

Exhibit No. 222

Exhibit No.:

Issue(s): Wind Environmental Compliance Tracker/
Market Price Protection Mechanism (“MPPM”)/
Transportation Electrification Pilot Program (“TEPP”)

Witness/Type of Exhibit: Payne/Rebuttal

Sponsoring Party: Public Counsel

Case No.: ER-2024-0261

REBUTTAL TESTIMONY

OF

MANZELL PAYNE

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 Confidential Information that has been redacted

Redacted information is either information Empire designated to be confidential or based on information Empire designated to be confidential (Rule 20 CSR 4240-2.135(9))

August 18, 2025

PUBLIC

TABLE OF CONTENTS

<u>Testimony</u>	<u>Page</u>
Environmental Tracker	1
Market Price Protection Mechanism	9
Transportation Electrification Pilot Program	14

REBUTTAL TESTIMONY

OF

MANZELL M PAYNE

THE EMPIRE DISTRICT ELECTRIC COMPANY D/B/A LIBERTY

CASE NO. ER-2024-0261

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

A. My name is Manzell Payne. I am a Utility Regulatory Auditor for the Office of the Public Counsel (“OPC” or “Public Counsel”), P.O. Box 2230, Jefferson City, Missouri 65102.

Q. Are you the same Manzell Payne who filed direct testimony for the Office of the Public Counsel in this case?

A. Yes.

Q. What is the purpose of your rebuttal testimony?

A. The purpose of my rebuttal testimony is to address The Empire District Electric Company d/b/a Liberty¹ witness testimony on the Wind Environmental Compliance Tracker, the Market Price Protection Mechanism (“MPPM”), and the Transportation Electrification Pilot Program (“TEPP”). Specifically, I will be responding to the direct testimony of Company witnesses, Charlotte Emery, Shaen Rooney on the Wind Environmental Compliance tracker, Aaron Doll on the MPPM, and Dmitry Balashov on the TEPP.

ENVIRONMENTAL TRACKER

Q. Generally, what is a “tracker” for regulatory purposes?

A. A tracker is a regulatory deferral mechanism of costs. The “tracker” is the recognition of specific ongoing expenses so that this accumulated amount can be considered for inclusion in a future rate case as a reduction or increase in revenue requirement. Recognizing past expenses in a current rate case is generally referred to as retroactive ratemaking, which is usually prohibited in regulatory proceedings.

Q. What is the Wind Environmental Compliance tracker that the Company is requesting?

A. The Wind Environmental Compliance tracker is the regulatory deferral mechanism that Liberty is requesting for expected increases in its environmental compliance costs related to

¹ Heretofore “Company” or “Liberty.”

1 its Neosho Ridge, North Fork, and King’s Point wind farms (collectively referred to as the
2 “Wind Projects”).² The costs included in this tracker would be considered for recovery in
3 Liberty’s next general rate case.

4 **Q. Why is Liberty asking for this tracker?**

5 A. Company witnesses, Charlotte Emery and Shaen Rooney, provided the purpose of the tracker
6 in their respective testimonies. The purpose of the tracker is to track the increased compliance
7 costs for the Wind Projects that the Company is already facing or will begin to face in the
8 future. Charlotte Emery’s direct testimony stated the purpose for the tracker:

9 As described in the direct testimony of Mr. Rooney, Liberty currently incurs costs
10 related to the environmental monitoring related to its Wind Projects to comply with
11 the Endangered Species Act (“ESA”) and the Bald and Golden Eagle Protection Act.
12 These costs include obtaining permits, costs for generation curtailment, and
13 monitoring costs which include costs for mowing vegetation around the turbines, crop
14 damage payments, contractor costs for carcass searches, as well as contractor costs
15 related to acoustic monitoring.

16 In the near future, the Company is expecting additional environmental monitoring
17 required by the United States Fish and Wildlife Service (“USFWS”) to include the
18 tricolored bat, which will result in an increase in monitoring costs, which can be
19 material. The Company also expects to continue to see increases in these costs as other
20 species of bats meet the criteria of the Endangered Species list. Because these
21 requirements are mandated, can be material in nature, and the timing and types of
22 monitoring required is outside of Liberty’s control, the Company is proposing a
23 tracker mechanism for these costs in this proceeding.

24 **Q. Are the future costs which Liberty is seeking to track known and measurable at this**
25 **time?**

26 A. No. These are costs for potential future USFWS compliance requirements that the USFWS
27 has not mandated at this time. In her direct testimony Ms. Emery states that the Company is
28 expecting the additional monitoring to be required by the USFWS in the future. She further

² Company Witness, Charlotte Emery’s Direct Testimony, Page number 52, Lines 19-21.

1 states that the Company expects to see increases in costs for other species of bats to meet the
2 Endangered Species list. Company witness, Mr. Rooney also states this in his testimony as
3 well. At the time the Company knows their current mandates required by the USFWS, any
4 future mandates are speculative.

5 For example, Mr. Rooney states:

6 The United States Fish and Wildlife Service (“USFWS”) has indicated that it will list
7 the Tricolor Bat as endangered in the near future. When this happens, Neosho Ridge,
8 North Fork Ridge and Kings Point Wind will all be in the range of the Tricolor Bat.³

9 However, the Tricolor Bat was proposed to be listed under the Endangered Species Act in
10 September 2022. There were projections for the species to be listed in late 2024. Now in
11 August of 2025, at the time of drafting this testimony, the Tricolor bat has not been listed
12 under the ESA. Since the Tricolor bat has not been listed, there is no legal obligation for the
13 Company to implement a tracker for future mandates.

14 **Q. Why is it important that the compliance costs Liberty is seeking to track are for *potential***
15 ***future compliance requirements?***

16 A. A tracking mechanism is intended to address known and measurable expenses associated with
17 regulatory and federal mandate compliance. Without the mandate, it is not possible to
18 determine with certainty what, if any, obligations the utility will have, when those obligations
19 will begin, or how much compliance with the mandate will actually cost. As of right now, the
20 future environmental compliance the Company is stating they are expecting have not been
21 mandated. Regulatory uncertainty is significant at this stage, as full compliance rules and
22 details are all subject to change. This uncertainty makes it impossible for the Commission to
23 determine whether the Company’s actions or incurred costs are necessary, reasonable, or will
24 align with the future compliance obligations.

25 The Company has not demonstrated that waiting until the future mandates would place the
26 Company under any risk, however, the tracker would increase risks on customers, who would
27 be footing the bill for potential unnecessary costs incurred by the Company. There are no

³ Company Witness, Shaen Rooney’s Direct Testimony, Pages 9 & 10, Lines 23-24, & 1-2, respectfully.

known and measurable expenses for potential future mandates associated with the tracker that is being proposed because the Company has not been mandated yet.

Q. Is Liberty currently incurring environmental compliance costs?

A. Yes. The Company stated in response to OPC Data Request No. 1241:

Please see attachment “Wind Environmental Compliance Costs – CONFIDENTIAL.xlsx” for the annual costs associated with environmental compliance and mitigation at the wind facilities that the Company is seeking recovery of.

The costs being sought for recovery are included in the proposed base rates of this case. Per the direct testimony of Company witness Shaen Rooney and Charlotte Emery’s testimonies, the Company is proposing a tracking mechanism for wind environmental compliances costs, including mowing expenses, monitoring expenses, and environmental monitoring related crop damage payments. The Company has proposed that a baseline amount be set in the base rates approved in the current docket and any difference in future actuals incurred and the baseline amount would be deferred into a regulatory asset or liability account for recovery in a future rate case.⁴

Q. What are the annual costs associated with the environmental compliance and mitigation at the wind projects that Liberty is seeking to recover through rates?

A. In response to OPC DR 1241, the Company provided the following table from attachment “Wind Environmental Compliance Costs – CONFIDENTIAL”⁵:

**

⁴ Company response to OPC Data Request 1241. Attached as MMP-R-1.

⁵ Attachment to Company response to OPC Data Request 1241. Attached as MMP-R-1.

Q. Generally, what is Public Counsel's position on trackers?

A. Typically, the OPC has been opposed to expense trackers as they do not recognize all relevant factors at the time the utility incurs the expense. Additionally, trackers can cause a Company to be less concerned with cost controls that are associated with the tracker.

Q. What has the Commission said about when to use trackers?

A. The Commission determined in File No. EU-2014-0077 that only extraordinary costs, which are "unusual and infrequent" are appropriately recovered through trackers:

In Missouri, rates are normally established based off of a historic test year. The courts have stated that an AAO allows the deferral of a final decision on current extraordinary costs until a rate case and therefore is not retroactive ratemaking. Consistent with the language in General Instruction No. 7, the Commission has evaluated the transmission costs for which Companies seek an AAO to determine if they are an unusual and infrequent occurrence. The Commission concludes they are not.⁶

Q. What are types of circumstances where the Commission has found costs to be tracked?

A. The Commission has previously approved deferral accounting, either with an AAO or a tracker for costs that were incurred due to either (1) an Act of God or (2) New Legislation or rules. For example, the Commission has allowed deferral accounting for extreme event such as, Winter Storm Uri and COVID. Additionally, the Commission has allowed for deferral accounting due to new legislation and rules, such as pipeline replacement rules. For these instances, extraordinary costs that were not already included in the Company's cost of service, were incurred and deemed to be recovered through deferral accounting.

Q. Is rate recovery of environmental compliance costs permitted in Missouri?

A. Yes. Missouri law, Section 386.266, RSMo, and PSC rules, 20 CSR 4240-20.091 and 20 CSR 4240-3.162, provide for an Environmental Cost Recovery Mechanism ("ECRM"), which allows for periodic between general rate case recovery of prudently incurred environmental compliance costs with two-way adjustments for net increases and decreases and true-ups.

⁶ File No. EU-2014-0077, Report and Order, issued July 30, 2014, page 10.

1 **Q. What types of environmental compliance costs can be recovered by an ECRM?**

2 A. An ECRM can be used to allow an electric utility to recover its prudently incurred costs
3 directly related to compliance with any federal, state, or local environmental law, regulation,
4 or rule.⁷

5 Rule 20 CSR 4240-3.162 implements the provisions of Senate Bill 179, codified at section
6 386.266, RSMo, which permits the commission to authorize the inclusion of an environmental
7 cost recovery mechanism in utility rates.⁸

8 **Q. Would an ECRM charge change for both increases and decreases in environmental**
9 **compliance costs?**

10 A. Yes. As I mentioned before, the mechanism adjusts in two ways. The increases and the
11 decreases in environmental costs flow through this mechanism, which protects customers
12 from paying more than the costs when the costs go down.

13 **Q. What other protections does an ECRM provide?**

14 A. The ECRM provides other protections such as:

- 15 • Annual True-ups;
- 16 • Limitations on only prudently incurred, actual compliance;
- 17 • Baseline costs are embedded in base rates, and only the incremental differences is
18 recovered through the ECRM. This prevents double recovery of costs already in rates.;
- 19 • All ECRM costs are subject to PSC prudence reviews before recovery is approved.
20 This enables Staff and other intervenors to audit the spending in real time.; and
- 21 • Filing intervals are required by PSC rules, which prevents excessive volatility in
22 customer bills.⁹

⁷ Rules of Department of Commerce and Insurance. Division 4240—Public Service Commission Chapter 20 — Public Service Commission Chapter 20 – Electric Utilities, Pages 36-39, 20 CSR 4240-20.091 Electric Utility Environmental Cost Recovery Mechanisms. Attached as MMP-R-2.

⁸ Rules of Department of Commerce and Insurance. Division 4240—Public Service Commission Chapter 3 — Filing and Reporting Requirements, Pages 9-14, 20 CSR 4240-3.162 Electric Utility Environmental Cost Recovery Mechanisms Filing and Submission Requirements. Attached as MMP-R-3.

⁹ Rules of Department of Commerce and Insurance. Division 4240—Public Service Commission Chapter 20 — Public Service Commission Chapter 20 – Electric Utilities, Pages 36-39, 20 CSR 4240-20.091 Electric Utility Environmental Cost Recovery Mechanisms. Attached as MMP-R-2.

Q. Is Liberty requesting an ECRM?

A. No. The Company is not requesting an ECRM in this case. An already established Missouri mechanism for environmental compliance cost recovery already exists to handle the environmental compliance, and to request a tracker, without the ECRM protections, risks overcomplicating rates and reduces regulatory oversight.

Q. In your opinion is a new regulatory tracking mechanism to account for Liberty's potential new wind environmental compliance costs justified?

A. No. The tracking mechanism that the Company is requesting for environmental compliance at its wind projects would relate to costs that would be incurred through the course of regular business operations and can be addressed in a rate case. At the same time, the costs for the future mandated wind environmental compliance can still be incurred by the Company but do not need to be addressed in this case.

Q. Do you have any additional support for your opinion?

A. Yes. Ameren Missouri is another Missouri utility that incurs environmental compliance costs at its High Prairie Renewable Energy Center (400 MW wind generation facility), however, they do not have a tracker for potential new wind environmental compliance costs or an ECRM.

Q. Have such mechanisms been raised in any Ameren Missouri rate cases?

A. Yes. Staff witness, Keith Majors, stated the following in his rebuttal testimony in Case No. ER-2024-0319:

Q. Are there any other riders available to Ameren Missouri that it has not yet implemented?

A. Yes. Ameren Missouri has not requested approval for an Electric Utility Environmental Cost Recovery Mechanism ("ECRM") as part of this rate case. An ECRM would allow recovery of an electric utility's prudently incurred costs directly related to compliance with federal, state or local environmental laws, rules or regulations. An ECRM would need to first be approved by the Commission in a general rate case and, if approved, recovery would be permitted for net increases or net decreases in actual prudently incurred environmental costs compared to

environmental cost levels that were included in permanent rates. While the ECRM mechanism has been available to electric utilities operating in Missouri since 2009, Ameren Missouri has never implemented the use of this recovery mechanism up to this point.¹⁰

Q. Is it appropriate to authorize a new tracking mechanism for potential future compliance costs?

A. No. Authorizing the tracker for future compliance that has not been mandated, or become effective, would shift costs onto ratepayers without any assurance of prudence or necessity for those costs. The Company already knows what compliance it must now follow and the associated costs that they have incurred from complying. Those prudently incurred costs can be recovered through the ratemaking process. Liberty's customers would shoulder the risk of potentially unnecessary spending by the Company if a tracker was approved for future unknown compliance costs. If the tracker was approved, the Company would have less of an incentive to control tracked costs. If every dollar of tracked costs, for future mandates, is eligible for future rate recovery through the tracking mechanism, the incentive to control costs or pursue newer efficiencies would not occur.

Q. Are you suggesting that the Company not prepare for potential future wind environmental compliance mandates?

A. No. The Company already incurs wind environmental compliance at its wind projects. The Company can recover their costs through the traditional ratemaking procedure of auditing all test year costs and revenues in a stable manner to determine a reasonable overall revenue requirement. Through the manner of traditional ratemaking, the Company has the incentive to control their costs and customers are not burdened with the risk of unnecessary spending on behalf of the Company. Once the future mandates are known to the Company and it incurs prudently mandated costs, it can seek recovery in a future rate case of those expenses incurred. The Company can also request an already established ECRM with built-in protections to customers. The tracker the Company is proposing bypasses the established protections and

¹⁰ Rebuttal Testimony of Staff witness, Keith Majors in ER-2024-0319. Page 28, Lines 13-24.

1 instead seeks a one-way cost tracker, which ultimately raises concerns for oversight and
2 fairness for its ratepayers.

3 **Q. What is your recommendation to the Commission regarding Liberty’ Wind**
4 **Environmental Compliance tracker?**

5 A. I recommend that the Commission not approve Liberty’s Wind Environmental Compliance
6 tracker. Liberty is attempting to isolate and track costs on assumption of future mandates,
7 Additionally, the Company does not have actual costs of future compliance because the exact
8 mandates are unknown. Granting the Company’s proposed tracker as it is now would be
9 preemptive in the fact that the Company is requesting the tracker for future unknown mandates
10 with one way recovery. The recovery mechanisms for any pending or future regulation can
11 result in ratepayers shouldering misaligned costs or unnecessary spending for future unknown
12 mandates. Finally, the Company is not requesting an ECRM, that would provide greater
13 protections to its ratepayers. If the Company would like to track its environmental compliance
14 costs, it should do so through an ECRM.

15 **MARKET PRICE PROTECTION MECHANISM**

16 **Q. What is Liberty’s position on the MPPM?**

17 A. Liberty witness, Aaron Doll, states in direct testimony that:

18 As discussed in great detail in Liberty’s Response to OPC’s MPPM Motion, I believe
19 the Company properly tracked and reported all costs and revenue components of the
20 MPPM, including the PPA replacement value.

21 The Company’s complete Response is attached to my testimony as **Direct Schedule**
22 **AJD-1**. Briefly, the Company’s Response states:

- 23 • Liberty properly tracked and reported all costs and revenue components of the
- 24 MPPM, including the PPA Replacement value;
- 25 • Liberty provided background on how the MPPM was negotiated during the EO-
- 26 2018-0092 and EA-2019-0010 dockets, including different stakeholder positions;
- 27 • Liberty referenced the Commission’s determination that OPC’s proposed
- 28 conditions for its recommended Customer Protection Plan were “unreasonable”;
- 29 • Liberty stated that in an effort to get OPC more comfortable with the MPPM
- 30 during the ER-2021-0312 settlement discussions, the parties discussed and settled

on a more specific set of criteria for some of the perceived ambiguity in the original MPPM mechanism; and

- Liberty demonstrated that language proposed by OPC that was contrary to the spirit of the MPPM was not included in the 4th Stipulation and thus not agreed to by the Company nor any of the signatories.¹¹

Q. Do you have a response to Mr. Doll's testimony?

A. In response to Mr. Doll's direct testimony, OPC witness, Ms. Mantle responded in her rebuttal testimony. My response is that I agree with her rebuttal testimony on the issue of the MPPM, from pages 30-37. In summary, Ms. Mantle's response was:

Liberty is disingenuous when it calls the MPPM the "Customer Protection Plan." Liberty felt so sure that the wind projects would provide substantial benefits to its customers within the first ten years, that it proposed this mechanism to supposedly "protect" them. Currently customers are paying almost \$71 million a year through rates for these wind projects and have not seen true benefits of that magnitude yet.

Liberty is manipulating this mechanism to unfairly assign benefits in the mechanism it proposed to "protect customers." Like its Customer First rollout, this is just another example of the low regard that Liberty has for its customers. The Commission should hold Liberty to the promise of this mechanism to protect customers over the first 10 years of the operation of these wind projects.¹²

Q. Has Liberty filed its second year MPPM report?

A. Yes.

Q. Have you reviewed it?

A. Yes.

Q. What are your conclusions?

A. As I testified in direct, Liberty calculated the MPPM benefit the same way it did in its first-year report, including how it calculated the PPA replacement value.

Q. Has Liberty filed its third year MPPM report?

A. Yes, on July 30, 2025.

¹¹ Company witness, Aaron Doll's Direct Testimony, Pages 15 & 16, Lines 11-23 & 1-7, respectfully.

¹² Rebuttal testimony of OPC witness Lena Mantle, Page 37, Lines 1-11.

1 **Q. Have you reviewed it?**

2 A. Yes. However, since the submission is recent, I have not been able to fully review the
3 submission at this time. However, I have reviewed some elements of the submission and have
4 come to similar conclusions as stated in Ms. Mantle's MPPM year 1 Memo and conclusions
5 for the MPPM year 2 I stated in my direct testimony in this case.

6 **Q. At this time, what have you concluded about Liberty's third year MPPM report?**

7 A. As I addressed in my direct testimony, Liberty's Elk River and Meridian Way wind PPAs
8 expire at the end of 2025 and 2028, respectively. In year 2 and year 3 of the MPPM, Liberty
9 continues to include millions of dollars of value for a PPA replacement value, despite the fact
10 that the Company's Elk River and Meridian way wind PPAs have not expired. In year 2,
11 Liberty incorrectly included \$7.7 million for the PPA Replacement value. In year 3, the
12 Company again incorrectly included \$6.83 million for the PPA replacement value. Since
13 neither Liberty's Elk River nor its Meridian Way wind PPA have expired, the appropriate
14 PPA replacement value should be zero.

15 **Q. What impact on the MPPM calculations can be seen when PPA replacement values are
16 included for the unexpired Elk River and Meridian Way PPAs?**

17 A. One impact that can be observed is the inclusion of these values lower the Annual Wind Value
18 ("AWV"), which makes it seem like the Company is saving the customers money, when that
19 is not the case.

20 **Q. How does Liberty's inclusion of the PPA Replacement value create a lower Annual
21 Wind Value which harms Liberty's customers?**

22 A. The AWV that is lower in this case is due to the Company incorrectly including the PPA
23 replacement values, which means the Annual Sharing Value ("ASV") is lower. The PPA
24 Replacement value is treated as a credit, which reduces the AWV. With the lower ASV the
25 Company's shareholders are going to pay for percentage sharing. Incorrectly including the
26 PPA Replacement value decreases the AWV which in turn decreases the ASV, saving the
27 shareholders sharing money. The other result is it appears that customers are receiving more
28 benefit, through the lower AWV, however their sharing dollars are reduced. If you make the
29 PPA Replacement Value zero, since the Company's PPA have not expired, it increases the
30 AWV and the ASV, meaning less benefits to customers. The final ASV after year 10, is split
31 50/50 and shareholders pay half. The spirit of the MPPM was to protect customers from the

risk of upfront capital costs and the uncertainty of benefits of the wind projects in the first ten years. By correcting the MPPM, it fairly represents the true benefits or lack of that customers will receive over the first ten years of the MPPM. Below is the math explanation to show the difference in AWW and ASV when the PPA Replacement value is zero.

Q. Why is the lowered Annual Wind Value not saving customers money when the Company incorrectly includes the Elk River and Meridian Way PPA values?

A. In year three of the MPPM, the inclusion of the PPA Replacement value reduced the AWW from \$11.58 million (if the PPA replacement value was zero) to \$4.68 million. This in turn reduced the Annual Sharing Value from \$5.76 million to \$2.34 million. These are substantial reductions in customer benefit. The MPPM was designed to protect customers from the risk of upfront capital costs and uncertainty of any benefits to customers during the first ten years of the wind projects, however, the Company has incorrectly included PPA Replacement values that reduces shared benefits.

Q. What are the consequences of changing the PPA Replacement Value for years 1 and 2 of the MPPM?

A. The following two excerpts show the changes in the AWW and ASV when the PPA Replacement value is made zero. The first table is an excerpt from the Company's filed MPPM year 3, the second is when the value for the PPA Replacement value is made zero.

Excerpt 1¹³:

Years	1	2	3	4	5	6	7	8	9	10
SPP Market Revenue	\$ (61,512,216)	\$ (38,970,490)	\$ (42,019,692)							
REC Revenue	(4,103,870)	(4,855,466)	(3,828,231)							
TCR/ARR Revenue	(10,944,291)	(5,675,655)	(12,902,353)							
PTC Offset	-	-	-							
Paygo (Over)/Under	1,963,296	(2,481,890)	(487,632)							
PPA Replacement Value	(8,345,691)	(7,776,432)	(6,834,703)							
Wind Revenue Requirement	70,740,556	70,740,556	70,740,556							
Interest @ LTD Rate	(40,285)	35,161	15,408							
Annual Wind Value (AWV)	\$ (12,242,501)	\$ 11,015,783	\$ 4,683,354							
Accumulative AWW	(12,242,501)	(1,226,717)	3,456,636							
Annual Sharing Value (ASV)	(6,121,250)	5,507,892	2,341,677	-	-	-	-	-	-	-
ASV_Sum	(6,121,250)	(613,359)	1,728,318	1,728,318	1,728,318	1,728,318	1,728,318	1,728,318	1,728,318	1,728,318
Year of Assessment										3
ASV_Sum										1,728,318

Excerpt 2¹⁴:

¹³ Liberty's filed MPPM year 3. Filed in Case No. ER-2021-0312. Attached as MMP-R-4.

¹⁴ MPPM year 3, with the PPA Replacement value made to go to zero. Attached as MMP-R-5.

Years	1	2	3	4	5	6	7	8	9	10
SPP Market Revenue	\$ (61,512,216)	\$ (38,970,490)	\$ (42,019,692)							
REC Revenue	(4,103,870)	(4,855,466)	(3,828,231)							
TCR/ARR Revenue	(10,944,291)	(5,675,655)	(12,902,353)							
PTC Offset	-	-	-							
Paygo (Over)/Under	1,963,296	(2,481,890)	(487,632)							
PPA Replacement Value	-	-	-							
Wind Revenue Requirement	70,740,556	70,740,556	70,740,556							
Interest @ LTD Rate	(40,285)	35,161	15,408							
Annual Wind Value (AWV)	\$ (3,896,810)	\$ 18,792,216	\$ 11,518,057							
Accumulative AWV	(3,896,810)	14,895,406	26,413,462							
Annual Sharing Value (ASV)	(1,948,405)	9,396,108	5,759,028	-	-	-	-	-	-	-
ASV_Sum	(1,948,405)	7,447,703	13,206,731	13,206,731	13,206,731	13,206,731	13,206,731	13,206,731	13,206,731	13,206,731
Year of Assessment										3
ASV_Sum										13,206,731

In year one of the MPPM, the inclusion of the PPA Replacement value reduced the AWW from (\$3.90) million (if the PPA replacement value was zero) to \$(12.24) million. This in turn reduced the Annual Sharing Value from (\$1.95) million to (\$6.12) million. In year 2 of the MPPM, the inclusion of the PPA Replacement value reduced the AWW from \$18.79 million (if the PPA replacement value was zero) to \$11.02 million. This in turn reduced the Annual Sharing Value from \$9.40 million to \$5.51 million.

In total, for first three years of the MPPM, the inclusion of the PPA Replacement value reduced the AWW from \$26.41 million (if the PPA replacement value was zero) to \$3.46 million. This in turn reduced the Annual Sharing Value from \$13.21 million to \$1.73 million.

Q. What other issues do you have with Mr. Doll's response to OPC's MPPM Memo?

A. In Liberty's response¹⁵ to OPC's MPPM Motion¹⁶ for the MPPM year 1 filing, the Company states:

The result of the 4th Stipulation was a negotiated and balanced position to which Liberty, OPC, and Staff agreed. The attachments to this filing provide the clear provenance for the language that was ultimately included in the executed and approved 4th Stipulation and, just as importantly, the agreement by OPC to remove the language to which the Company objected. The Company never agreed, nor was it ever contemplated outside of OPC's proposed modifications, to reduce the PPA replacement by generation from Ozark Beach or residential solar, or to include a stacking and weighting of renewable energy credits for the purpose of RES compliance.¹⁷

¹⁵ ER-2021-0312, Item No. 391. Response to OPC's MPPM Motion (Public and Confidential). Attached as MMP-R-6.

¹⁶ ER-2021-0312, Item No. 389. Motion in Response to Liberty's MPPM Notice Filing. Attached as MMP-R-7.

¹⁷ ER-2021-0312, Liberty's Response to OPC's MPPM Motion (Public and Confidential)

1 The attachment referenced and eventually used for the Company's justification for the
2 Commission to disregard OPC's motion and Ms. Mantle's memo was an email chain between
3 parties that included language that OPC proposed at the time. This attachment should not have
4 been included as the emails were for settlement purposes. The Company may not have agreed
5 to the language proposed by OPC and may not agree with it still, however, the language
6 proposed by OPC is intended to correctly calculate the PPA replacement value and the correct
7 amount of RECs to be included in the MPPM calculation. OPC agreed to remove the language
8 for settlement purposes but never stated in the attachment that OPC would not argue again
9 that the Company is incorrectly calculating the PPA replacement value. In addition to the
10 response to the Company's response to OPC's motion, Liberty did not mention Staff's
11 agreement with OPC that Liberty's MPPM filing should include a PPA replacement value of
12 zero.¹⁸

13 **Q. What is your recommendation to the Commission?**

14 A. I recommend that that the Commission order the PPA Replacement value to be zero until the
15 Elk River and Meridian Way PPAs expire to correctly portray the benefits to customers for
16 the first 10 years of the wind projects. I also recommend the Commission follow Ms. Mantle's
17 testimony on how the MPPM should be calculated. Through these changes to the MPPM, the
18 Company can be held to its promise of the MPPM protecting its customers over the first 10
19 years of the operation of the wind projects.

20 **TRANSPORTATION ELECTRIFICATION PILOT PROGRAM**

21 **Q. What is the Transportation Electrification Pilot Program ("TEPP")?**

22 A. The Transportation Electrification Pilot Program is a five-year set of pilot programs that is
23 being run by Liberty through a Commission-approved stipulation in Case No. ET-2020-0390.
24 The stipulation approved maximum capital and operating expenditure thresholds for each
25 program. The TEPP is intended to explore the impacts of electric transportation on Liberty's
26 electric system and customers.

¹⁸ ER-2021-0312, Public Counsel's Motion in Response to Liberty's MPPM Notice Filing, Page 2, Section 4: Before filing this response, Public Counsel shared a draft of this motion with the Commission's Staff who requested Public Counsel to include the following statement: "Staff has reviewed Liberty's market price protection mechanism filing and supports the OPC's position to require Empire to refile its compliance filing to reflect a PPA replacement value balance of \$0.00."

1 **Q. What are the TEPP pilot programs?**

2 A. The TEPP consists of five main programs:

- 3 • The Residential Smart Charge Program
 - 4 ○ Offers residential electric vehicle owners a subscription-based charging
 - 5 service that allows customers to finance the cost of residential charger
 - 6 purchase and installation on their bills while getting access to a high-
 - 7 differential time of use rate that is applied to EV consumption, netted out of
 - 8 overall household consumption. Customers are eligible for a \$200 rebate to
 - 9 cover eligible costs of electric panel upgrades and have the option to prepay
 - 10 for the charger that is provided by the Company.¹⁹
- 11 • The Ready Charge Pilot Program
 - 12 ○ A program that deploys Liberty's owned and operated Level 2 and Direct
 - 13 Current Fast Chargers ("DCFC") at publicly accessible commercial host sites.
 - 14 Programs participants (business or municipal organization that owns or leases
 - 15 the charge site) pay a participation fees monthly to recover costs for
 - 16 infrastructure, financing, and operating costs. The site hosts have the option of
 - 17 covering the cost of charging for EV drivers or passing on the cost to the
 - 18 drivers. The program's budget is separated into four milestone-based tiers. To
 - 19 access each subsequent tier of funding, a material portion of the Company's
 - 20 existing public charging stations must demonstrate a consumption growth rate
 - 21 consistent with originally agreed thresholds. As milestones for subsequent
 - 22 tranches are met, the Company would advertise the opportunity in an RFP-
 - 23 like manner to potential site hosts. Each funding tranche following the initial
 - 24 one requires an up-front capital contribution from the site host.²⁰
- 25 • The Commercial Electrification Pilot Program
 - 26 ○ Similar to the Residential program, however, it instead deploys Liberty owned
 - 27 and operated EV charging infrastructure for non-public use for commercial
 - 28 fleets and employees to the participant businesses.²¹

¹⁹ Company Witness, Dmitry Balashov's Direct Testimony, Pages 29 & 30, Lines 13-16 & 1-5, respectfully.

²⁰ Company Witness, Dmitry Balashov's Direct Testimony, Page 30, Lines 6-22.

²¹ Company Witness, Dmitry Balashov's Direct Testimony, Pages 30 & 31, Lines 23-24 & 1-2, respectfully.

- 1 • The School Bus Pilot Program
- 2 ○ Provides charging infrastructure and TOU price schedules to support the
- 3 operation of electric school buses at public school districts. This program
- 4 deploys Liberty's owned and operated EV charging infrastructure. The
- 5 schools must provide proof of an electric bus to qualify for this program.²²
- 6 • The Non-Road Electrification Pilot Program
- 7 ○ Provides rebates to encourage adoption of qualifying electric technologies to
- 8 replace gasoline or diesel powered machinery.²³

9 **Q. Is Liberty seeking to recover its Capital and O&M costs for the TEPP in this case?**

10 A. No. Company witness, Dmitry Balashov, stated in his direct testimony the following:

11 The Company is tracking all revenues and expenditures on a program-by-program
12 basis in a system of deferral accounts to be addressed in a future proceeding after the
13 program's five-year pilot term has concluded. The Company is not seeking TEPP cost
14 recovery of any kind in this proceeding.²⁴

15 **Q. Does Public Counsel have any concerns with the TEPP?**

16 A. Yes. The TEPP has not demonstrated that it is cost effective, equitable, or necessary at its
17 current cost, i.e., the TEPP is not cost-effective. There has been a very low adoption rate for
18 the programs, as can be seen in Mr. Balashov's direct testimony. In summary, as of the
19 September 2024 that Company has the following adoption of its programs:

- 20 • The Residential Smart Charge Program
- 21 ○ 39 participants out of 500 spots
- 22 • The Ready Charge Pilot Program
- 23 ○ Allocated all of Tranche 1 funding across a total of 8 Level 2 chargers and 1
- 24 DCFC chargers to only 3 site hosts located in Branson, Ozark, and Neosho.
- 25 There are 4 tranches.
- 26 • The Commercial Electrification Pilot Program
- 27 ○ Only 1 school has been enrolled in this program.
- 28 • The School Bus Pilot Program

²² Company Witness, Dmitry Balashov's Direct Testimony, Page 31, Lines 3-7.

²³ Company Witness, Dmitry Balashov's Direct Testimony, Page 31, Lines 8-12.

²⁴ Company Witness, Dmitry Balashov, Direct Testimony, Pages 31 & 32, Lines 22-23 & 1-2, respectfully.

○ No participants in this program.

- The Non-Road Electrification Pilot Program

○ No expenditures for the Non-Road Program rebates program.²⁵

Q. Has Liberty had problems enrolling customers in TEPP programs?

A. Yes. Mr. Balashov's stated in direct testimony the following:

Finally, participation in some of the programs, most notably residential and commercial, has been affected by tariff provisions that have limited the Company's ability to enroll interested customers.

Additional information was provided in Company's response to Staff Data Response No. 357: Liberty tracks all program applicants including those who applied but did not end up enrolling in the program.

- For residential applicants, there are 20 such cases of applicants who did not enroll:

- 18 were due to those applicants already owning their own EV charger; and

- 2 were due to those applicants looking to integrate solar generation into the EV charger.

- For commercial applicants, there are 3 such cases of applicants who did not enroll:

- For all 3, the program's monthly charger fee was greater than the cost of the applicant installing and owning their own level 2 (L2) charger.²⁶

Q. Are the low adoption rates significant?

A. Yes. The low TEPP programs adoption rates undermines the purpose of a pilot program - to provide meaningful and representative data to use for the future. With the low adoption rates of these programs, the sample size becomes too small and makes the pilot program unreliable for measuring utilization, load impacts, avoided costs, and emissions reductions. With customers not participating adequately, the programs become risky when evaluating the future potential EV investments.

Q. Has Liberty justified continuing the TEPP?

A. No. The Company has not produced sufficient evidence to justify continuing or expanding the program with the expectation of future cost recovery in a future rate case. The Company's

²⁵ Company Witness, Dmitry Balashov's Direct Testimony, Page 32, Lines 9-24.

²⁶ Company response to Staff Data Request No. 357. Attached as MMP-R-3.

TEPP has had very little adoption to this point, as addressed in Mr. Balashov's direct testimony. The participation in the five programs is minimal and it signals that customer demand for the programs is not there. Continuing or expanding the programs without clear demand by ratepayers, risks wasting funds and resources that could otherwise be focused elsewhere. Additionally, pilot programs with little adoption means fewer data points, which weakens the reliability of evaluating a pilot.

Q. Does Public Counsel oppose EVs?

A. No, and neither am I. I am recommending termination of the pilot because the programs currently are not of interest by customers, as can be seen by the little adoption that has happened to this point. Continuing the pilot programs only add costs without improving the evidence that would be used for future decision making. The Commission's role is to ensure prudent and cost-effective use of ratepayer funds. If the pilot programs cannot meet its objectives due to low demand, it should be paused or terminated until the utility can provide a redesigned approach that can produce better outcomes.

Q. What is your recommendation to the Commission for the TEPP?

A. I recommend the Commission stop Liberty's Transportation Electrification Pilot Program at this time. Customer participation is insufficient at this time and would not representable or actionable results. The Company is currently asking for an increase in its rates of 39.45%²⁷ (based on 500kWh usage), which is an extreme increase for Liberty's captive ratepayers. Although the Company is not seeking the recovery of the Capital and O&M costs for the TEPP in this case, they will probably do so in a future case. With that being the outcome, it is better to terminate the pilot program, that has had very little adoption by Liberty's customers, now.

Q. Does this conclude your rebuttal testimony?

A. Yes it does.

²⁷ Percentage increase obtained from Company's "Corrected (Additional hearing notice in Aurora) Notice of Public Hearings on Liberty's Electric Rates). Attached as MMP-R-8.

**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	)	

AFFIDAVIT OF MANZELL PAYNE

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

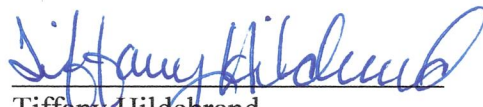
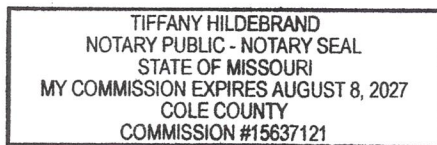
Manzell Payne, of lawful age and being first duly sworn, deposes and states:

1. My name is Manzell Payne. I am a Utility Regulatory Auditor for the Office of the Public Counsel.
2. Attached hereto and made a part hereof for all purposes is my rebuttal 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.



Manzell Payne
Utility Regulatory Auditor

Subscribed and sworn to me this 14th day of August 2025.



Tiffany Hildebrand
Notary Public

My Commission expires August 8, 2027.