renewable business for \$2.5 B to improve its credit ratings and mitigate its outstanding debt that had ballooned following interest rate changes. Algonquin is now described as a "pure play regulated utility," primarily Liberty, who now finds its Missouri operations as representing approximately 40% of rate base.[22]

Q. Would you summarize this section of your testimony?

A. Sure.

- In 2016 Empire's preferred resource plan was that it would be another fifteen years before Empire added new generation. This was, in part, a result of

[21] Howland, E. (2023) AEP, Liberty Utilities terminate \$2.65B Kentucky Power deal, partly over 'evolving macro environment' *UtilityDive*. https://www.utilitydive.com/news/aep-liberty-utilities-terminate-kentucky-power-deal/647794/

[22] Gamal, O. & M. L. O'Neill (2025) Algonquin Power & Utilities Corp. Ratings Affirmed Following Sale Of Algonquin Power Co; Outlook Stable; Ratings Withdrawn On Algonquin Power. Co.*SA&P Global*.https://www.spglobal.com/ratings/es/regulatory/article/-/view/type/HTML/id/3316487

customers experiencing a 62.23% compound rate increase over the previous ten years.

- Empire sold its business at a 21% premium to Algonquin/Liberty under the pretense that there would be “no net detriment” to its Missouri retail customers.
- Following Liberty’s acquisition of Empire, Liberty stated that it intended to transition Empire into a net-zero utility by “greening its fleet.”
- Liberty then entered into a tax-financing scheme that allowed for 600MW of wind to come online at a cost of over $1B to ratepayers.
- Liberty prematurely retired Empire’s 213 MW Asbury Plant fifteen years before the end of its anticipated useful life. Liberty’s retail customers are on the hook for the $100 M undepreciated balance now being recovered through securitization charges.
- Within a year of Asbury being retired, Empire incurred over $200 M in fuel-related costs due to Storm Uri for which Empire’s retail customers are now paying through securitization charges.
- Empire/Liberty incurred over $100M from poor natural gas hedging strategies that customers had to absorb.
- Algonquin/Liberty had a series of challenging (Montana) or rejected acquisitions (Jacksonville, Kentucky Power), which were compounded by ballooning debt due to increased interest rates and resulted in the sale of all of its non-regulated assets.

Today, Liberty Utilities is in a worse position financially than it was when it first acquired Empire. Liberty’s Missouri customers are in a worse position as well due, in part, to the aforementioned managerial actions, and by those issues I will address in my next section.

III. CHALLENGES FACING LIBERTY, ITS CUSTOMERS, THE COMMUNITY IT SERVES, AND THE COMMISSION

Economic Reality of Liberty's Service Territory

Q. Can you provide an overview of key demographic data of vulnerable populations within Liberty's service territory?

A. Table 3 provides a breakdown of the percentage of Liberty's population living at or below the poverty threshold in the counties that Liberty serves.[23]

Table 3: % Below Poverty and Median Income within Missouri Counties that Liberty Serves[24]

Location	% below poverty	Median Income	Location	% below poverty	Median Income
Missouri	12.0	$68,484	United States	12.5	$77,719
Barry	15.5	53,303	Jasper	15.5	$55,152
Barton	15.5	50,185	Lawrence	14.9	$58,128
Cedar	15.0	48,789	McDonald	18.2	$54,452
Christian	7.0	79,714	Newton	13.0	$63,292
Dade	14.2	53,959	Polk	14.6	$56,628
Dallas	15.9	63,112	St. Clair	18.2	$50,578

[23] Poverty status is determined for individuals in housing units and noninstitutional group quarters. The poverty universe excludes children under the age of 15 who are not related to the householder, people living in institutional group quarters (e.g., nursing homes or correctional facilities), and people living in college dormitories or military barracks. People and families are classified as being in poverty if their income is less than their poverty threshold. If their income is less than one-half of their poverty threshold, they are below .50 of poverty; less than the threshold itself, they are in poverty (below 100 percent of poverty); less than 1.25 times the threshold, below 125 percent of poverty, and so on.
[24] National Association of Counties. (2025) County Economies: 2025 Profiles. https://ce.naco.org/?dset=County%20Economies&ind=County%20Economies%20Profiles.

Greene	14.1	59,740	Stone	12.3	$62,394
Hickory	17.5	48,241	Taney	13.6	$54,514

Only one out of sixteen counties in Liberty's service territory, Christian County, has a lower percentage of individuals living under the 100% federal poverty threshold than the Missouri average of 12%. Additionally, only Christian County has a higher median income than the Missouri average of $68,484. Table 4 breaks down the percentage of the population over 65 within each of the counties Liberty serves. Four (Christian, Jasper, McDonald, and Greene) of the sixteen counties Liberty serves have a lower percentage make-up of seniors than the Missouri average of 18.4%. Restated, on a whole, Liberty's customers are more like to be in poverty, earn less overall, and be over 65 relative to the Missouri averages.

Table 4: Percentage of people over 65 in Counties Served by Liberty [25]

Location	% Over 65	Location	% Over 65
Missouri	18.4%	United States	18.00%
Barry	22.2%	Jasper	16.60%
Barton	31.90%	Lawrence	18.00%
Cedar	23.40%	McDonald	16.60%
Christian	17.20%	Newton	19.4%
Dade	24.4%	Polk	18.7%
Dallas	20/90%	St. Clair	25.70%
Greene	17.40%	Stone	32.30%

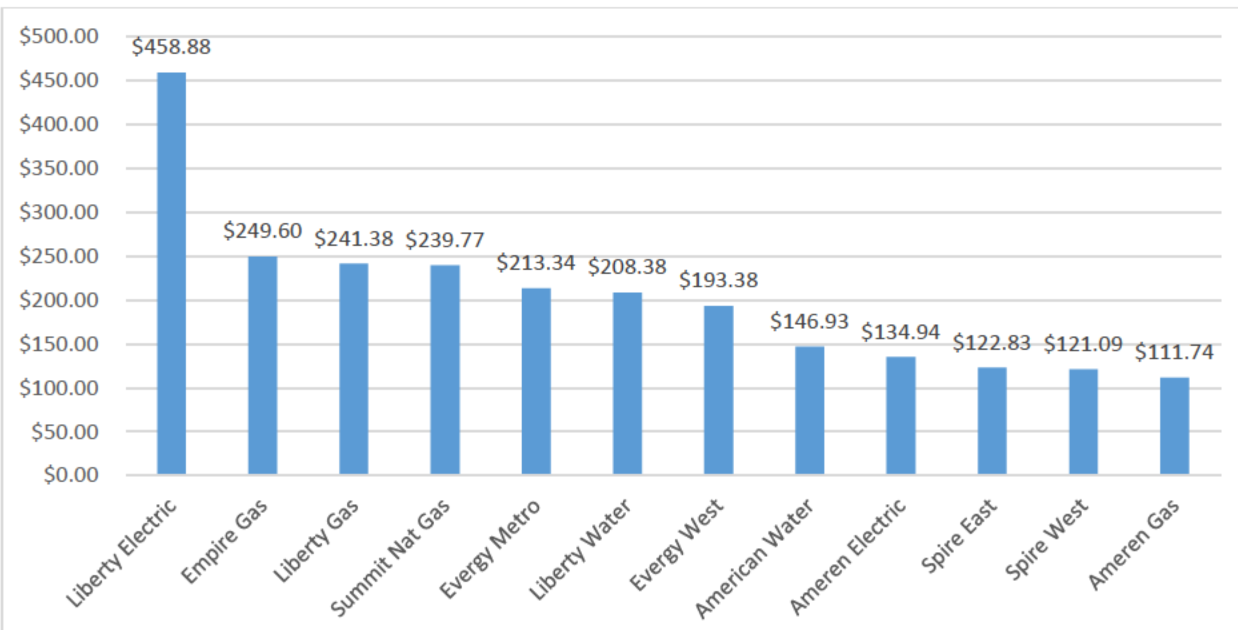
[25] *Ibid*.

Hickory	32.10%	Taney	22.90%

Q. How does Liberty compare against its Missouri peers in terms of average arrearage amounts per customer?

A. Not well. No doubt exacerbated by Liberty's self-imposed moratorium on disconnections the average arrearage amount for a Liberty customer as of the end of May 2025 is $458.88. Figure 4 provides a graphical look of the average arrearage amount per customer across each of the reporting Missouri investor-owned utilities.

<u>Figure 4: Average Arrearage Amount per Customer (May 2025)</u>



Q. Is there additional pertinent information regarding new impacts on the welfare of Missourians of which you believe the Commission should be aware?

A. As of this writing, the non-partisan Tax Policy Center concluded that Missouri's state budget would need to increase by 10.2% to cover the shortfall of the proposed federal budget cuts to existing Medicaid and SNAP beneficiaries.[26]

Keep in mind that Medicaid covers:

- 2 in every 5 Missouri kids;
- 2/3 of all nursing home care in Missouri; and
- 2/3 of Missouri's budgeted Medicaid total is subsidized by the federal government

Supplemental Nutrition Assistance Program ("SNAP") covers:

- 1 in 10 Missourians; and
- Nearly 7 in 10 Missouri SNAP participants are kids, seniors, or adults with disabilities[27]

It's important to note that these are only two programs. There are many more federally subsidized programs at risk of no or limited funding that will compromise many of Liberty's customers. Those programs include:

Public Housing and Housing Choice Vouchers ("Section 8")

- 146,217 Missourians will be at risk for homelessness

Low-income Housing Energy Heating Assistance Program ("LIHEAP")

- 114,219 Missourians who received energy assistance[28]
- 63,343 Missourians who received energy crisis intervention program funds[29]

Community Services Block Grant ("CSBG")

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[26] Tax Policy Center (2025) How would potential federal budget cuts impact state budgets? https://taxpolicycenter.org/features/how-would-potential-federal-budget-cuts-impact-state-budgets
[27] *Ibid*.
[28] See GM-6.
[29] *Ibid*.

- 185,781 Missourians who received assistance for basic needs, transportation, childcare, financial stability, and life skills[30]
- Administered by 19 community action agencies that also serve as our utility gatekeepers for verifying income for our existing income-eligible programs

Head Start and Early Head Start

- 9,632 Missouri Head Start enrollees (ages 3 to 5)[31]
- 3,966 Missouri Early Head Start enrollees (ages 0 to 3)[32]

Rural Hospital Support

- Missouri has closed 21 rural hospitals since 2014, another 25 are at-risk of closing under the proposed federal budget
- In many cases, these rural hospitals are the largest or second-largest source of income for counties.[33]

Of course these concerns are heightened when you factor in other relevant variables on the overall economic health of Liberty households such as the ongoing trade war,[34] potential

[30] *Ibid*.
[31] Head Start (2025) Head Start Program Facts: Fiscal Year 2023: https://headstart.gov/program-data/article/head-start-program-facts-fiscal-year-2023.
[32] *Ibid.*
[33] Miller, T. & L. Kong, (2025) Federal spending bill could be 'devastating' for Missouri Medicaid patients, rural hospitals *Missouri Independent* https://missouriindependent.com/2025/06/26/federal-spending-bill-could-be-devastating-for-missouri-medicaid-patients-rural-hospitals/#:~:text=moves%20through%20Congress.-,Weisgrau%20said%20rural%20providers%20could%20lose%20up%20to%2021%20cents,serving%20patients%20across%20mid%2DMissouri.
[34] According to the Tax Foundation: Per US household, the tariffs altogether would amount to an average tax increase of $1,183 in 2025 and $1,445 in 2026. . . . Notably, these averages do not capture additional costs to US households stemming from higher-priced alternative goods and loss of consumer choice.
York, E & A. Durante (2025) Trump Tariffs: Tracking the Economic Impact of the Trump Trade War. *Tax Foundation*. https://taxfoundation.org/research/all/federal/trump-tariffs-trade-war/.

war in the middle east,[35] a growing federal deficit,[36] a downward labor market,[37] increased consumer delinquency rates on credit cards and auto loans,[38] a restart of student loan collections,[39,40] and the existential uncertainty surrounding the emergence of artificial intelligence.[41]

It should not be lost on the Commission that the request to increase rates by 30% in this case will only compound the pressure on households and businesses that Liberty provides services to.

The "Customer First" Experience

Q. What does "Customer First" mean to you?

A. Putting the needs of the customer above anything else. When a company puts the customer first, they put the customer at the center of everything they do. They view every decision as having an impact on their consumer and they make sure that they are always considering

[35] Donnan, S. & S. Pandey, (2025) US strikes on Iran come at fragile moment for the global economy. *Economic Times*. https://economictimes.indiatimes.com/news/international/business/us-strikes-on-iran-come-at-fragile-moment-for-the-global-economy/articleshow/122002999.cms?from=mdr.

[36] "The nation's publicly held debt is nearing 100% of gross domestic product and is projected to surpass the post World War II record of 106% in a few years." Rubin, R. et al (2025) The Path to Record Deficits. *The Wall Street Journal*. https://www.wsj.com/politics/policy/us-budget-deficit-timeline-2ad66b64?gaa_at=eafs&gaa_n=ASWzDAh1Jp_rRF6kk00ZpOxNKvbiQNgA9tsqyEcQYcnS_NyT2N2mCwtZ1qOnj0jaTvI%3D&gaa_ts=685819a0&gaa_sig=uMwyBSQI4U4-8dQt5wJ2IzFZ0VmYothzye_p3bHy3IrhY6sTb90wYyApX_bMrowOF94fBh0TxncuH9TZngGPUw%3D%3D.

[37] Mutikani, L. (2025) US job growth slows as tariff uncertainty leaves businesses in limbo. *Reuters*. https://www.reuters.com/world/us/us-job-growth-slows-may-unemployment-rate-steady-42-2025-06-06/.

[38] New York Federal Reserve (2025) Household Debt Balances Continue Steady Increase; Delinquency Transition Rates Remain Elevated for Auto and Credit Cards. https://www.newyorkfed.org/newsevents/news/research/2025/20250213.

[39] Holland, R. (2025) 5 million borrowers have now defaulted on their student loans — and data shows that number could soon double. *Yahoo! Finance*. https://finance.yahoo.com/news/5-million-borrowers-now-defaulted-173000599.html.

[40] The Education Department has already threatened to withhold tax refunds from delinquent borrowers, and this summer it will begin deducting as much as 15% from paychecks. There remains roughly $1.6 trillion in outstanding student debt, and defaults are already affecting credit scores. Tomase, J. (2025) Student loan collection intensifies. Linkedin News. https://www.linkedin.com/news/story/student-loan-collection-intensifies-7457138/.

[41] Abril, D. (2025) Why your job may face a double threat if the economy sours. *The Washington Post*. https://www.washingtonpost.com/business/2025/06/05/ai-business-economy-automation/.

how each one will affect them. In doing so, customer-centric companies create an atmosphere of trust and good will toward their customers.

The customer-first approach is purpose-driven; delivering a positive experience becomes the company's sole purpose. Even the employees and customer support teams have only one goal, and it is to deliver good customer service whenever possible.

Q. What does Liberty call its billing platform?

A. Customer First.

Q. When did you first hear Liberty use the phrase "Customer First"?

A. On June 3, 2020, at the Commission's weekly Agenda, Liberty representatives Diana Carter and Kelli Price provided a short presentation on the new Liberty branding titled, "This is Liberty". A picture of that opening slide and the phrase "Customer First" appears on the right side in Figures 5.

Figure 5: "This is Liberty" PowerPoint presentation at Agenda 6/3/2020

Q. What did Liberty say regarding its new customer-centric Customer First branding?

A. Senior Manager of marketing and communications for the central region, Kelli Price provided some insight into both the name, branding, and purpose of Liberty. Kelli stated:

> I'm really pleased to be here today with you to share with you our new operating name which Diana mentioned, and that is simply "Liberty."
>
> So why Liberty?
>
> How did we get here?
>
> Well, **<u>Liberty represents the essence of our purpose, and that purpose is helping people live better everyday lives through the delivery of clean energy and water</u>** and this new name and this new logo which if you're looking at the screen you can see at the top of the screen. It really **<u>marks the beginning of our customer-centric transformation.</u>**
>
> As I'm sure you know, the word utilities for many connotes a monopoly and a lack of options. While Liberty means freedom. And as you can see those two words are different. We want our customers to know that we can provide them with the options that they expect.
>
> In addition to our new name, we do have a new brand story and we have many more details to share with you. As Diana mentioned, but we want to be respectful of our current rate case so we do look forward to providing those additional brand story details with you at a later date.[42]

[42] Missouri Public Service Commission Agenda. AGND-2020-0045. https://www.youtube.com/watch?v=l1SSsGAYmC4&t=1360s on 6/4/2020 22:24.

Q. Have Commissioners discussed Liberty's customer service in the past?

A. Yes, in fact, one week before the aforementioned roll-out of the "customer-centric transformation" the Commission deliberated over Liberty's rate case (Case No. ER-2019-0374) and had the following dialogue at its May 18, 2020, Agenda meeting:

Chairman Silvey: Ok, #21 is Empire providing satisfactory customer service? If not, what should the Commission order to ensure better customer service?

The filed testimony in the comments at the local public hearings clearly showed that there's room for improvement when it comes to customer service.

I think this was one of the major disadvantages of not having an actual physical evidence hearing. Is, I would have liked to have had the opportunity to ask more questions, and kind of, get more in depth on this topic, but I'm hopeful that some of these issues are just the result of growing pains from the merger and that we will continue to see them addressed by the company. But I do support Staff's recommendation to require the reporting and conditions that were identified by the parties in their proposed agreement for 2020 through 2022

Commissioner Kinney?

Comm'r Kenney: Uh, yes, Mr. Chairman, I would have to echo your comments. Hopefully, this is just growing pains, but I do support Staff's position as well.

Chair Silvey: Okay, Commissioner Rupp?

Comm'r Rupp: Yeah, I agree they're not providing adequate customer service and agree with Staff's position and, you can chalk it up to growing pains, but most of the commentary on the local public hearing centered around the uh estimation of bills, and the wild uh swings of those bills. And then the poor information provided to customers when uh customers have called in to their calling service, and the lack of knowledge that the people working the phones had on the issue. So, I think there's a lot of training that needs to be done on the uh those fielding those phone calls and the Company needs to address, the estimation of bills and how much that is driving customer dissatisfaction.

Chair Silvey: Okay, Commissioner Coleman?

Comm'r Coleman: I um would hope that the Company hears Commissioner Rupp's statements. Customer service is to me one of the most important um components of a Company doing their job and doing it right. Customers have a right to have their needs met, have their issues addressed. I support Staff's position, but I would again caution the Company to pay great attention to this issue. Thank you Mr. Chairman.

Chair Silvey: Commissioner Holsman?

Comm'r Holsman: Staff's position.[43]

Q. Five years later, how do you view Liberty's customer-centric transformation?

A. Liberty has not put its customers first. The Commission's comments and order appear to have very little impact as the problems have grown out-of-control. Consider for a moment the comments filed by a former Empire District Electric employee, Rick Hendricks. Mr. Hendricks filed the following comments with the Commission in this rate case:

> Let me introduce myself. I retired from The Empire District Electric Co in 2016 after 40 years of service. 4 months before Liberty completed the purchase of Empire. I held numerous positions including Customer Service Consultant, Joplin District Manager and retired as Manager of Community Relations for some 75 communities on the Western half of the electric system and all 45 communities in the natural gas system we purchased in 2006. I was the go between for all customers, City Councils, Mayors, County Commissioners, School Superintendents, Legislators, etc. I am absolutely sick to see what Liberty Utilities has done to the reputation and history of Empire. I challenge anyone on the Commission staff to come down to SW MO and find a customer who actually likes Liberty. That being said. Retirees like myself are the ones that truly understand rate making. There are two very separate areas that need your attention.

[43] Missouri Public Service Commission Agenda. AGND-2020-0044 https://psc.mo.gov/VideoDetail.aspx?Id=6231 Agenda on 5/18/2020, 55:05

First, the Software System. My understanding is that they have spent 100s of thousands of dollars on a system that does not work not only on the billing side, but the accounting side, the construction side on and on. They had just upgraded their Maximo software when the decision to switch was made. The system was not needed in the eyes of the employees.

1. Look at the relationship between the then CEO of Liberty and the Company in New Hampshire that they purchased the system from.
2. I can provide the names of employees (don't want to get existing employees in hot water) who went to the training and was told this system is not built for utility systems. They had been using the software for 2 years and told the Liberty employees, "we are doing everything on paper". Yet management pushed forward with the project.
3. Employees say the cost of inefficiency and lost information has not been included in the overall cost of the software because they do not want that reported.
4. The effort required by Construction Design and Line Operations is a totally separate issue from billing that needs examined and audited.
5. I was told prior to filing the initial rate case, Management was concerned that they had no record of some expenses and were not sure the information they had was accurate.

Second, in my opinion the **more important** issue to be examined is the Capital Budget. **What is Liberty's capital cost per customer compared to other utilites (sic) their size?** Everyone knows that Liberty is trying to capitalize every penny, every project, every item they can. Why? Because rates are based on the capital expenditures. Return on Equity is calculated based on the capital cost the Company incurs. Here are some specific things that need to be examined.

1. Why does Liberty use contract labor for practically every capital project? Using Liberty crews to do maintenance work. Examine in 2017 when they purchased the

system the relationship between the Capital Budget and the Operations and Maintenance Budge (O&M) when Empire owned the system and how much larger the Capital Budget is now in comparison to the O&M Budget. If something can be maintained, just get rid of it and buy a new one. Employees tell me the question is always asked of a project, "can we recover this from the rate payer". Why is the policy that overtime is allowed if it involves working on a Capital project, but not if it is maintenance?

2. The relationship with certain contractors need to be audited. Were there competitive bids summitted? Were least cost options considered? Many employees feel they are "gold plating" projects. Are the same contractors getting most of the capital projects?
3. Specifically, the relationship between the current President of Liberty Central and Burns and McDonald in Kansas City needs to be examined. Have there been gratuitous perks? When construction employees are asked to explain budget overruns, they consistently see charges, many 5- and 6-digit charges added to the job after it left their hands. Burns and McDonald would have absolutely nothing to do with the job or many times were never on site. Those charges don't appear to be legitimate to many employees. That needs to be looked at. Not making accusations just saying it needs to be closely examined.

Finally, I just want to make you aware that my bill in July of 2023 for just under 2000 kwhs was $232. One year later my July 2024 bill for actually a few less kwhs, was $331. I'm not good at math but that is a 43% increase in one year. With taxes and fees, 17 cents per kwh. They are now asking for another 30%. The only thing between the customer and the Company is you the staff and OPC. Their business practices have to be deeply examined. After 40 years in the business I know this just manipulation of the rate making process. Capitalize everything. Get Return on Equity on those cost.

Let me close with this story. When Empire purchased the natural gas system from MoPub, myself, Ron Gatz the VP to be over the gas system, and our CEO Bill Gipson

> went to every service center and talked to every employee. Bill came out of Economic Development and his message to the employees was this. The way Empire grows is to grow the communities that we serve. We grow as a Company as a result. Fast forward. Right before I retired (3 months prior to the purchase) I attended a Managers meeting at our Riverton Power Plant. Blake Mertens was VP of production. His message to Empire employees was this. I will never ever forget his words. **"The way we grow this Company is putting steel and concrete in the ground"**. Tim Wilson the current President of Liberty Central was at the meeting and was Blake Mertens right hand man. I know Tim, Tim is a good man. I have played golf with Tim. My point is this. What do you think Tim's mindset is about how to grow the Company? The overcapitalization HAS to STOP. I am doing this for all the customers that have no idea about rate making. The only ones that can stop this is you!!!! Thank you for taking time to consider these things. I am more than willing to visit with anyone on your staff either here or in Jeff City. (emphasis in original email)[44]
>
> Sincerely,
>
> Rick Hendricks

Q. Are Mr. Hendricks comments consistent with feedback from other Liberty customers?

A. Yes, perhaps not at the same level of professional insight (e.g., Liberty is gold-plating its capital investments), but the tone was consistent at each of the six separate Town Hall meetings I participated in. It is also consistent with the hundreds of comments in both the investigation and rate case dockets that have been filed. And it is consistent with the Facebook Group page that has been created to serve as a sounding board for frustrated and confused customers as seen in Figure 6.

[44] See GM-7.

Figure 6: Facebook support group: Victims of Liberty Utilities Missouri

Like Mr. Hendricks and the many customers I spoke with over the past six months (roughly the time when I became active on this issue) I believe that Liberty, despite many of the local employees' best efforts, is hurting its customers, community, economy, and, ultimately, its shareholders. Nobody has been exempt from this downward spiral.

Q. What is Liberty's billing problem?

A. Let me explain it as follows. Imagine spinning a large wheel with many different spokes. Each spoke contains a flawed potential bill outcome that a customer could receive in a given month. The outcomes include, but are not limited to the following:

- Wrong customer charge
- No customer charge
- No taxes
- A different county's taxes
- No bill this month
- 6 bills this month, each with different amounts
- Late fees are applied for a due date that has already passed
- No solar credit
- Added a decimal to my usage
- Billed $1000 for a month of service at a one-bedroom apartment
- Bill is different from my online account
- Online account says I have a credit
- No phone number or return address
- Somebody else's bill
- Estimated bills when power was out
- Estimated bills when no one lives there
- Billed amount does not match usage amount
- Same surcharge billed twice with different amounts on one bill

Q. How long has this been going on?

A. The new Customer First billing system started operating April 8th 2024, or almost 15 months ago.

Q. Has there been any progress in addressing the many concerns raised?

A. It is difficult to say. Each town hall revealed a new problem(s) to me, many of which the Company representatives were not aware. The billing problems also highlighted other problems, including, but not limited to every other facet of the Company's operations and many of its investments. It also paved the way for scammers to take advantage of customers, many of whom told stories of being conned out of their social security numbers out of fear they would lose service. I heard stories of customers having their entire checking account withdrawn erroneously because of incorrect autopay, and I heard many stories of customers who simply could not pay the amounts being charged (fixed income). I also heard stories about customers who could not pay because the billing system would not accept their money or the Company's phone service would not acknowledge their account. It was all very random and all very depressing because there was almost never any closure to their problems.

Q. Above and beyond the financial uncertainty surrounding inaccurate bills. What other costs are being imposed on customers?

A. Clearly a time tax. Which has an impact both for individuals and the economy as a whole. There are the opportunity costs that Liberty has imposed on its customers which are difficult to quantify, but the amount of energy and worry that many customers experienced and continue to experience cannot be understated and can only be described as cruel. Many small business owners spoke up about the impact Liberty's faulty billing had on their bottom line. City officials from many municipalities and state senators attended and spoke to me seeking input about how they could get out of having Liberty as their utility service provider.

Q. How has Liberty's Customer First program impacted the Southeast communities Liberty serves?

A. The Customer First roll-out compounded the already high costs of service (due to poor managerial decisions that preceded the roll-out) and has clearly hurt communities throughout the service territory. At every town hall, property owners spoke up about how existing tenants were leaving because of Liberty and how prospective tenants would walk away after hearing that Liberty was their utility provider. There were several real estate agents who spoke about the challenges of selling a home with Liberty as a provider. One comment filed with the Commission articulated this well:

> To Whom It May Concern,
>
> My husband and I are both medical professionals who recently accepted positions at a hospital in Bolivar, Missouri. As part of our transition, we sought to establish roots in the community and began searching for housing. We engaged with local residents through the Bolivar Facebook page, eager to integrate into the area and make a home there. **<u>However, after receiving extensive feedback from the community regarding the severe financial burden imposed by Liberty Utilities, we made the difficult decision to rescind our offer on a home in Bolivar.</u>**

Upon further research, it became evident that Bolivar is not the only town affected—many communities across Missouri are struggling under the immense financial strain created by Liberty Utilities. We were deeply disheartened to learn of families forced to choose between essential needs like food and paying their utility bills. Community members shared stories of their electricity bills being nearly equal to their mortgage or rent payments.

Coming from a state known for its high cost of living, I was shocked to discover that residents of Bolivar, many living in small homes with only one to three occupants, are paying between $400 and $600 per month for electricity. In contrast, my current monthly electric bill is approximately $100. This disparity raises serious concerns about the financial sustainability of living and investing in Bolivar.

As professionals moving to Missouri to provide essential medical services, we had planned not only to purchase a home but also to eventually start a business and contribute to the local economy. However, the exorbitant utility costs have made us reconsider these plans. **The financial burden created by Liberty Utilities is discouraging investment in homes and businesses, and if left unaddressed, it could lead to an economic decline in Bolivar and other affected towns.**

The long-term consequences of this situation should not be overlooked. If residents continue to leave due to unaffordable utility costs, Missouri will face declining property values, economic stagnation, and reduced tax revenue. This will inevitably lead to budgetary shortfalls and further economic distress for the state and its municipalities.

I urge the Public Utilities Commission to thoroughly investigate Liberty Utilities and the impact its pricing structure is having on Missouri communities. Immediate

> action is necessary to prevent further financial hardship for residents and to ensure that Missouri remains a viable place for families, professionals, and businesses to thrive.
>
> Thank you for your time and attention to this critical matter. I look forward to your response and to seeing steps taken to address this pressing issue.[45] (emphasis added)
>
> Lisa Novalis-Heshejin, MS CCC-SLP

Q. Do you have recommendations for addressing all of these issues you have heard?

A. The volume of information and individual time it takes to follow up with customers and the Company is such that it is well beyond the scope of this testimony. I will supplement more of my findings in future rounds and will no doubt provide further information based on what Staff files in this case and the outcome of the investigation.

Liberty's Customer Experience Relative to Other Utilities

Q. How does Liberty compare to other utilities in terms of customer experience?

A. Poorly. Liberty has never scored well on J.D. Power customer satisfaction surveys, but its scores continue to drop. The last time I analyzed these numbers was in 2019 when I looked at 2018 JD Power Scores in Case No. ER-2019-0374. Back then, Liberty was ranked 116 out of 138 utilities, clearly in the bottom quartile. The most recent scores (2024) rank Liberty 144 out of 151 utilities.[46]

Q. What is Liberty's score relative to Evergy and Ameren Missouri and the utilities that scored worse than it?

A. Nationally, the seven utilities that scored worse than Liberty include:

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[45] See GM-8.

[46] J.D. Power (2024) Monthly Residential Electric Utility Bills at Highest Level Ever, J.D. Power Finds. https://www.jdpower.com/business/press-releases/2024-us-electric-utility-residential-customer-satisfaction-study

Rank	**Utility**	**Score**
144	Liberty (Missouri)	626
145	Kentucky Power	624
146	Central Hudson Gas & Electric	607
147	Hawaiian Electric	619
148	Memphis Light, Gas and Water Division	617
149	Central Maine Power	
150	Versant Power	
151	CenterPoint Energy (Indiana)	556
	National Average	**707**
1	Sawnee EMC	806
58	Ameren Missouri	720
110	Evergy (Missouri + Kansas)	695

Q. What should the Commission note about the seven utilities that with worse scores than Liberty?

A. My recent review of headlines about each of these utilities revealed the following noteworthy information:

Kentucky Power:

The utility that Liberty failed to acquire, currently has a pending complaint case in front of FERC leveled by the Kentucky Attorney General Russell Coleman and the PSC Chair Angie Hatton. The core allegation is that Kentucky Power customers are being forced to pay for transmission line construction in other states where AEP operates, despite not directly benefiting from those investments.[47]

Central Hudson Gas & Electric ("Central Hudson")

Central Hudson**, which is owned by a Canadian holding company, has been plagued by billing issues since 2021**. The problems have fueled widespread outrage, leading state regulators to take the rare step of appointing an independent monitor and has prompted state lawmakers to introduce a bill to replace the utility with a public power authority. As of 2024, **Central Hudson had over $127 million in unpaid arrearages**.[48] With comments eerily similar to what I heard throughout Liberty's Town Halls:

> "How can Central Hudson accurately charge more if they can't accurately charge now?" asked Thomas Hayden, a mechanical engineer, at a Poughkeepsie town hall. Hayden said his account is "still screwed up": The company has sent him multiple conflicting bills at the same time and hasn't responded to dozens of customer service requests. "I expect you folks at the Public Service Commission to freeze Central Hudson costs until they behave like a responsible company," he said.[49]

The New York Department of Public Service reached a $64.9M settlement that included the following provisions:

- Shareholders must pay the more than $35.3 million spent over the last two and a half years to remedy problems with the company's customer information and billing system.
- Shareholders will pay $4 million to directly benefit customers to be allocated by the Commission.

[47] Howland, E. (2025) Kentucky Power customers pay for AEP transmission without benefit, state officials say in complaint. UtilityDive. https://www.utilitydive.com/news/kentucky-power-aep-transmission-cost-allocation-ferc-psc-complaint/742527/.
[48] Kinniburgh, C. (2024) Public Power Push Spreads to the Hudson Valley. *NY Focus*. https://nysfocus.com/2024/05/16/central-hudson-public-power-sarahana-shrestha.
[49] Rock, J. (2023) Amid Billing Fiasco, Hudson Valley Utility Pushes for Steep Gas and Electric Rate Hike. *NY Focus*. https://nysfocus.com/2023/11/14/central-hudson-gas-electric-rate-case-hike.

- The company will not challenge approximately $8.75 million in negative revenue adjustments as a result of missed customer service metrics, largely stemming from the billing system failures.
- Shareholders have incurred more than $8.2 million in costs associated with back-billing credits to customers that were related to the billing system problems. The company continues to be obligated to provide back-billing credits when warranted if future cases arise.
- Shareholders will pay costs incurred and projected to be incurred to implement monthly meter readings (estimated to be $6.3 million).
- Shareholders will pay up to $2 million in additional payments in the event the company does not implement monthly meter readings by October 31, 2024.[50]

A copy of the New York Department of Public Service Investigation Report on Central Hudson's billing practices is included in GM-9.

Hawaii Electric

Hawaii Electric acknowledged its power lines started a wildfire in Maui **<u>that resulted in the death of at least 115 people</u>** and June 3, 2020over 2,000 structures destroyed.[51]

Memphis Light, Gas and Water ("MLGW")

In a case that sounds very similar to Liberty's, MLGW has been plagued by over 38,000 **<u>faulty smart meters, billing delays</u>** and MLGW has acknowledged that it will likely not get a full refund for the flawed technology. [52]

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[50] New York Department of Public Service (2024) PSC Reaches $64.59 Million Settlement with Central Hudson Over Billing Issues https://dps.ny.gov/news/psc-reaches-6459-million-settlement-central-hudson-over-billing-issues.

[51] McDermott J. & J.S. Kelleher (2023) Hawaii power utility takes responsibility for first fire on Maui, but faults county firefighters. *AP News*. https://apnews.com/article/hawaii-wildfires-maui-electricity-power-utilities-1741e22bbf955b62103db6b60f5c4853.

[52] Peterson J. & J. Moore (2024) MLGW President makes updates to faulty smart meters as customers face billing delays. *Action News 5 Memphis*. https://www.actionnews5.com/2024/09/10/mlgw-president-says-issues-with-delayed-billing-faulty-meters-repaired/.

Central Maine Power ("CMP")

In 2023 CMP was subject to a voter referendum (along with Versant) in Maine replace its services with a consumer-owned utility.[53] The vote came amid intense criticism of Central Maine Power over its slow response to storm-related power outages, a botched billing system rollout, and perceived roadblocks to connecting renewable power projects to the grid, among other things. **The poor billing system rollout** resulted in a downward ROE adjustment equivalent to $10 million until the utility's service benchmarks could be met.[54] This was before the Maine Public Service Commission fined CMP $500K for sending misleading communications to customers behind on their electric bills, threatening winter disconnection without providing accurate information about customers' rights. This prompted a Maine law implementing a $50 threshold in unpaid bills before disconnections are permitted, as well as barring utilities from charging low-income customers with restoration or reconnection fees and requiring that the companies waive late fees accrued prior to disconnection for such people.[55] More recently, CMP was acquired by Spanish Power company Iberdrola for $2.5B in 2024.[56]

Versant Power

This past year, Maine regulators have begun an investigation into Versant Power's management practices. The Public Utilities Commission says that Versant has regularly increased rates without improving service **and questioned whether its Canadian parent**

[53] Sharp, D., & P. Whittle (2024) Maine voters reject new utilities proposal, approve a stop to foreign spending in referendums. *PBS News*. https://www.pbs.org/newshour/politics/maine-voters-reject-new-utilities-proposal-approve-a-stop-to-foreign-spending-in-referendums.
[54] Turkel, T. (2020) CMP misled the public, mismanaged rollout of new billing system. *Portland Press Herald*. https://www.pressherald.com/2019/06/23/cmp-misled-the-public-mismanaged-rollout-of-new-billing-system/T.
[55] Davis, E. (2024) Maine High Court affirms dismissal of utility customers' emotional distress case. https://mainemorningstar.com/briefs/maine-high-court-affirms-dismissal-of-utility-customers-emotional-distress-case/.
[56] Singer, S. (2024) Spanish energy giant purchases CMP parent company for $2.5B. *Portland Press Herald*. December 26, 2024. https://www.pressherald.com/2024/12/26/spanish-energy-giant-purchases-cmp-parent-company-for-2-5b/.

company is providing sufficient oversight.[57] The PUC fined the company several times in the past few years. The most recent was a $90,000 penalty levied last year for not meeting customer service targets in 2023. In 2022 the PUC fined Versant $900,000 and in 2021 the company was ordered to pay $300,000. Versant was also required to refund customers $570,000 for an accounting error related to service in 2022. Regarding the findings of a 3rd party audit review, the Maine PSC stated:

> "Overland's [the 3rd party auditor] findings come at a time when Versant's ratepayers are shouldering significant regular increases in their rates, and they should expect that with these large increases they will enjoy excellent service and meaningful improvements in reliability," the PUC said. "Those expectations have yet to be met and the Commission will use this audit and the upcoming investigation to better understand why not and what actions both Versant and the Commission must take to address these shortfalls."[58] [59]

Versant was also subject to the Maine voter referendum referenced above.

CenterPoint Energy (Indiana)

CenterPoint Energy's (Indiana) last-place ranking appears to be largely bill-related. Their recent rate requests was estimated to raise monthly residential customer bills by $85 or $1,050 a year. Over 2,300 customers filed comments in its rate case. One of the larger parts of the rate increase request came from a controversial new $1 billion natural gas plant approved in 2022. Despite the cost, CenterPoint said it expects to run the plant only a fraction of the time to help fill in gaps when electricity is needed.[60]

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[57] Kool, D. (2025) Maine regulators investigating Versant Power's management practices. *Portland Press Herald*. https://www.pressherald.com/2025/04/08/maine-utility-regulators-investigating-versant-management-practices/.
[58] Fischer, T. (2025) Maine Public Utilities Commission to investigate Versant Power. *Maine Biz*. https://www.mainebiz.biz/article/maine-public-utilities-commission-to-investigate-versant-power.
[59] A public copy of the Overland Park audit of Versant Power is included in GM-10.
[60] Bowman, S. (2024) CenterPoint Energy wants to raise customer bills by nearly $90 a month. *Indianapolis Star*. https://www.indystar.com/story/news/environment/2024/03/25/centerpoint-energy-wants-customers-to-pay-90-more-each-month-for-electricity-rate-case/73025981007/.

Q. What should the Commission take from these headline synopses?

A. That each one of these utilities, including Liberty, would not continue to be operational in a competitive market. Five of the seven utilities had billing and metering issues that have plagued its customers.

Q. Were you able to locate any other Commissions that recently addressed prolonged billing issues with a utility?

A. Yes. The Massachusetts Department of Public Utilities ("DPU") recently ordered National Grid to fix "severe billing errors" that impacted approximately 35,000 gas customers. According to CBS News:

> The agency says about 35,000 gas customers did not get their monthly gas bills after Nov. 1 because of a billing system error, and then later they received multiple bills at once. And there are about 3,000 customers who still have not gotten any delayed gas bills and they were set to be on the hook for up to six months' worth of bills.
>
> DPU said this wasn't fair to those customers because they didn't get a chance to see that their bill was high and then limit their usage.
>
> "It is simply unfair to expect customers to pay multiple months' worth of bills that were not rendered timely," the department said in a letter to National Grid New England president Lisa Wieland.[61]

The DPU order, issued on March 31, 2025, stated:

> Apart from the utter failure to perform the routine utility obligation of rendering bills in a timely manner, the Company compounded its lapse by failing to inform the Department in November when it first became aware that the "crossover" process in

[61] Riley, N. (2025) National Grid ordered to fix "severe billing errors" affecting thousands of Massachusetts customers. *CBS News*. https://www.cbsnews.com/boston/news/national-grid-billing-errors-refund/.

> the Company's billing system was causing bills to fail to be generated and rendered to its natural gas customers. As a result, the Department's Consumer Division was fielding hundreds of calls in succeeding months without having the information necessary to respond or to fashion a suitable remedy for the Company's customers. (For those customers who did contact the Department, our Consumer Division representatives have routinely granted a waiver of any charges for usage during a period that occurred earlier than the preceding two months.) The Company's failure to proactively acknowledge the billing issue and work constructively with the Department to craft an appropriate solution is inexcusable.[62]

National Grid was ordered to comply with the following actions:

- Can collect no more than two months of back bills;
- Customers that paid, but did not receive a bill will be refunded or credited those amounts;
- If customer requests bill assistance, the Company shall require a down payment of not more than 10 percent of the amount and give a payment plan period of at least 9 months;
- National Grid is "put on notice" that the DPU will investigate whether the Company may recover the total sums waived, refunded, or credited to customers in its next rate case. "The Company will face a high burden of proof and production regarding this issue."
- The Company shall provide weekly updates to the DPU indicating at a minimum:
  - The remaining number of customers who have yet to receive a bill;
  - Steps taken to implement the waiver, refund, and consumer protection directives above;
  - Company's actions to investigate and prevent a similar deficiency in its billing system in the future. [63]

[62] See GM-11 for a copy of the order.
[63] *Ibid*.

- Concurrent with this DPU Order, the Company was also fined $15 million for service quality failures in 2023, particularly related to billing errors.[64]

Liberty Affiliates

Q. Are you aware of any additional information regarding Liberty or its affiliates that you believe is relevant to Liberty's customer service?

A. Two items. The first, involves Liberty's affiliate in New Hampshire, Granite State Electric Company. I first became aware of Liberty's problems in New Hampshire from their Consumer Advocate, Donald Kries. In addition to running the public advocate's office for New Hampshire, Mr. Kries publishes a periodic newspaper article in indepthNH.org. In a November article, titled "Liberty Utilities Gets Tree'd" Mr. Kries discusses multiple cases with the New Hampshire Liberty affiliate where they failed to comply with the New Hampshire Commission's order regarding vegetation management. The article is worth reading in full (and is available in GM-12), but I am including two select excerpts regarding Liberty's billing and accounting software in relation to rate cases the Company had filed:

> Ordinarily, we'd hash this out in a rate case at the PUC. But the two rate cases Liberty filed last year quickly turned into a fiasco; it turned out that, because of Liberty's switch to a new accounting and billing system two years ago, the information submitted by the company was unreliable.

And

> If only this were an isolated example. But as to both its electric and gas utilities in New Hampshire, Liberty is building quite a record of errors, omissions, miscues, and failures. The two rate cases Liberty filed last year have both blown up in the company's face and the docket of open cases at the PUC is riddled with instances of other problems with these utilities.

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[64] Simmoneau, B. (2025) Massachusetts DPU slaps National Grid over 'severe billing errors' *WCVB 5 ABC* https://www.wcvb.com/article/national-grid-15m-refund-massachusetts/64338840.

> Liberty's parent company – Algonquin Power and Utilities Corporation, based in Ontario – has owned Granite State Electric Company and its sibling, Energy North Natural Gas Corporation – since 2012. Algonquin should now sell these companies to a new owner, capable of operating them competently.[65]

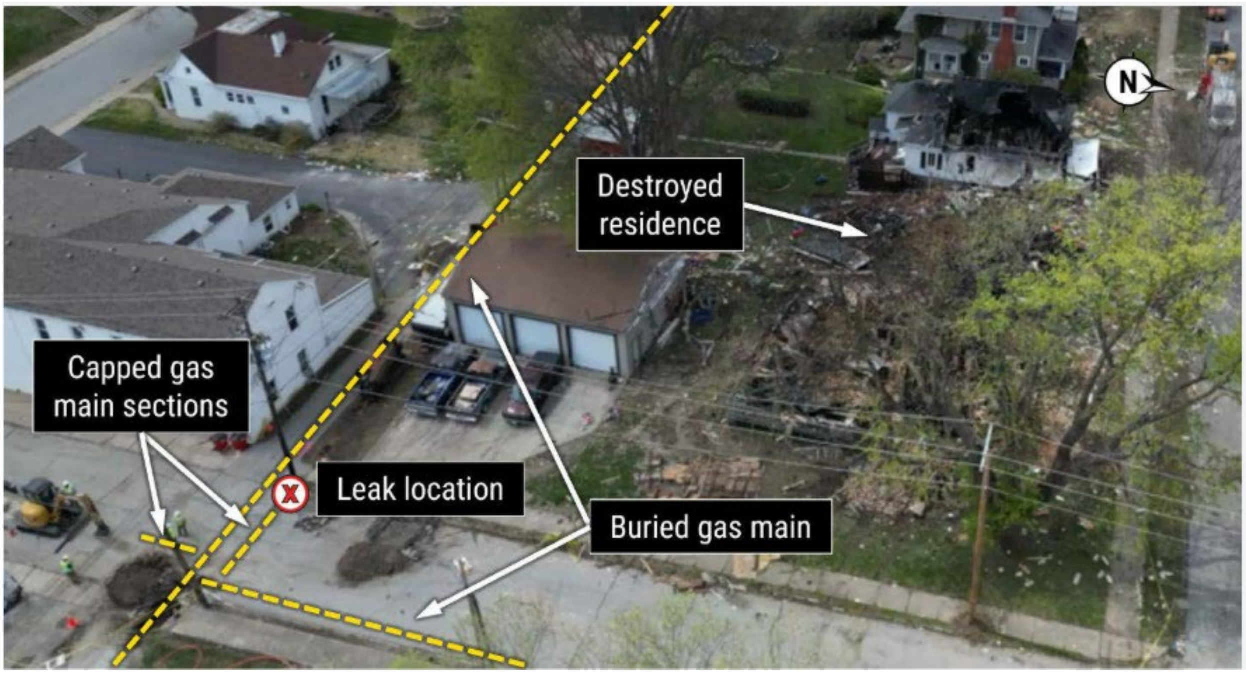
Curious, I looked more into the issue and discovered that PricewaterhouseCoopers (PwC) had to be brought in to provide an audit of the company's financial records because the information it filed was unreliable.

The Second issue I wish to raise is more concerning, on May 12th, the Missouri Attorney General filed suit against Liberty Gas for a natural gas explosion in Lexington, Missouri, that killed five-year-old Alistair Lamb and injured his ten-year-old sister Cami and their custodial father, Jacob Cunningham. At least two additional lawsuits have been leveled against Liberty, alleging that the utility had more than three and a half hours to order an evacuation of the neighborhood and chose not to.[66] This allegation is compounded by the preliminary report issued by the National Transpiration Safety Board ("NTSB"), which highlighted that "State gas safety regulations required Liberty to stop the flow of leaking gas using rupture mitigation valves within thirty (30) minutes after the leak was identified but failed to stop the flow of gas for at least three hours." According to the NTSB report, Liberty didn't stop the flow of gas until 8:10 PM, nearly 30 minutes after the explosion.[67]

Figure 7 provides an aerial photo of the scene from the NTSB report.

[65] Kries, D.(2024) Liberty Utilities Gets Tree'd https://indepthnh.org/2024/11/08/liberty-utilities-gets-treed/ .
[66] Everman, D. (2025) Second lawsuit filed by neighbors of 5-year-old boy killed in Lexington gas explosion. *Fox 4 News Kansas City*. https://fox4kc.com/news/neighbors-of-boy-killed-in-lexington-gas-explosion-file-lawsuit-against-liberty-utilities/.
[67] National Transportation Safety Board (2025) Investigation ID: PLD25LR004 4/9/2025. https://www.ntsb.gov/investigations/Pages/PLD25LR004.aspx.

Figure 7: Lexington, Missouri Natural Explosion Accident Scene[68]



I have very little knowledge of the gas explosion and no doubt more information will follow, but all of my aforementioned collective examples paint a very disturbing picture that calls into question whether or not Liberty is capable of providing safe and adequate service at just and reasonable rates. Now more than ever, it is clear to me that the Commission has to forcefully hold this Company accountable for its actions and inactions before further damages are realized.

[68] Ibid.

IV. RECOMMENDED COST DISALLOWANCES AND ACTIONS

Customer First Software

Q. Based on all the challenges regarding Liberty's Customer First Platform, what is your recommendation regarding Liberty's recovery of its investment in it?

A. The Customer First Platform is not "used and useful". It has instead proven to be broken and hurtful. I recommend all costs associated with this platform be removed from the revenue requirement. The total value of this asset is $145,600,000 with an assumed 20-year useful life. Removal of this asset will result in a disallowance of $23,729,203 to the requested revenue requirement.

Meters

Q. Do you have any recommendations regarding Liberty's recovery of its investment in new AMI meters?

A. Based on the overwhelming feedback in the town halls and comments filed with the Commission it is clear that Liberty's meters are contributing to the erratic billing and have resulted in a net detriment to customers. As such, I recommend a 100% disallowance on the "return on" calculation associated with accounts 370 and 370.1. This will result in a reduced revenue requirement amounts of $1,428,817 and $2,793,881 respectively.

Customer Service Representatives

Q. Do you have any recommendations regarding Liberty's recovery of costs related to its Customer Service Representatives?

A. I recommend that any costs related to ContactPoint360 ("CP360"), the contractual call center representatives Liberty utilized as a result of the improper roll-out of Customer First be disallowed. The costs associated with this service are unknown at the moment pending discovery responses and/or true-up information.

Meter Readers

Q. Do you have any recommendations regarding Liberty's recovery of meter reader costs ?

A. I recommend that any costs associated with contractual meter readers following the roll-out of Customer First be disallowed. Arguably, the only "low-hanging" benefit with an AMI CIS roll-out is the reduced O&M expense for meter readers. Because of Customer First's poor performance, contractual meter readers needed to be employed. The costs associated with this service are unknown at the moment pending discovery response and/or true-up information.

Excessive Postage and Billing Costs

Q. Do you have any recommendations regarding Liberty's recovery of postage costs?

A. Due to the damaging performance of Customer First, excessive billing and postage were generated to customers and should be disallowed. The costs associated with this service are unknown at the moment pending discovery response and/or true-up information.

Customer Experience disallowance

Q. Is their a relationship between awarded ROE's and customer experience?

A. Yes, and there should be. In 2012 J.D. Power and Associates produced a white paper titled, *How Customer Satisfaction Drives Return on Equity for Regulated Electric Utilities*.[69] The study was done in collaboration with Standard & Poor's and examined the relationship between customer satisfaction and ROE. The paper concluded, that "similar to profitability and credit ratings, customer satisfaction has a notable impact on ROE for regulated electric utilities." The premise of the paper is that customer satisfaction, regulatory outcomes and investments likely reinforce one another (i.e. a virtuous cycle). A follow-up study was produced in 2015 in conjunction with SNL Energy, and found a 60 basis point differential

[69] Heath, A * D. Seldin (2022) How Customer Satisfaction Drives Return on Equity for Regulated Utilities. J.D. Power and Associates https://www.jdpower.com/sites/default/files/file/2022-10/2022UTL_HowCSATDrivesReturnOnEquity_ExecutiveInsightReport.pdf

between the approved ROE in utilities that scored in the lowest quartile in customer satisfaction compared to those in the highest quartile by aggregating rate case and JD Power score data from 2001 to 2014. This study was again updated in 2022 following COVID-19 and looked at rate case data from 2015-2022. Again, a positive correlation between a company's satisfaction and its ROE, but it was less pronounced than in previous studies, with a 30 basis point difference.

Q. What is your recommendation regarding ROE in light of Liberty's performance?

A. Consistent with OPC witness David Murray's testimony, I recommend an explicit 25-point basis reduction to the ROE. Importantly, this is still five-basis points more than what Standard and Poor's data acknowledges is "the average" for poor performing utilities.

Late Fees

Q. Are you concerned about late payment fees?

A. Yes. Due to the damaging performance of Customer First, I do not believe late fees have been accurately accounted for. I recommend suspending late fees until the Company can demonstrate that Customer First lives up to its namesake and is operating correctly. Additionally, I recommend that all late fees charged to customers since the roll-out of Customer First be reimbursed to customers who paid late fees either in direct deposits or as future bill credits. Any impact on revenues should be borne entirely by the Company.

Property Tax on Bill

Q. You raised concerns about improperly billed county taxes. What is your recommendation for this issue?

A. Several customers noted that in the town halls that they were being charged property taxes for counties or cities where they did not reside. I request that the Company respond to this allegation in rebuttal testimony and provide empirical evidence of the scale and scope of the problem.

Disconnection Policy

Q. Are you concerned about Liberty's future enforcement of disconnections for non-payment?

A. Yes. Simply put the Company is not in a position to start disconnections yet. I request the Company file a response in rebuttal testimony on how they plan to address this moving forward.

I also recommend the Company notify its customers that they will not be disconnecting customers until their billing practices are solved. Far too many customers reported fear and anxiety over the fear of being disconnected for non-payment when the Company would not allow them to pay.

My understanding is that Liberty elected to send disconnection notices so that vulnerable customers could be eligible for supplemental utility assistance from the State—which requires a shut-off notice. However, it is also clear that this has created far too much angst and stress for customers on fixed incomes.

For my part, I intend to engage with the Missouri Department of Social Services in the hope of rectifying this issue, assuming LIHEAP funding is renewed at the federal level.

Future 3rd Party Audits (Billing and Solar)

Q. Are Liberty's customer service issues so bad that a 3rd party audit is warranted?

A. Yes, but it needs to be an independent audit. My understanding is that the Company is exploring options for a 3rd party audit over its billing system. I want to go on record here and state that I have grave concerns regarding the independence of any 3rd party firm that is answering solely to the utility.

I want to put the Company on notice of this and hope to have further dialogue over the independence of any future 3rd-party audits on the Company's billing, customer service representatives, and solar net metering/billing practices in the future before they commit to a contract.

The Customer First Investigation and Future Complaint Case

Q. What is the status of the Staff's investigation into Liberty's billing practices?

A. My understanding is that the Staff is relatively close to concluding its investigation. Based on OPC's findings to date we are confident we will be filing a complaint case based on the information we have collected; however, we will not pursue that avenue until we have an opportunity to review the Staff's investigation report.

Q. Do you have any final observations?

A. Yes. Even if the Commission discounts my testimony and recommendations, I want to stress that there is a non-zero chance that if the Company continues to operate as it has been it will lose customers, it will lose franchise agreements, and it will run the very real risk of insolvency.

To be clear, no competitive business would be in operation if they behaved and performed the way that Liberty has.

Public utility regulation is supposed to serve as a proxy for the market and punish and reward accordingly. Liberty has continued to place this Commission in compromising situations and has proven to be burden on its customers and community. These are not easy decisions to make, but it is incumbent that the Commission hold Liberty accountable. Echoing sentiment that my counterpart in New Hampshire expressed, I believe everything should be on the table—including new ownership.

I am not sure how in good consciousness the Commission can approve any rate increase if Liberty is incapable of accurately charging for their service today. As such, I would fully support no rate increase in this case.

To be clear, I know and believe there are good, honest, and capable employees at Liberty in Missouri. I also know that, to date, Liberty Utilities in Missouri has largely functioned as a satellite office for its Canadian headquarters. Clearly that has not worked. My unsolicited advice for Canada is to figure out a way to empower and retain your local personnel or find a company that can.

Q. Does this conclude your testimony?

A. Yes.

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 GEOFF MARKE

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

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

1. My name is Geoff Marke. I am a Chief Economist for the Office of the Public Counsel.

2. Attached hereto and made a part hereof for all purposes is my direct testimony.

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

Geoff Marke
Chief Economist

Subscribed and sworn to me this 1st day of July 2025.

TIFFANY HILDEBRAND
NOTARY PUBLIC - NOTARY SEAL
STATE OF MISSOURI
MY COMMISSION EXPIRES AUGUST 8, 2027
COLE COUNTY
COMMISSION #15637121

Tiffany Hildebrand
Notary Public

My Commission expires August 8, 2027.