Exhibit No.: ________________
Issue(s): Resource Planning/Corporate Management/ GRIP/Lawsuit Damages
Witness/Type of Exhibit: Seaver/Direct
Sponsoring Party: Public Counsel
Case No.: ER-2024-0261

DIRECT TESTIMONY

OF

JORDAN SEAVER

Submitted on Behalf of the Office of the Public Counsel

THE EMPIRE DISTRICT ELECTRIC COMPANY D/B/A LIBERTY

FILE NO. ER-2024-0261

July 2, 2025

TABLE OF CONTENTS

DIRECT TESTIMONY

OF

JORDAN SEAVER

Empire Electric d/b/a Liberty Utilities

CASE No. ER-2024-0261

I. INTRODUCTION

Q. What is your name and what is your business address?

A. My name is Jordan Seaver, and my business address is 200 Madison Street, Governor Office Building, Suite 650, Jefferson City, MO 65102.

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

A. I am employed by the Office of Public Counsel ("OPC") as a Policy Analyst.

Q. Have you previously testified before the Missouri Public Service Commission ("The Commission")?

A. Yes, I have previously testified before the Missouri Public Service Commission. See Schedule JS-S-1 for my past pre-filed testimony and memoranda.

Q. What are your work and educational backgrounds?

A. I have been employed as a Policy Analyst by OPC since January 2022. I have attended Michigan State University's Institute of Public Utilities ("IPU") Accounting and Ratemaking Course, as well as the National Association of Regulatory Utility Commissioners ("NARUC") Rate School. I previously worked as a Legal Assistant for Cascino Vaughan Law Offices for 7 years. I have a Master of Arts in Philosophy from the University of Wyoming, and a Bachelor of Arts in Philosophy from the University of Illinois at Chicago.

Q. What is the purpose of your Direct testimony?

A. The purpose of this testimony is to provide some background about the resource planning history of Empire District Electric Company that has led to already increased rates and bill impacts for customers prior to this rate case. The decisions regarding the retirement of thermal generation resources and acquisition of renewable generation resources were made due to the parent companies', Liberty Utilities and Algonquin Power & Utilities Corp., commitment to the ideological goal of net-zero carbon emissions and other Environmental Social and Governance ("ESG") investing and business management. This goal has led to resource planning and other decisions that were insensitive to the specific needs of Empire's customers and to the specific conditions in Empire's service territory.

In this testimony I also briefly address the status of the Grid Resilience and Innovation Partnership ("GRIP") program application that was submitted by Empire for federal money to cover a portion of grid hardening and resilience projects. I believe that the grid repairs and upgrades proposed in the project are beneficial and do not in any way oppose the use of the awarded federal dollars. However, I believe that given the resource planning concerns and the significant ratepayer harm that has been caused by the issues with the Customer First billing system, the Commission should be aware that the Office of the Public Counsel has serious concerns about the future recovery of the unsupported portion of the GRIP project.

Finally, this testimony addresses the ongoing research that OPC is doing into lawsuit damages that have been paid by the Company in the last 3 years. No part of these costs should be recovered in rates from ratepayers, due to the issues mentioned above.

II. RESOURCE PLANNING

Q. With regard to the nature of its generating resources, what long-term resource planning commitments has Empire stated?

A. In its 2025 integrated resource plan ("IRP") Empire has made long-term commitments to "a goal of net-zero by 2050 for scope one and scope two emissions"[1]. But, this decision was made by Algonquin Power & Utilities Corp., and this is the goal it has established "across its business operations."[2] Algonquin Power & Utilities Corp. is an international corporation, headquartered and operating in Canada. This decision to pursue a net-zero emissions goal was not made based on the energy needs of the customers of Empire District Electric. This decision was not made with specific conditions of Missouri utility operations in mind; instead, it was made from the ideological perspective of a corporation that operates many utilities in four countries. As stated on the company's website, Algonquin is focused on "sustaining energy and water for life." Scope 1 emissions are direct emissions from generating sources and scope 2 emissions are indirect emissions from generating sources. In its 2019 Triennial IRP, Empire had planned for only wind, solar, and storage supply-side additions out to 2038. In its 2022 Triennial IRP, Empire had planned for only wind, solar, and battery storage out to 2041, plus one relatively small reciprocating internal combustion engine ("RICE") addition. In its 2025 Triennial IRP, Empire plans to add two solar plants (150 MW), two CTs (240 MW), and 4 very small RICE generators, out to 2044. Below is a table showing the net additions (which implicitly includes the retirements, but doesn't explicitly list them) for each triennial IRP starting with 2019. The net additions are shown by megawatts and are separated by the type, viz., thermal, wind, and solar. I have left out storage additions because these are, when standalone, so small that they have little impact on the overall picture, and I have not distinguished between utility scale solar, distributed solar, or solar plus storage.

[1] Empire 2025 Triennial IRP Executive Summary, p. 18.
[2] Algonquin Power & Utilities Corp. has divested its non-regulated renewables business, and is focusing now, as of January 2025, on its regulated side. The "business operations" referred to here are primarily the regulated entities, which includes Liberty Utilities and Empire District Electric Company.

Empire Triennial IRP Preferred Plan Additions (20 years, excluding PPAs)

IRP	Thermal (Net MW)	Wind (Net MW)	Solar (Net MW)	Additions (MW)
2019	(540)	600	216	276
2022	(241)	0	1,156	915
2025	237	0	300	537

The biggest changes that we can glean from this table are the changes in net additions of renewables from 2019 to 2025 and the changes in the net negative additions of thermal generation from 2019 to 2025. The positive addition of 600 MW of wind generation forecasted in 2019 was achieved in construction and operation of the Neosho Ridge, North Fork Ridge, and Kings Point wind facilities. The other planned additions and retirements have not happened according to the IRPs.

Q. Are any past Empire decisions for its generating resources inconsistent with its current plans for the future?

A. Yes, Empire prematurely retired Asbury coal generating station shortly after it had installed emissions controls on the plant, while it continued to collect for the plant balance through retail rates after it ceased operating Asbury. This has led to issues with Empire's ability to provide firm, dispatchable generation to its customers during inclement weather and other times that such generation is needed. Empire's decision to prematurely retire Asbury has led to the costs associated with a stranded asset pushed onto customers through surcharges and has increased Empire's retail customers' rates. This retirement was purported to save customers roughly $300 million in the long term, but this does not seem, on its face, to be the case.

Q. What does Empire's most recent IRP preferred plan show about its plans for future supply-side additions?

A. Empire's most recent IRP preferred plan is from 2025 (Case No. EO-2024-0280). Empire's preferred plan from this IRP has as future supply-side resource additions 27 MW of dual-fuel industrial gas turbines as replacements for Riverton units 10 and 11. In addition, the preferred plan assumes two 240 MW natural gas combustion turbines will be put online, the first in 2029 and the second in 2036. Additions of 28 MW of small scale reciprocating internal combustion engines ("RICE") are assumed after 2040. On the other hand, Empire's preferred plan also states that a 175 MW solar facility, planned for operation starting in 2028, may not go into service due to "the changing dynamics surrounding the SPP's resource adequacy construct, evolving market dynamics, and the timing"[3] of the 2025 triennial IRP filing.

Q. How do Empire's preferred plans relate to Liberty Utilities' stated goals and actions taken to achieve those goals?

A. The goals that Liberty Utilities, which is the parent company of Empire District Electric, is pursuing and has taken actions to achieve are at odds with the progression of the preferred plans of Empire's IRPs over the last 6 years. This is due to the fact that Liberty Utilities and Empire pursued a goal of net-zero emissions by retiring thermal generation and building wind and solar, but now, once the consequences of how they executed their plan to reach net-zero have become clear, they are planning to build thermal generation.

[3] Vol. 1 Executive Summary, 2025 Triennial IRP, EO-2024-0280, p. 11.

Q. Is the driver for Empire's change in supply-side additions from the 2022 to the 2025 preferred plan due to the change in the SPP's resource accreditation?

A. The change in the supply-side additions in the 2022 to the 2025 preferred plan is certainly a result, at least in part, due to the change in SPP's resource accreditation. But, the reason that SPP has changed its resource accreditation is that the goal of net-zero carbon emissions, achieved by replacing thermal generation with wind and solar generation, is the direct cause of the resource accreditation changes in SPP. So, the ideological plan that Liberty Utilities imposed on Empire District Electric in Missouri, without considering what the conditions in Missouri might warrant, helped to create the conditions that are now affecting Empire District Electric. These conditions are a lack of firm, dispatchable generation and an increasing lack of sufficient accredited capacity at the SPP level. The rise in costs of solar and wind facilities is directly tied to the ideological program that has been implemented by Liberty Utilities for Empire District Electric[4], and this in turn also plays into the situation that the Company finds itself in.

Q. How is the "rise in costs of solar and wind facilities…directly tied to the ideological program"?

A. The increasing cost in solar and wind facilities is directly tied to the implementation of the net-zero carbon emissions plans due to a couple of things. One is rather simple and straightforward: the net-zero carbon emissions goal, which has been popularized worldwide, has caused the demand for materials and components of wind and solar facilities to increase dramatically as utilities all over the SPP footprint, and elsewhere, have been planning and building such

[4] See Algonquin Power & Utilities Corp. 2024 ESG Report for a summary of the specifics of the plans for net-zero carbon emissions that have already occurred, and what the Company plans for the future. https://algonquinpower.com/uploads/docs/AQN-ESG-Report-2024.pdf.

facilities. Simple supply and demand economic analysis predicts that this would happen, and it has in fact happened. The current SPP interconnect at the time of this writing is 26% solar, 19% wind, 19% battery or storage, 19% thermal, and 16% hybrid. So, 45% of the current generation planned for SPP is solar and wind. The "hybrid" generation category is not a single type of generation, and SPP does not distinguish between solar plus storage, wind plus storage, dual-fuel thermal or others. Even so, this category includes some solar and wind, so we can assume that the solar and wind percentages of the SPP generation interconnect queue are larger than they appear. In addition, the battery and storage projects are almost solely built and put online due to the fact that the wind and the sun do not blow or shine on demand, and since renewable generation is also intermittent, battery and storage would help in allowing for more flexibility and dispatchability of wind and solar facilities.

The cost of these facilities, which is purported to be relatively lower than other types of generation, is usually touted as the reason for their popularity; however, in a case like Empire's, it would not have been cheaper to prematurely retire a coal generating plant like Asbury and replace it with first solar and wind generation, and then later with additional thermal combustion turbine generation. And these combustion turbines, which rely on natural gas fuel, was in short supply during winter storm Uri in 2021. Again, the situation that the Company caused itself by prematurely retiring the Asbury plant has happened with utilities all over the country and all over the SPP footprint. Most utilities that have retired coal generating plants replace those plants with a combination of wind, solar, and gas combustion turbines. This means that the near simultaneous retirement of coal plants around the country predictably led to a nearly simultaneous increased demand for wind and solar plants.

Q. What impacts have these decisions related to the overarching net-zero plan had on customers' bills, on Empire's rate increases, and Empire's capabilities of adding new generating resources in the future?

A. These decisions, as mentioned above, have led to generation investment that would not have been needed as early as it has turned out to be needed. This generation investment has led to increased bills in the near-term for customers due to the fact that they had an asset (the Asbury coal plant) that was already partially depreciated and which provided firm, reliable, and dispatchable baseload generation and capacity to Empire's service territory. The Company had planned to retire Asbury 15 years early and then turned around to build and operate the roughly *HC* $593 million*HC* Neosho Ridge wind facility, the roughly *HC* $288 million*HC* North Fork Ridge wind facility, and the roughly *HC* $300 million*HC* Kings Point wind facility. The total project costs of each of these facilities was 50% covered by a partner that received 99% of the production tax credits. Accordingly, the total cost of the wind facilities to replace Asbury was roughly *HC* $517 million*HC* and has been borne by Empire's retail customers as a result of the ideologically driven plan from Liberty Utilities that, again, never took into account the specific conditions of Missouri before it adopted that plan. Empire stated in its own testimony in support of the application for a CCN that, in fact, Empire did not have an immediate capacity need for the 3 wind facilities. The stated reason for the application was to take advantage of tax credits and to provide eventual replacements for renewable generation that would have been retired at some point in the future. Now, with roughly *HC* $517 million *HC* invested into the 3 wind facilities, Empire is planning to build roughly the same amount of thermal generation (viz., 480 MW) in 2029 and 2036. Surely this would have been enough to fulfill the same benefits that the 3 wind facilities would have but at a similar capital cost with more accredited capacity and the ability to provide firm, dispatchable generation.

The Asbury plant site was utilized as a transmission tie-in for some wind, so the Company knew about the grid interconnection value of the site for future planned investment. However, Evergy Missouri West has just taken some of that site's transmission tie-in capacity for its newly applied-for gas plants. Thus, Empire knew that it had the ability to utilize the Asbury site for new generation interconnection to the grid, and that other utilities would have as well, and knew that it needed new generation, yet failed to take advantage of all of the Asbury site even with at least 6 years of notice.

III. GRID RESILIENCE AND INNOVATION PARTNERSHIP ("GRIP") PROGRAM PLANS AND INVESTMENT COST

Q. What is the Grid Resilience and Innovation Partnership program and how does it relate to Empire's future plant investment?

A. The GRIP program is a federal program that offers federal money for investment in transmission and distribution hardening projects, the impetus for which is dealing with extreme weather events. The Empire District Electric Company has been awarded $47,491,810 for upgrades and projects for distribution and transmission system upgrades. This represents half of the cost of the project that Empire proposed for funding under the grant. The other half of the total project cost will be covered by the Company, viz., $47,491,810.

Q. Does Public Counsel support the types of investment for which GRIP was created?

A. Yes. The OPC in fact supported Empire's GRIP application with a letter acknowledging Empire's need for such a grant. The OPC is still in support of this grant and the project that this grant supports. However, in light of the large capital cost that must be covered by the Company, and the management decisions up to this point, I believe that in a future rate case the costs to be borne by Empire's retail customers should not be assumed to equal the Company's share of the project costs. Since the Company is not positing any costs associated with the grant in this rate case, I have only to say about the matter that there is good reason for the Commission to order any future costs associated with the GRIP grant project to be borne by the Company. This is primarily due to the mismanagement discussed earlier in this testimony and covered in great detail by other OPC witnesses, including the extremely consequential effects of the mismanagement of implementing the Customer First billing system.

Q. Have how Liberty and Empire have managed implementing the Customer First billing system at Empire affected the GRIP project or other Empire grid maintenance and upgrade projects?

A. The most blatant effect appears to be the cause of a lack of almost any infrastructure inspection done in 2024. In compliance with Rule 20 CSR 4240-23.020(3)(C), Empire submits a reliability compliance report. This report includes the number of completed inspections vs. the number of planned inspections. This is the only reliability compliance report I could find that had almost all planned inspections uncompleted. These inspections are a necessary part of the ongoing maintenance of the distribution and transmission systems, as well as the use of funds for maintenance of the utility's system at the appropriate times.

Q. What were Empire's planned infrastructure inspections that it did not complete in 2024?

A. Below is the distribution inspections table taken from Empire's reliability compliance report:

2024 Distribution Inspection Plan Summary

Inspection Type	Facility Type	Components	Inspections Planned for 2024	Inspections Completed During 2024	Inspections Not Completed in 2024
Patrol	Overhead Circuits, Structures, & Equipment	Poles, Transformers, Capacitors, Regulators, Reclosers, Switches	36,149	0	36,149
	Streetlight System	Structures	323	0	323
	Underground Structures & Equipment	Sectionalizing Cabinets, Vaults, Transformers, Switches	3,442	0	3,442
Detail	Overhead Circuits, Structures, & Equipment	Poles, Transformers, Capacitors, Regulators, Reclosers, Switches	30,877	719	30,158
	Streetlight System	Structures	166	0	166
	Underground Structures & Equipment	Sectionalizing Cabinets, Vaults, Transformers, Switches	3,602	0	3,602
Intrusive	Wood Poles	Poles	17,061	8,780	8,281

Empire completed only 719 inspections of poles, transformers, capacitors, regulators, reclosers, and switches. Which of these types of infrastructure were completed is not disclosed in the report, as it does not include that level of detail. Empire performed none of the other planned inspections in 2024. In total, Empire did not complete 82,121 planned inspections in 2024.

Below is the transmission inspections table taken directly from Empire's reliability compliance report:

2024 Transmission Inspection Plan Summary					
Inspection Type	Facility Type	Components	Inspections Planned for 2024	Inspections Completed During 2024	Inspections Not Completed in 2024
Patrol	Overhead Structures & Equipment	Poles	15,553	15,553	0
Detail	Overhead Structures & Equipment	Poles, Switches	4,360	0	4,360
Intrusive	Overhead Structures & Equipment	Poles	1,153	0	1,153

All of the patrol inspections of poles were completed (15,553), but none of the other inspections were completed. In total, 5,513 planned transmission inspections were not completed.

Q. How is it that you know that Empire did not complete these inspections because of its implementation of the Customer First program?

A. In its reliability compliance report Liberty states, "Liberty implemented a new risk management software in 2024 that created the opportunity to re-bid the inspections and condition assessment of system assets."[5] In Charles River Associates' ("CRA") report of its *Review of Liberty's Customer First Program for Liberty Utilities (CalPeco Electric), LLC*, the Enterprise Asset Management system is described as "an SAP application used to track the condition and manage the maintenance of Liberty's assets throughout each asset's lifecycle."[6] CRA also states in that report that the Enterprise Asset Management ("EAM") system generates "data analysis to inform maintenance cycles for generation and

[5] Liberty Reliability Compliance Report, Case No. EO-2026-0002, pg. 5.
[6] Charles River Associates, "A Review of Liberty's Customer First Program for Liberty Utilities (CalPeco Electric), LLC", pg. 11.

grid assets, avoiding equipment failures and outages, reducing operating costs, and improving system reliability."[7] Further, CRA says that "[b]ecause the EAM is an enterprise system, CalPeco will benefit from insights drawn from analysis of Liberty's entire asset portfolio."[8] Empire's Customer First program was operational for the company beginning in 2024, and the EAM discussed in the Charles River report for CalPeco is an enterprise system that manages, among other things, the distribution and transmission maintenance schedules, orders, etc. The fact that the "new risk management software" implemented in 2024, the same time that Customer First program including the Enterprise Asset Management system was implemented, leads me to conclude that this was the cause of the failure to complete the majority of the planned inspections for the reliability compliance report.

Q. What, if any, problems would Empire's failure to complete its reliability inspections cause for its customers?

A. In its reliability compliance report Empire states that "visual inspections are being performed for the 2024 work by Osmose Utility Services and Davey Resource Group."[9] Empire's costs of contracting that work by these companies that Empire should have completed should not be recovered from Empire's customers through Empire's rates. This appears to me to be yet another failure with Liberty and Empire's implementation of the Customer First program at Empire that has already caused so much injury to Empire's customers. I am awaiting information from Empire in response to data requests I issued on the accounting details and the connection between Empire's failure to complete its planned inspections and the implementation of Customer First EAM system at Empire. I presently do not know if Empire's failure to complete its planned

[7] Charles River Associates, "A Review of Liberty's Customer First Program for Liberty Utilities (CalPeco Electric), LLC", pg. 11.
[8] *Ibid.*
[9] Liberty Reliability Compliance Report, Case No. EO-2026-0002, pg. 5.

infrastructure inspections relates to the implementation of its new CIS, but I intend to issue further discovery in an effort to find out.

IV. LAWSUITS AND DAMAGES

Q. Does the Company have any lawsuits decided against it for damages within the last 3 years that would affect the recovery of rates in this case?

A. I am awaiting information from data requests on this point and will update this in future rounds of testimony in this rate case.

Q. In the event that Empire has paid significant damages from such lawsuits, would Public Counsel request that any of those damages be excluded from rate recovery?

A. Yes, in the event that any lawsuits have resulted in significant damages being paid by the Company, the OPC will ask that the Commission disallow the amount or some amount as a part of the damages from the rate recovery in this case, on the condition that those damages are related to either lawsuits regarding Customer First billing system problems or damages related to lawsuits regarding anything to do with mismanagement of Empire.

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	)	<u>Case No. ER-2024-0261</u>
Increasing Rates for Electric Service	)	
Provided to Customers in Its Missouri	)	
Service Area	)	

<u>AFFIDAVIT OF JORDAN SEAVER</u>

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

Jordan Seaver, of lawful age and being first duly sworn, deposes and states:

1. My name is Jordan Seaver. I am a Policy Analyst 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.

Jordan Seaver
Policy Analyst

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.