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

LIBERTY'S INITIAL POST-HEARING BRIEF

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COMES NOW The Empire District Electric Company d/b/a Liberty ("Liberty," "Empire," or the "Company"), and for its Initial Post-Hearing Brief, respectfully states as follows to the Missouri Public Service Commission ("Commission"):

Introduction

Pursuant to RSMo. §393.130, the Commission must establish rates that are "just and reasonable" by balancing the interests of the Company's shareholders and its customers. This obligation, rooted in constitutional principles, has been clearly established by the Supreme Court in *Federal Power Comm. v. Hope Natural Gas Co.*, 320 U.S. 591, 603 (1944) and *Bluefield Water Works & Improvement Co. v. Public Service Commission of the State of West Virginia*, 262 U.S. 679, 690-93 (1923). Under these precedents, the Commission is not bound to any rigid formula and may make pragmatic adjustments based on the circumstances of each case. However, rates must be designed to generate sufficient revenue to cover operating expenses and capital costs, while providing the utility an opportunity to earn a fair return – one that ensures financial integrity, maintains creditworthiness, and attracts capital for continued investment.

Applying these principles to the evidentiary record, the Commission should approve the terms of the Non-Unanimous Global Stipulation and Agreement ("Base Stipulation") executed by the Commission Staff ("Staff"), Midwest Energy Consumers Group ("MECG"), the International Brotherhood of Electrical Workers Local Union No. 1474 (the "Union"), Renew Missouri Advocates d/b/a Renew Missouri, and the Company, as supplemented by the Supplemental Stipulation and Agreement ("Supplemental Stipulation") (collectively the "Global Settlement") filed on December 12, 2025. The Global Settlement represents a comprehensive resolution of all contested issues, developed through extensive negotiations among diverse stakeholders. It establishes a balanced framework that addresses regulatory concerns, ensures just and reasonable rates, and delivers meaningful customer protection, while preserving Liberty's financial stability and ability to provide safe, reliable service.

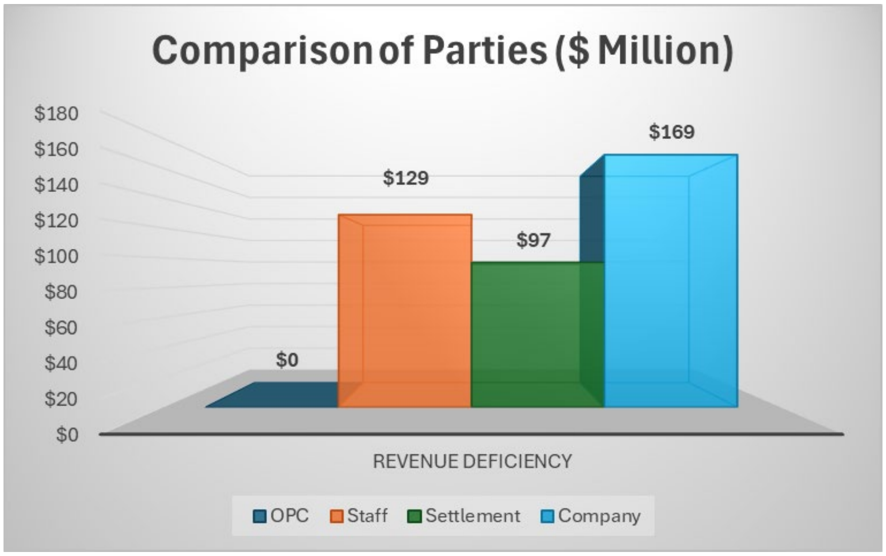
The Supplemental Stipulation directly addresses comments made by the Commission Chair and other Commissioners at the Commission's agenda meeting on November 5, 2025, where the Signatories were encouraged to revisit the Non-Unanimous Global Stipulation and Agreement filed on October 6, 2025. Although not the stated intent, the Supplemental Stipulation also addresses OPC's recommendation for no increase in rates until the Company demonstrated minimum billing challenges were resolved.[1] The Supplemental Stipulation sets metrics consistent with the Commission's Chapter 13 Rules that the Company must meet and document for Staff to audit before the rate increase begins to be phased-in. The Global Settlement provides for an annual revenue requirement increase of $97 million, phased in over three years ($32.3 million per year), reflecting a compromise among stakeholders.

The settlement provides enhanced benefits/protections for customers, including $8.5 million in arrearage forgiveness, enhanced billing accuracy, rate stability, and targeted assistance for vulnerable households. At the same time, the settlement safeguards Liberty's financial integrity and provides an opportunity to earn a reasonable return consistent with *Hope and Bluefield*, maintaining incentives for continued investment and reliable service.

In determining just and reasonable rates in this proceeding, the Commission has before it extensive testimony and other evidence from multiple parties. As is typical in rate cases, the three

[1] Ex. 204, OPC Dr. Marke Reb., p. 12, lines 18-22. OPC was provided an opportunity to review the billing metrics set out in paragraph 3 of the Supplemental Stipulation, but that opportunity was limited to less than one business day. See also discussion of Issue 163 below.

principal participants are Liberty, Staff, and the Office of the Public Counsel ("OPC"). Liberty's pre-filed testimony supports an annual revenue requirement increase of approximately $169 million, reflecting prudent investments necessary to maintain safe and reliable service. Staff's pre-filed testimony recommends an increase of approximately $129 million, which already incorporates significant adjustments to address customer service and billing concerns.



The primary point of contention in this case centers on Liberty's deployment of "Customer First," an SAP platform integral to core business operations, including financial transactions, procurement, and human resources. While the billing module of this system experienced challenges following implementation, the record demonstrates that Liberty has taken corrective actions and continues to make measurable improvements. Despite these facts, OPC advances the extraordinary and unsupported position that Liberty should receive no rate increase. This recommendation disregards the evidence that beyond the Customer First investment there has been more than $550 million in prudent infrastructure investments since Liberty's last rate case – investments essential to ensuring safe, reliable, and adequate service for Liberty's electric customers in Missouri. OPC's position is inconsistent with the governing legal standards and fails to recognize the Commission's constitutional obligation to set rates that balance customer interests with the financial integrity of the utility.

The Stipulations and Agreements

On September 30, 2025, the parties submitted an Amended List of Issues and Hearing Schedule ("List of Issues"), with 170 decision points for the Commission's consideration. Subsequently, four settlement agreements were filed with the Commission. Although none of these agreements were signed by all parties to the rate case proceeding, three of the agreements may be treated as unanimous and approved as such. Commission Rule 20 CSR 4240-2.115(2)(B)-(C) states that failure to file a timely objection to an agreement constitutes a waiver of that party's right to a hearing and that the agreement may then be treated as unanimous. Commission Rule 20 CSR 4240-2.115(2)(D) then states that an agreement to which a timely objection has been filed shall be considered a position of the signatory parties, except that no party shall be bound by it.

EDRA Settlement.

On October 3, 2025, Liberty and the Empire District Retired Members & Spouses Association, LLC ("EDRA") submitted an Amended Stipulation and Agreement, resolving issues 166 and 167 (pension plans) from the List of Issues.[2] No objections were filed as to this agreement. As such, it may be treated as unanimous and approved pursuant to RSMo. §536.060.

The Global Settlement.

The Non-Unanimous Global Stipulation and Agreement was filed on October 6, 2025, and supplemented by the Supplemental Stipulation and Agreement on December 12, 2025. OPC and the Consumers Council of Missouri ("CCM") filed objections to portions of the Non-Unanimous

[2] To resolve issues 166 and 167, with regard to the Empire Defined Benefit Pension Plan, Liberty and EDRA stipulated as follows: "(t)he Company re-affirms prior commitments to funding the pension plan as set forth in the Orders Approving Stipulations and Agreements in Case No. EM-2016-0213, as set forth therein with no changes implied by this re-affirmation. The Company agrees to not engage in a pension risk transfer arrangement."

Global Stipulation and Agreement and also objected to the Supplemental Stipulation. The central question before the Commission remains the determination of just and reasonable rates for Liberty's electric customers in Missouri.[3]

The Global Settlement, which serves as the joint position statement of the signatories, provides for an annual revenue requirement increase of $97 million, phased-in over three years, with no carrying costs. The revenue requirement of the Global Settlement reflects an annual $20,181,324 revenue reduction associated with Customer First. The Customer First reduction is comprised of a rate base amount of $149,287,965 earning a 0% rate of return $(13,750,356), and the reduction of expenses in the amount of $(6,430,968) consisting of the following:

- O&M Expenses: $(1,308,017)
- Incentive Compensation: $(2,113,492)
- Amortization Expense: $(3,009,459)

This means that with approval of the terms of the Global Settlement, there will be no recovery of or a return on Customer First in this case, despite evidence that Customer First is fully used and useful, including for activities beyond billing services.

Instead, the Global Settlement focuses on target metrics for the billing process going forward. This is done by setting metrics related to Liberty's initial rate increase and by establishing a process for metrics related to implementation of a regulatory asset for Customer First investment.

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[3] As a matter of due process, the Commission allowed all parties to this rate case the full and fair opportunity for a hearing on the issues they identified as being contested before the Commission. All parties to this action were given multiple opportunities to identify any disputed issues, the witnesses it desired to present with regard to those issues, and the witnesses it desired to cross-examine. This case does not present any of the same issues as were identified in *State ex rel. James M. Fischer v. Public Service Commission of Missouri*, 645 S.W.2d 39 (Mo. App. 1982). In *Fischer*, the Commission allowed OPC the opportunity to present a proposal for a gas company's rate design and to cross-examine opposing witnesses; however, the Commission decided, prior to hearing, that the only issue it would consider was whether to approve a stipulation and agreement submitted by all parties except OPC, thus negating the meaningfulness of the hearing. In this rate case, the Commission made no such prior decision and did not prejudge any element or issue presented.

First, as a result of this process, the tariff sheets designed to increase the Company's annual revenue requirement will not become effective until after the Company has complied with these metrics for three consecutive months, beginning January 1, 2026. The metrics are set in the Supplemental Stipulation and based on Chapter 13 of the Commission's rules.

Second, as to the Customer First reductions, only in months where metrics to be agreed upon are achieved may the Company record a balance to a regulatory asset, as established in the Base Stipulation. *If earned*, this regulatory asset would be eligible for recovery in Liberty's next rate case. Under this stipulation commitment, Liberty's return on Customer First is directly tied to measurable performance outcomes, ensuring full accountability before any return is realized.

Both of these provisions of the Global Settlement empower the Commission to hold the Company responsible for improving customer experience while maintaining the financial stability necessary to continue delivering safe and reliable service.

OPC and CCM objected to certain provisions of the Base Stipulation, including the revenue requirement provision. However, it is significant that OPC and CCM did not object to more than 30 operative provisions – many of which contain commitments that could only be implemented through Liberty's agreement and could not otherwise be ordered under applicable law or supported by the evidentiary record. As stated in paragraph 45 of the Base Stipulation, these terms are the product of extensive negotiations among the signatories. Consistent with the nature of comprehensive rate case settlements, the provisions of the Global Settlement are interdependent and must be considered as a unified package rather than in isolation.

The Global Settlement – representing the joint position of Liberty, Staff, MECG, Renew Missouri, and the Union[4], offers a fair, balanced, and legally sound resolution of all issues in this

[4] As to the Base Stipulation, and it does not object to the Supplemental Stipulation.

case. It thoughtfully addresses Liberty's acknowledged billing challenges while ensuring continued progress toward improvement, all within the framework of governing legal standards. At the same time, it avoids jeopardizing the Company's ability to provide safe, reliable, and adequate service to customers. This settlement strikes the proper balance between accountability and financial stability, resulting in rates that are just and reasonable under Missouri law and applicable precedent. For these reasons, the Commission should adopt the terms of the Global Settlement in its entirety as the complete resolution of this proceeding

Union Settlement.

On October 13, 2025, Liberty and the Union submitted a Partial Stipulation and Agreement, addressing one issue: Health Benefit Equal Treatment.[5] The resolution of this one issue is identical to how the issue was addressed in the Base Stipulation (para. 34). This matter was not addressed in pre-filed testimony and was not contained in the List of Issues. No objections were filed as to this agreement. As such, it may be treated as unanimous and approved pursuant to RSMo. §536.060.

FAC Agreement.

On October 21, 2025, Liberty and Staff submitted a Partial Stipulation and Agreement (the "FAC Agreement") due to a question raised in the objections filed with regard to the Global Settlement and to clarify certain matters with respect to paragraph 9 of the Global Settlement. With the FAC Agreement, Staff and Liberty stipulated which subaccounts shall be included and excluded in Liberty's Fuel Adjustment Clause pursuant to the listing set forth on Exhibit A attached to the FAC Agreement. While the Global Settlement addresses all issues in this

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[5] "Liberty agrees to treat all members of Local Union #1474 of the International Brotherhood of Electrical Workers, who qualified for health benefit design and cost sharing mechanisms as of January 1, 2017, the same as similarly-situated non-bargaining unit employees of the Company with respect to the retiree health benefit obligations of the Stipulation and Agreement filed February 4, 2022, in Case No. ER-2021-0312 between the Empire District Retired Members & Spouses Association, LLC ("EDRA") and the Company."

proceeding, paragraph two of the FAC Agreement directly addresses Issue No. 90 of the List of Issues. No objections were filed to the FAC Agreement. As such, it may be treated as unanimous and approved pursuant to RSMo. §536.060.

Stipulation Summary.

With three of the four filed settlement agreements to be treated as unanimous and approved pursuant to RSMo. §536.060, and the Commission's removal of the MPPM issue, 166 issues remain from the List of Issues (Issues 1-89, 91-127, 129-165, 168-170). In determining the rates Liberty may charge its customers, the Commission is required to determine whether the proposed rates are just and reasonable. RSMo. §393.150.2. Liberty has the burden of proving the proposed rates are just and reasonable, and in order to carry its burden of proof, Liberty must meet the preponderance of the evidence standard. RSMo. §393.150.2; *Bonney v. Environmental Engineering, Inc.*, 224 S.W.3d 109, 120 (Mo. App. 2007).

Law Concerning Non-Unanimous Stipulations.

Aside from matters properly resolved through settlement, the Commission's decisions must be supported by specific findings of fact. *See* RSMo. §536.060, §386.420; *State ex rel. Fischer v. Public Service Commission*, 645 S.W.2d 39, 42-43 (Mo. App. 1982). In *Fischer*, the court held that the Commission must make findings of fact in support of its determinations, even when adopting proposals contained in a non-unanimous stipulation; the Commission may not simply accept the stipulation without independent analysis. Missouri courts have consistently affirmed that the Commission has broad discretion in setting rates and that it is not the particular methodology or theory employed but the ultimate impact of the rate order that determines whether rates are just, reasonable, and lawful. *State ex rel. Associated Natural Gas Co. v. Public Serv. Comm'n*, 706 S.W.2d 870 (Mo.App.1985); *State ex rel. Missouri Water Co. v. Public Serv. Comm'n*, 308 S.W.2d 704, 714 (Mo.1957). Accordingly, the Commission must make detailed findings of fact on contested issues in this proceeding, and then, based on the record evidence, may further conclude that adoption of the terms of the Global Settlement constitutes a fair and reasonable resolution of all issues.[6]

Discussion of the Contested Issues

Rate of Return (Issue 1)

Liberty proposed a rate increase of $169 million based on an equity/debt ratio of 53%/47%, a cost of debt of 4.53%, a cost of equity of 10.00% and an overall rate of return of 7.43%. Ex. 6, Dane Surreb./True-Up, p. 31, lines 1-19; Ex. 20, Emery True-Up Reb., True-Up Rebuttal Schedule CTE-1. Staff proposed a rate increase of $129 million based upon an equity/debt ratio of 53%/47%, a cost of debt of 4.53%, a cost of equity of 9.5% and an overall rate of return of 7.16%. Ex. 178, Walters True-Up Reb. p. 2, Table CCW-1TR; Vol. 11, Tr. 147, lines 12-21 (Bolin). Staff's $129 million rate increase excluded recovery of all costs and return on Empire's new billing system and included the effect of a 100 basis points reduction in its proposed 9.5% return on equity recommendation of $17.8 million to account for customer complaints relating to the billing system. Vol. 11, Tr. 146, line 17 through Tr. 147, line 3; Tr. 148, lines 20-22 (Bolin). OPC proposed a $0 rate increase due to the customer complaints relating to the billing system. Vol. 11, Tr. 168, line 2 through Tr. 169, line 15 (Marke). OPC's rate of return witness indicated during the hearing that OPC had not determined what the overall rate of return would be if Empire received no rate increase. Vol. 12, Tr. 24, line 23 through Tr. 25, line 3 (Murray). However, as set forth in Ms. Emery's direct testimony, with a $0 increase in rates, Empire's calculated overall rate of return as of the update period ending September 30, 2024, was 2.75%. Ex. 17, Emery Dir. p. 8, lines 1-13.

[6] This would be similar to the procedural process followed in Commission Case No. WR-2007-0216.

The Global Settlement in this case includes an agreed upon annual revenue requirement rate increase of $97 million, phased-in over a 3-year period, at $32.3 million per year. Vol. 11, Tr. 148, line 23 through Tr. 149, line 9 (Bolin). The Global Settlement does not include an agreed upon capital structure, cost of debt, or return on equity. However, it does specify a 7.01% overall rate of return to be used by Liberty for mechanisms like PISA between the date the order is issued in this rate case and the date of the order in Liberty's next general rate case. As with the $97 million rate increase being significantly below the $129 million rate increase recommended by Staff, the 7.01% overall rate of return in the Global Settlement is significantly below the 7.16% overall rate of return recommended by Staff. Ex. 178, Walters True-Up Reb. p. 2, Table CCW-1TR. Interestingly, the 7.01% overall rate of return included in the Global Settlement is close to the 6.98% overall rate of return shown by OPC witness Mr. Murray in his surrebuttal/true-up testimony where he used what he considered to be the currently most economical capital structure. Ex. 211, Murray Surreb./True-Up, p. 13, lines 1-10. The Global Settlement also effectively precludes Liberty from recovering any costs or investment in its new billing system until it shows customers are receiving satisfactory service. The new rates will not become effective until after Liberty has complied with the metrics set forth in the Supplemental Stipulation. Vol. 12, Tr. 154, lines 2-9 (Bolin).

In deciding the rate of return issues in this case, including the issue of whether the terms of the Global Settlement will result in just and reasonable rates, and thus a fair overall rate of return for Liberty, Missouri courts in their review of this Commission's previous rate case orders have identified the following blend of utility regulatory principles and propositions to be paramount:

- Generally, a rate of return is considered fair if it "covers utility operating expenses, debt service, and dividends, if it compensates investors for the risks of investment and if it is sufficient to attract capital and assure confidence in the enterprise's financial integrity." *State ex rel. Missouri Office of Public Counsel v. Public Service Com'n of State of Missouri*, 293 S.W. 3d 63, 80 (2009) (internal citations omitted)

- In citing to the landmark decision in *Hope Natural Gas Co.*, the Missouri courts have affirmed the propositions that public utility commissions are "not bound to the use of any single formula or combination of formulae in determining rates," and that rate making "involves the making of pragmatic adjustments." The Missouri courts have added that under this just and reasonable analysis, "it is the result reached not the method employed which is controlling;" "it is not theory but the impact of the rate order which counts;" "if the total effect of the rate order cannot be said to be unjust or unreasonable, judicial inquiry under the Act is at an end;" and "the fact that the method employed to reach that result may contain infirmities is not then important." *State ex rel. Missouri Office of Public Counsel v. Public Service Com'n of State of Missouri*, 293 S.W. 3d 63, at 82.

- "In determining the rate of return, a straight forward mathematical calculation is computed, factoring in '(i) the ratio of debt and equity to total capital, and (ii) the cost and (iii) weighted cost for each of these capital components.' These input components, however, are not a matter of 'precise science,' because inferences must be made about the cost of equity, which involves an estimation of investor expectations. Some degree of speculation is a necessary element of any rate making decision to the extent that the decision deals with capital structure, 'because such decisions are forward-looking and rely, in part, on the accuracy of financial and market forecasts." *State ex rel. Missouri Office of Public Counsel v. Public Service Com'n of State of Missouri*, 293 S.W. 3d 63, at 80 (internal citation omitted).

Applying these principles and propositions from the top down to the substantial competent evidence in the record, and considering the courts' first principle, the rate of return derived from the Global Settlement is fair. It will cover Liberty's operating expenses, debt service and dividends, compensate investors for the risks of investment and is sufficient to attract capital and assure confidence in the utility's financial integrity. Concurrently, the Global Settlement handles OPC's concern that formed the basis for its $0 rate increase recommendation. The Global Settlement appropriately deals with the issues relating to the utility's new billing services by preventing Liberty from recovering any costs or investment relating to those billing services, until it has provided concrete evidence, in the form of meeting Commission-approved performance metrics. Conversely, if OPC's recommendation of no increase in rates is approved, then such would not allow Liberty enough revenues it genuinely needs to cover its expenses. It would clearly not result in anything close to a fair rate of return for Liberty. It would likely create unnecessary roadblocks to Liberty providing efficient and sufficient service to its customers, which is the complete opposite of what all stakeholders want to happen as a result of this case and would violate all of the above-mentioned regulatory principles and propositions delineated by the courts.

In applying the first principal identified by the courts, the Global Settlement will allow Liberty a reasonable opportunity to recover its prudently incurred costs and investment and thus, establish a fair rate of return for the utility. Liberty agreed to the Global Settlement because it believes that its terms will provide the Company a reasonable opportunity to recover its costs and earn a fair return, including a reasonable opportunity to recover its costs and earn a fair return on its new billing system after it proves that customers are receiving satisfactory service. Predictably, when asked by the Chair of the Commission whether the $97 million rate increase would result in just and reasonable rates and thus a fair rate of return for Liberty, Staff witness Ms. Kimberly Bolin stated that from Staff's viewpoint there is no doubt that it would because it is $32 million less than the rate increase Staff had recommended. Ms. Bolin was also quick to point out to the Chair that on top of the rate increase being lower than what Staff was recommending based on its audit, the Global Settlement effectively precluded Liberty from recovering any cost or investment from customers relating to its new billing services until such services are fixed. Vol. 12, Tr. 153, line 18, through Tr. 154, line 9; Tr. 165 lines 14-21 (Bolin). At the suggestion of the Commission, the Parties supplemented the Base Stipulation to include specific performance metrics that Liberty must meet before receiving any of the rate increase. As suggested by Commissioner Mitchell during the hearing, the fact that the Global Settlement calls for a rate increase that is $32 million less than the rate increase recommended by Staff likely provides an additional comfort gap that supports the reasonableness of the agreement. Vol. 11, Tr. 164, lines 2--7.

While the position taken by the parties that have signed the Global Settlement clearly complies with this first regulatory principle of allowing the utility a reasonable opportunity to recover its costs and earn a fair rate of return, the recommendation made by OPC, and by extension CCM, clearly does not and should be rejected. In fact, not only does OPC's recommendation fail to comply with this first principle, but OPC asks the Commission to totally ignore the principle and is up-front in doing so. OPC asks the Commission to authorize a $0 increase in rates despite the consequential revenue deficiency identified by the audits of Liberty's financial information conducted by both Liberty and Staff. Staff recommended a $129 million revenue increase, which eliminated recovery of all costs and investment relating to Liberty's billing system and included an effective 100 basis points reduction in its return on equity recommendation to penalize the utility for customer complaints. The Global Settlement would further reduce the rate increase by another $32 million to $97 million, and would phase in the rate increase over a 3-year period. In light of those facts, OPC's recommendation of a $0 rate increase is, on its face, unreasonable and egregiously violates the courts' first principle. It provides Liberty absolutely no opportunity to recover its prudently incurred expenses, nor any ability whatsoever to earn a fair rate of return. As such, it should be rejected by the Commission as unsupported by the underlying facts and in violation of governing law.

The courts' second regulatory propositions apply in this case and support an order that approves the terms in the Global Settlement relating to the rate of return issues. The one proposition from the court that seems most applicable in this case, is the one that describes ratemaking as an endeavor into "pragmatic" or practical decision-making. Intertwined with the typical rate case issues like rate of return, the Commission is faced with a number of other critical issues that must be resolved and that will impact Liberty's ability to earn a fair rate of return. Options as to how those issues should be resolved are included in the Global Settlement. Other options are provided by OPC. As the Commission heard during the hearing, there is a rigid dichotomy between the options to consider. Liberty submits that the options included in the Global

Settlement provide the most pragmatic and practical resolution of the critical issues while still meeting the courts' first legal principle of providing Liberty a reasonable opportunity to earn a fair return. The options included in the Global Settlement are pragmatic and practical because they provide a reasonable path forward in resolving the critical issues in this case when compared to the option proffered by OPC. First, the Global Settlement protects customers from having to pay any increase in rates until Liberty has fixed the billing issues to the satisfaction of the Commission. At the same time, the Global Settlement recognizes that if customers are to receive sufficient and efficient service moving forward, then such cannot be accomplished if Liberty is given a $0 rate increase with no opportunity to recover its expenses or earn a return on its investment. Conversely, OPC's option of a $0 rate increase totally ignores the importance of Liberty being able to provide customers with sufficient and efficient service. The main flaw in OPC's option is that if Liberty is given a $0 rate increase, then based on the results of the Staff's audit of the Company's records, Liberty would not be given the opportunity to earn a reasonable return, in turn jeopardizing Liberty's financial ability to provide customers with sufficient and efficient service. OPC's option is simply not a practical solution to one of the main issues in this case which is customer service.

Second, and just as important, the Global Settlement protects customers against rate shock by phasing-in the proposed rate increase over a 3-year period and by precluding Liberty from filing its next general rate case for a period of two years following the issuance of the order in this case. On the other hand, OPC's option of no rate increase will require Liberty to effectively file another rate case immediately upon a showing that its billing system has been fixed. This will likely result in a request containing a much larger percentage increase in rates due to the additional passage of time in between rate case filings. Instead of tempering rate shock, the option proposed by OPC will make it worse. The Chair recognized during the hearing that if customers were concerned at the public hearings in this case with a proposed 30% increase in rates hitting them all at once, they would be even more concerned with a much larger increase in rates. That is what would occur under the proposal made by OPC in this case. Vol. 11, Tr. 58, lines 9-16, Tr. 174, line 25, through Tr. 175, line 3.

Finally, the courts' third principle comes into play because, notwithstanding the Global Settlement, the Commission is mandated to make findings of fact and conclusions of law on each of the rate of return components identified by the court: capital structure, cost of debt and cost of equity. *State ex rel. Fischer v. Public Service Commission,* 645 S.W. 2d 39*,* 43 (Mo. App. 1982). If the Commission approves the Global Settlement, then its findings of fact and conclusions of law on each of the rate of return components must support such approval. There is substantial competent evidence contained in the record to support the effective rate of return that would result from the approval of the Global Settlement with a "comfort gap" to spare.

Capital Structure.

The Stipulation and Settlement Agreement in Case No. EM-2016-0213 ("Empire/APUC Acquisition Case") requires Empire to provide evidence in subsequent rate cases as to why Empire's per books capital structure is "most economical" for purposes of determining a fair and reasonable allowed rate if Empire's per books capital structure is different from that of the entity or entities on which Empire relies for financing needs. Case No. EM-2016-0213, *Order Approving Stipulation and Agreements and Authorizing Merger Transaction*, issued September 7, 2016, at pp. 22-23. Empire is funded indirectly by Algonquin Power and Utility Corp. ("APUC") and directly by Liberty Utility Co. ("LUCo"). Based upon the merger requirement, Empire's rate of return witness Mr. Daniel S. Dane analyzed and continued to update the capital structures at Empire, LUCo and APUC throughout the case and based upon his analysis determined that Empire's capital structure was the most economical and should be used to set rates in this case. Ex. 4, Dane Dir. p. 5, lines 1-20; pp. 46-48; Direct Schedule DSD-11; Ex. 5, Dane Reb. Rebuttal

Schedule DSD-8. Mr. Dane also showed that Empire's equity ratio of 53% was very close to the average and median common equity ratios for comparable electric utilities (proxy group) over the last eight quarters of 52.79% and 52.17% respectively. Ex. 4, Dane Dir. pp. 48-49; Direct Schedule DSD-12.

Staff's rate of return witness, Mr. Christopher C. Walters, also based his overall rate of return recommendation using Empire's capital structure. Ex. 178, Walters True-Up Reb. p. 2, Table CCW-1TR.

On the other hand, OPC's rate of return witness, Mr. David Murray, in his direct testimony recommended the Commission use a hypothetical capital structure for Empire using equity of 45% and long term debt of 55%. Mr. Murray based his recommendation on what APUC "intended to target for purposes of... its regulated utilities group" that he pulled from an APUC communication to LUCo debt investors over 8 years ago (2017), and which was prepared under different market conditions and under different corporate leadership. Ex. 5, Dane Reb. pp. 17-18; Ex. 209, Murray Dir. pp. 8-9. With respect to following the merger requirement, in his surrebuttal/true-up testimony, Mr. Murray was asked the following question:

> Q. Based on your analysis of Empire's, LUCo's and APUC's capital structure for this case, which one is currently the most economical?

In response to this question, Mr. Murray testified that "APUC's capital structure is currently the most economical based on my estimate of an implied common equity ratio of 50.46%." Ex. 211, Murray Surreb./True-Up, p. 13. In his schedule DM-S-3, Mr. Murray showed APUC's imputed capital structure as of the true-up date of March 31, 2025. Mr. Murray basically showed a 50/50 capital structure and an overall rate of return of 6.98% based upon his return on equity recommendation of 9.25%. Ex. 211, Murray Surreb./True-Up, Schedule DM-S-3. Although Liberty disagreed with the way in which Mr. Murray depicted APUC's capital structure and his conclusion that APUC's capital structure was the most economical as explained by Mr. Dane in his rebuttal testimony, Ex. 5, Dane Reb. pp. 17-23, and disagreed with Mr. Murray's return on equity recommendation, the overall rate of return shown in Mr. Murray's Schedule DM-S-3 is nearly identical to the overall rate of return of 7.01% included in the Global Settlement. In fact, it is the closest overall rate of return when compared to Empire's 7.43% and the Staff's 7.16%. It clearly supports the reasonableness of the overall rate of return of 7.01% included in the Global Settlement.

Cost of Debt.

Mr. Dane and Mr. Walters used Empire's cost of debt as of the March 31, 2025, true-up period of 4.53%. This was an increase from the 4.22% cost of debt at the end of the test year and update period and accounted for the new debt issuance scheduled by Empire. Mr. Dane testified that the 4.53% was reasonable, if not conservative, relative to industry benchmarks. Ex. 4, Dane Dir. p. 49; Ex. 5, Dane Reb. p. 3; Ex. 6, Dane Surreb./True-Up p. 31; Ex. 178, Walters True-Up Reb. p. 2.

Mr. Murray used APUC's cost of debt of 4.67% in his surrebuttal/true-up testimony in the capital structure that he found to be most economical. Ex. 211, Murray Surreb./True-Up, Schedule DM-S-3. Prior to his surrebuttal/true-up testimony, Mr. Murray evaluated LUCo's cost of debt as a proxy to Empire's cost of debt but did not address Empire's proposed cost of debt. LUCo's unadjusted actual cost of debt as of March 31, 2025 was 4.49%. Ex. 5, Dane Reb. p. 29. Mr. Murray tested the reasonableness of his cost of debt assumptions by comparing them to the cost of debt of Evergy Missouri West (4.34%) and Evergy Metro (4.45%). Ex. 5, Dane Reb. p. 30.

Empire's cost of debt is directly observable and reflects the risk profile of the issuer, as well as other factors related to market conditions and timing. Accordingly, there is no need for the judgmental adjustments proposed by Mr. Murray. Moreover, Mr. Murray's range of reasonableness based on his analysis of 4.34% to 4.45% for the Evergy utilities supported Empire's proposed cost of debt as of March 31, 2025 (4.53%). Ex. 5, Dane Reb. p. 30. Accordingly, the Commission should use Empire's cost of debt of 4.53%.

Cost of Equity.

Mr. Dane recommended a reasonable range for the cost or return on equity ("ROE") for Empire to be from 9.75% to 11.00 %. That range was based on the use of several well-accepted methodologies for estimating ROE and reflected market data from companies (proxy group) directly comparable to Empire. Mr. Dane indicated that in an effort to mitigate rate impact on customers, Empire was proposing an ROE of 10%, which was towards the lower end of his recommended range and therefore a conservative estimate of Empire's ROE. Ex. 4, Dane Dir. p. 4, lines 1-12.

Mr. Dane used multiple well-accepted cost of capital estimation models in performing his assessment of the appropriate ROE for Empire. His ROE recommendation was based primarily on the constant growth form of the Discounted Cash Flow ("DCF") approach, the Capital Asset Pricing Model ("CAPM") and the Bond Yield Plus Risk Premium approach. He checked the reasonableness of the results of those models with an Expected Earnings analysis for the proxy group, as well as recent data regarding allowed ROEs for vertically-integrated electric utilities in the United States. Ex. 4, Dane Dir. p. 6, lines 1-13. Mr. Dane's recommended ROE range aligned with the middle-to-high end of the DCF results and overlapped the Bond Yield Plus Risk Premium results, while also considering the range produced by the CAPM. The results of expected earnings for comparable vertically-integrated electric utilities aligned with the high end of his recommended range. The average allowed ROE of 9.80% for vertically-integrated electric utilities from January 2023 through September 17, 2024, was near the low end of his recommended range. Ex. 4, Dane Dir. p. 7, lines 1-10.

Mr. Dane did not make an explicit adjustment for other factors such as: (1) current and prospective capital market conditions; (2) company-specific risks such as Empire' capital investment plans, its small size relative to the proxy group, and Empire's above average regulatory risk; and (3) the cost of issuing equity, referred to as flotation costs. However, he testified that in order for Empire to compete for capital on reasonable terms, these additional factors and costs should be reflected in Empire's authorized ROE. Ex. 4, Dane Dir. p. 7 lines 12-18.

Mr. Walters used the same proxy group that Mr. Dane used. He analyzed the ROE using 3 specifications of the DCF model, 12 variants of the CAPM and a Risk Premium analysis. The results of his models ranged from 7.71% to 10.65%. Mr. Walters narrowed his range of results to between 9.00% and 10.00%, and from within that range he selected a point estimate for Empire of 9.50%. Ex. 5, Dane Reb. p. 36, lines 12-20; Ex. 121, Walters Dir. p. 60.

Mr. Dane pointed out that while there were several similarities between his ROE analysis and Mr. Walters' ROE analysis, Mr. Walters made certain unreasonable assumptions and relied on certain flawed specifications of models that resulted in an unreasonably low ROE recommendation. Mr. Dane explained that the incorporation of more appropriate assumptions and the exclusion of the flawed specifications of models would have resulted in Mr. Walters' ROE recommendation being higher than Mr. Dane's ROE recommendation. Mr. Dane pointed out that a simple average of the mean results of Mr. Walters' Constant Growth DCF model using analyst growth rates (i.e., 10.63%), his CAPM analysis using current Value Line betas (i.e., 10.36%) and his Risk Premium analysis using projected Treasury bond yields (i.e., 9.98%) was 10.32%, which was greater than the 10% ROE recommended by Mr. Dane. Ex. 5, Dane Reb. p. 37, lines 1-14.

OPC witness Mr. Murray's ROE estimates ranged from 7.10% to 9.23%. He testified that the range of reasonableness results from Empire was from 9.00% to 9.5% and from within that range he selected a point estimate of 9.25%. Mr. Murray also considered the national average authorized ROEs for electric utilities, which he reported as 9.75% over the past 12 months. His Multi-Stage DCF results ranged from 7.80% to 8.3%. His CAPM results ranged from 7.8% to 9.0% and his Risk Premium results ranged from 7.10 % to 9.23%. However, as pointed out by Mr. Dane, Mr. Murray's ROE recommendation was not based on the results of his ROE models. Ex. 209, Murray Dir. p. 2; Ex. 5, Dane Reb. pp. 53-54. Instead, he subjectively established a range that he suggested the Commission should consider of 9.0% to 9.5%. Ex. 209, Murray Dir. p. 26. He provided no basis for that range in his testimony. Ex. 5, Dane Reb. pp. 53-54. Instead, Mr. Murray testified that his recommendation took into consideration the Commission's authorized ROE for Empire back in July 2020 of 9.25%, the average authorized returns for electric utilities in the past 12 months of 9.75% and the concerns over Empire's billing issues. Ex. 209, Murray Dir. p. 54.

However, Mr. Murray failed to consider that interest rates on government and utility bonds have increased substantially since 2020, as shown in Mr. Dane's figure 4 in his rebuttal testimony. Ex. 5, Dane Reb. p. 11. The 30-year Treasury bond yield on July 1, 2020, was 1.47%. *Id*. On June 30, 2025, it was 4.92%. *Id.* Moody's Baa-rated Utility bond yield on July 1, 2020 was 3.47%. *Id.* On June 30, 2025, it was 6.17%. Ex. 5, Dane Reb. p. 11. It is untenable to suggest that Empire's authorized ROE should remain at the level it was in 2020, given the substantial increase in interest rates on government and utility bonds over the last 5-year period. Moreover, Mr. Murray's 9.25% ROE recommendation is not comparable to the 9.75% average authorized returns for electric utilities in the past 12 months. Finally, the rate increase included in the Global Settlement addresses the billing issues raised by Mr. Murray as they relate to rate of return. The stipulated rate increase is $32 million below Staff's rate increase recommendation. Staff's recommended rate increase was based upon the elimination of all costs and expenses relating to Empire's billing system so customers are not paying for the billing system. Staff's recommended rate increase also effectively included a reduction in its recommended rate increase equal to a return that is 100 basis points lower than Staff's 9.5% ROE recommendation. Finally, none of the rate increase will go into effect until the performance metrics included in the Global Settlement have been met by Liberty. For all of these reasons, the Commission should reject OPC's recommended 9.25% ROE.

Customer Experience (Issues 142-165)

The Customer Experience issues largely concern Liberty's implementation of an SAP-based platform generally referred to as Customer First. The fundamental driving force behind the Customer First solution was the common problem that many utilities have faced -- operating with a variety of legacy systems and business processes that are outdated, generally obsolete, lack support and require substantial manual workarounds. These outdated systems expose utilities and customers to substantial operational, business and cybersecurity risks. Ex. 43, Penny Dir., p. 3, ln. 5-10. For example, the finance and accounting system used by Empire had been in place for more than eleven (11) years and required dedicated internal resources and external consultants to address ongoing system performance issues. These issues ranged from system failures, reliance on spreadsheets and manual labor workarounds. Ex. 43, Penny Dir., p. 5, ln. 2-5.

In evaluating its options, the Company considered whether an enterprise solution was preferable to the continued use of disparate localized solutions. An internal review was conducted, which identified the need to address several core, on-premises based systems to meet current industry standards and to accommodate future requirements, including the needs and desires of an increasingly digital customer base. Consideration was given to several options to remedy the gaps identified in the disparate systems, including sustaining them, developing localized solutions to replace them, and developing a single, enterprise-wide solution. Ex. 43, Penny Dir., p. 4, ln. 4-11.

That analysis also demonstrated that continued use of the legacy systems could not solve the numerous risks and problems associated with multiple databases, manual patches, and workarounds. Additionally, it is increasingly difficult to find employees skilled in these existing legacy systems, as new IT, finance and accounting professionals no longer learn the outdated programming necessary to support the legacy systems. The analysis revolved around determining the best practices for current and future operations and confirmed that the continued use of antiquated, obsolete, outdated and unsupported systems is neither reasonable nor prudent. As a practical matter, the limitations discussed above could not be remedied with modifications, updates or patches to the existing legacy systems, and continued investment in these technologies was not practical or sustainable. Based on careful consideration, a decision was made to implement Customer First. Ex. 43, Penny Dir., p. 4, ln. 12-23.

SAP. The chosen software solution is a leading enterprise resource planning software provided by SAP. Ex. 43, Penny Dir., p. 7, ln. 22-23. An SAP-based platform refers to a software system built on SAP (Systems, Applications, and Products in Data Processing) – a leading enterprise resource planning ("ERP") solution. Ex. 53, Walt Reb., p. 6, ln. 17-20. SAP is a state-of-the-art ERP system that has become the utility industry standard for customer billing, engagement, and operational integration among the regulated utilities. It is specifically designed to support the full meter-to-cash lifecycle, including meter data management, billing, collections, and customer service-functions that are critical to delivering reliable and accurate service. SAP's advanced capabilities include real-time data processing, automated exception handling, and customizable tools for managing complex billing scenarios. It also offers modern user interface and robust performance tracking, which help improve operational efficiency and customer responsiveness. Given the fragmented and outdated nature of the legacy systems previously in use, SAP represents a strategic and necessary upgrade – one that aligns Empire with best-in-class utilities across North America. Ex. 53, Walt Reb., p. 9, ln. 3-13.

Customer First serves as Liberty's enterprise-wide backbone system - supporting critical functions such as financial management, procurement, employee data, geographic information systems ("GIS") outage management, metering, and customer information and billing. Employees across the organization rely on Customer First daily to perform their roles and deliver essential services to our customers. The system is not only operational – it is used and useful in all parts of Liberty's electric operations in Missouri and is integral to Liberty's ability to manage its utility responsibilities effectively. Ex. 61, Wilson Reb., p. 4, ln. 17-23.

Field crews use inventory to complete jobs planned in the Network Design & Operations module, which allows the Company to configure and map assets as distribution and service lines. These assets are then tagged and tracked in the GIS system within SAP. Daily work orders are dispatched to crews through the SAP "Click" module, guiding field operations with location-specific tasks. Capital projects and regulatory assets are managed through the Powerplan module, which supports financial planning and asset tracking. The Advanced Metering Infrastructure ("AMI") module facilitates service orders for customer move-ins and move-outs and generates billing determinants. Ex. 61, Wilson Reb., p. 5, ln. 6-13.

Employees use the Employee Central module to record time, manage leave, and track performance. Finally, all customer bills are generated through the eCustomer module. Ex. 61, Wilson Reb., p. 5, ln. 13-16. Customer First is not only used every day – it is central to Empire's ability to operate as a regulated utility. Ex. 61, Wilson Reb., p. 5, ln. 16-17. As a result, the Customer First system delivers billing and customer services to all of the Company's electric customers in Missouri. Ex. 54, Walt Sur., p. 7, ln. 4-5.

Implementation. Unfortunately, deployment of Customer First did not meet the standards Empire's customers deserve. The frustration and confusion expressed by customers is valid and reflects the challenges the Company must address. Ex. 53, Walt Reb., p. 11, ln. 14-15. Every customer should receive timely and accurate bills, and the Company is fully committed to ensuring that outcome. Empire continues to focus its efforts on identifying and resolving issues, to provide consistent and reliable service across the entire customer base. Ex. 61, Wilson Reb., p. 6, ln. 2-7. While the Company continues to take action to address these concerns, significant steps have already been taken, including the below items:

1. Created the role of Chief Customer Officer so that customer experience is prioritized at the highest level of leadership and to provide direct accountability for customer outcomes.
2. Implemented daily performance metrics that track billing accuracy, timeliness, meter read success, and customer experience, allowing the Company to proactively identify and resolve issues before they reach customers.
3. Redesigned exception handling in the SAP software. An "exception" in SAP is a deviation from what was expected. Previously, the software held back bills for manual review under a wide range of conditions, without value added, overwhelming billing agents and causing delays. The Company has since refined the software logic so only true anomalies are flagged, significantly reducing unnecessary exceptions and improving timely bill delivery.
4. Launched targeted process reviews and root cause analyses and implemented solutions. With the assistance of the parties and the Commission, Liberty recently obtained waivers that will allow the Company to address bill timing issues associated with collective and joint accounts by aligning meter read and bill cycles for these customers with multiple services or multiple meters.
5. Embedded the LEAN operating model across customer operations, including regular cadence meetings, visual management dashboards, and structured problem-solving to address root causes, not just symptoms.
6. Deployed manual review processes to catch issues prior to sending bills to customers.

Ex. 54, Walt Sur., p. 14, ln. 18 – p. 15, ln. 23; p. 3, ln. 14-15; p. 5, ln. 23 – p. 6, ln. 4.

Liberty acknowledges these efforts are a work in progress, but the record is clear that improvements have been made, and issues continue to impact a smaller and smaller number of customers. Since the initial transition period, incoming billing exceptions have declined by 56%, and overall exceptions have dropped by 90%. Call Center performance has consistently answered 80% of calls within 30 seconds for four consecutive months. Customer satisfaction with agents has improved from 77% in 2024 to 83% as of August 2025, based on post-call surveys. First call resolution has increased from 71% to 75% over the same period, and the number of customers receiving estimated bills for two or more consecutive months has decreased by 23.5% since SAP go-live. Liberty recognizes that rebuilding customer trust is an ongoing process and remains committed to continuous improvement, incorporating customer feedback into its service delivery, and maintaining open communication with regulators and stakeholders. Ex. 54, Walt Sur., p. 6, ln. 13-23.

Alternative Proposal. On these issues, the Global Settlement provides a balanced and fair treatment of the customer service issues. Boiled down, the agreement holds the annual revenue requirement increase and recovery of Customer First program costs in abeyance until Liberty resolves outstanding billing issues to the Commission's satisfaction. , Additionally, the settlement provides enhanced protections for customers, including $8.5 million in arrearage forgiveness, and delivers further customer benefits such as increased rate stability, improved billing accuracy, and targeted assistance for vulnerable households.

Given this situation, Empire believes that its alternate proposal found in its testimony and in the Global Settlement would appropriately tie Liberty's return on Customer First to measurable performance metrics, ensuring accountability and customer benefit before any return is earned. Ex. 54, Walt Sur., p. 8, ln. 1-3. This proposal strikes a balance between protecting customers from rate impacts and recognizing the need for continued investment in essential service infrastructure. By tying Liberty's rate increase and return on the Customer First billing module to clear, measurable billing and service performance metrics, the Commission can ensure meaningful progress on customer service issues and provide Liberty with the opportunity to earn a reasonable return on investment, consistent with the standards established in the *Hope* and *Bluefield* decisions, thereby promoting continued investment and reliable service. Ex. 54, Walt Sur., p. 8, ln. 15-19.

Issue 142) How should the Company's investment in Customer First be treated for ratemaking purposes in this case?

A. What is the appropriate amount of Customer First Operations and Maintenance (O&M) expense to include in rates?

i. How should the true-up cut-off date of March 31, 2025 impact the Commission's determination of Customer First Operations & Maintenance ("O&M") costs for ratemaking purposes?

The Company's pre-fled testimony took the position that the annualization adjustment amount should be used to determine the appropriate level of Customer First Operations and Maintenance (O&M) expense. The Company's annualization is based on projected data once the Customer First program is fully implemented, providing a more accurate and representative view of ongoing expenses. For ratemaking purposes, it is essential that normalized expense levels reflect the full scope of costs required to sustain programs that are used and useful. Ex. 18, Emery Reb., p. 43, ln. 16-20.

However, Empire's position on this issue has been modified as reflected in the Global Settlement, to the extent its terms are adopted as a complete resolution of all contested issues. That Agreement reflects a $(20,181,324) revenue reduction associated with Customer First comprised of a rate base amount of $149,287,965 earning a 0% rate of return $(13,750,356) and the reduction of expenses in the amount of $(6,430,968) consisting of the following: 1) O&M Expenses: $(1,308,017); 2) Incentive Compensation: $(2,113,492); and, 3) Amortization Expense: $(3,009,459). The Customer First Regulatory Asset described in the Agreement would contemplate, at most, recording of an asset equal to what would have been earned on the asset balance had it been included in rate base ($13,750,356 on an annual basis). Accordingly, if the Global Settlement is ordered by the Commission, Empire would have the opportunity to recover its return on capital expenditures but forego recovery of amounts associated with Customer First Operations and Maintenance (O&M) expense.

B. Should the Commission reduce the Company's revenue requirement based on Empire's service related to its investment in Customer First?

No. The substantial and ongoing disallowances as proposed by Staff and OPC witnesses are not warranted. The Company is actively demonstrating a commitment to improving its billing system and customer service performance and has taken meaningful steps to address the concerns raised. Regulatory responses should prioritize forward-looking solutions that promote accountability and improvement, rather than punitive measures that may undermine progress. Ex. 45, Reed Reb., p. 14, ln. 7-13.

Regulatory decisions that impose large, retrospective disallowances can have unintended consequences in capital markets. Investors rely on predictable regulatory frameworks when evaluating utility risk. As described in the testimony of Liberty witness Dane, a disallowance of tens of millions of dollars or more, especially if perceived as punitive, could elevate Liberty's cost of capital and impair its ability to attract investment. This is particularly relevant given the Company's ongoing infrastructure needs and its efforts to modernize customer systems. Ex. 45, Reed Reb., p. 17, ln. 3-9.

The Commission should recognize Liberty's corrective actions, ongoing transparency, and measurable improvements. Further, Customer First is used and useful for Missouri customers. The modules that generally fall under the Customer First initiative include critical system functions such as financial management, procurement, employee data, geographic information systems

("GIS") outage management, metering, and customer information and billing. Ex. 61, Wilson Reb., p. 4, ln. 15-20. Only the customer billing function remains an issue.

Instead of embedding a long-term permanent disallowance in base rates, a more balanced and constructive approach would be to implement an initial reduction to base rates that reflects the Commission's concerns, while providing the Company with a clear path to earn back the foregone return through demonstrated performance metrics, as is proposed by the Global Settlement. Ex. 45, Reed Reb., p. 24, ln. 5-6, 9-12.

C. If the Company's revenue requirement is reduced by the Customer First investment, should it be authorized to establish a regulatory asset to record monthly its earning when respective metrics have been met as proposed by Company witnesses Reed and Walt?

i. What are the billing and customer service metrics to be used to determine if the Company records a monthly entry in its regulatory asset as it relates to earnings for the Customer First investment?

Yes. The Commission should adopt a balanced regulatory approach: allowing recovery of the Company's Customer First investment while deferring equity returns associated with its billing module until specific customer service benchmarks are met. Under this proposal, Liberty's return on the Customer First billing module would be tied to measurable performance metrics, ensuring accountability and customer benefit before any return is earned. Ex. 54, Walt Surrebuttal: p. 7, ln. 17 – p. 8, ln. 1.

Tracking performance against industry benchmarks allows the Commission to monitor improvements while giving customers confidence that service quality is being prioritized. Ex. 54, Walt Surrebuttal: p. 8, ln. 21– p. 9, ln. 1. Liberty proposes the following combination of operational and customer satisfaction metrics to be used to assess its performance that can be benchmarked across the utility industry:

• Billing Accuracy Rate: Percentage of bills issued utilizing an actual read;

• Billing Timeliness: Percentage of bills issued within the expected;

• Call Center Responsiveness – Average speed of answer; and

• Customer Experience Index: Based on post-interaction surveys and benchmarks asking about ease, satisfaction and first call resolution.

Ex. 53, Walt Rebuttal: p. 29, ln. 17 – p. 30, ln. 4; Ex. 54, Walt Sur., p. 8, ln. 5-10. These Commission-approved performance metrics could be developed through the separate investigation docket. Ex. 18, Emery Reb., p. 54, ln. 11-16.

In connection with the metrics, Liberty would provide regular reporting to the Commission, enabling transparent tracking of progress and ensuring that improved customer outcomes precede any equity return. Ex. 54, Walt Sur., p. 8, ln. 11-13. Once those metrics are achieved, the deferred equity return should be recorded as a regulatory asset for consideration in a future rate case. Ex. 54, Walt Sur., p. 8, ln. 3-5. This requires that any recovery is earned – not assumed. Ex. 18, Emery Reb., p. 54, ln. 11-16.

This proposal strikes an appropriate balance between accountability and fairness. It acknowledges the seriousness of the billing issues some of our customers experienced during the Customer First rollout, while also recognizing the Company's ongoing efforts to correct those issues and improve customer service. Ex. 18, Emery Reb., p. 53, ln. 15-18.

Further, by tying Liberty's return on the Customer First billing module to clear, measurable billing and service performance metrics, the Commission can ensure meaningful progress on customer service issues. Unlike blanket exclusions or punitive penalties, this approach promotes accountability without compromising the Company's financial stability. Ex. 18, Emery Reb., p. 53, ln. 9-12; Ex. 54, Walt Sur., p. 8, ln. 15-21. This approach aligns with industry practice, governing law, and avoids the chilling effect that large, backward-looking penalties can have on capital formation and capital access. Ex. 45, Reed Reb., p. 17, ln. 12-14.

D. Should the Commission make a further disallowance of revenue requirement based on Empire's provision of inadequate service due to its investment in Customer First?

No. As stated above, embedding a long-term permanent disallowance in base rates, instead of a focused regulatory response, is not appropriate. Regardless of whether a penalty is a direct ROE reduction or an imputed earnings reduction, credit rating agencies and investors focus on the end result of rate case decisions and are sensitive to not only deterioration in the creditworthiness of the subject company but also to perceived deterioration in the regulatory environment, which can affect all jurisdictional utilities, not just the subject utility. Ex. 5, Dane Reb., p. 34, ln. 21-25.

For example, in 2023, the Connecticut Public Utilities Regulatory Authority ("PURA") imposed a 47 basis point reduction to The United Illuminating Company's ("UI's") authorized ROE, resulting in an ROE of 8.63 percent. Despite PURA's bifurcation of the base ROE and the penalty reduction, the investment community did not consider this distinction in its overall evaluation of the regulatory climate in Connecticut. Ex. 5, Dane Reb., p. 33, ln. 3 – p. 34, ln. 9.

The Connecticut decisions related to UI affiliates, Connecticut Natural Gas Company and Southern Connecticut Gas Company, caused S&P to downgrade the Connecticut operating companies of Eversource, *an unaffiliated utility*. This was based on a revised "assessment of Connecticut's regulatory construct," in light of the UI decision. Ex. 5P/5C, Dane Reb., p. 34, ln. 10 – p. 35, ln. 17. The alternative metrics proposal both as described above and as reflected in the Global Settlement provides a more constructive focused approach to addressing performance issues related to the Customer First system.

Issue 143) Should the Commission order the incorporation of The Empire District Electric Company into the monthly Customer First meetings currently occurring between Staff and Liberty Water as ordered in the Order Approving Stipulation and Agreement in Case No. WR-2024-0104? A. Should these meetings be further modified?

As a practical matter, The Empire District Electric Company has been incorporated into these meetings for some time. Consequently, the Company does not object to an order directing this to be the case and is unaware of any need to modify these meetings beyond those matters that have been ordered in Commission Case Nos. EE-2026-0065, GE-2026-0066, and WE-2026-0067. *See Order Granting Application for Temporary Variances, Request for Waiver and Motion for Expedited Treatment*, Case Nos. EE-2026-0065, GE-2026-0066, and WE-2026-0067 (September 19, 2025).

Issue 144) Should the Commission order Empire's tariff to be revised to reflect SAP's new calculation method for budget billing?

This issue was described in the testimony of Staff witness Thomason. Ex. 148, Thomason Dir., p. 33, ln. 13 – p. 35, ln. 19. Mr. Thomason noted that Customer First calculates the Budget Billing amount in a slightly different manner than did the legacy billing system. Ex. 148, Thomason Dir., p. 33, ln. 18 – p. 34, ln. 6. There appears to be no controversy as to what calculation method is used as he does not have an issue with either the prior calculation method for the Budget Billing plan or the current method. Tr. 175 (Thomason). In fact, Mr. Thomason's calculations for a customer assuming $1,200 in charges over 12 billing cycles of 370 days shows a Budget Billing amount that is slightly less in the SAP calculation. Ex. 148, Thomason Dir., p. 34, ln. 3-6.

Liberty agrees that its tariff should be updated and revised to reflect the current calculation methodology for its Budget Billing Plan. Ex. 30, Kelly Rebuttal: p. 10, ln. 4-16.

Issue 145) Have bills been issued outside of the 26-35 day billing period required by Commission rule? Should the Commission order Empire to take specific action to comply with Commission rules?

The Company identified that billing metrics were initially being calculated at the child account level rather than the parent (collective) account level, which led to inaccuracies and compliance issues. The Company has updated the SAP query logic to reflect parent accounts, improving data accuracy and timeliness for collective billing arrangements. Bills previously falling outside the 26-35 day window were often caused by misaligned meter read schedules or routes being read too early or too late. The Company has addressed this by adjusting the meter read calendar to prevent short billing periods and implemented process controls that alert the metering department when a scheduled read could result in a non-compliance billing window. The Company has also developed a plan to align AMI meter read cycles across parent and child accounts for collective and joint customers. In Case Nos. EE-2026-0065, GE-2026-0066, and WE-2026-0067, the Commission has recently approved a waiver request associated with this corrective action. Ex. 30, Kelly, Reb., p. 3, ln. 1-16; *Order Granting Application for Temporary Variances, Request for Waiver and Motion for Expedited Treatment*, Case Nos. EE-2026-0065, GE-2026-0066, and WE-2026-0067 (September 19, 2025).

Issue 146) Should the Commission order Empire to align its estimation calculation with its tariff description?

This is unnecessary as Liberty recommends incorporating a comprehensive review of its interval data practices into the third-party evaluation of the billing system, as outlined in Ms. Walt's surrebuttal testimony. Engaging an independent expert would allow for benchmarking against best-in-class practices used by similarly situated utilities. Following review by Staff and other stakeholders, this process would provide a well-informed foundation for formalizing procedures within Liberty's tariff – providing both transparency and continuous improvement in billing operations. Ex. 55, Walt True-Up Reb., p. 4, ln. 1-9); see also Ex. 54, Walt Sur., p. 15, ln. 19-23.

Issue 147) Should the Commission order Empire to work to reduce the number of estimated bills and rebills to pre-Customer First transition levels with a timeframe of completion 60 days after new rates take effect in this case?

This is unnecessary as Liberty has stated in numerous instances in town halls and local public hearings in this case, the Company is not happy with many aspects of its customer service throughout the last year, chief among them estimated bills and rebills. The Company has taken, and is taking, steps to reduce estimated bills, and the number of estimated bills also could be used as a performance metric governing the Company's billing performance going forward. Ex. 30, Kelly Reb., p. 8, ln. 4-6, 14-16.

Issue 148) Should the Commission order Empire to permanently cease estimating on-peak and off-peak interval reads for TOU billing purposes in favor of using actual reads when available?

No, the Commission should allow estimation as necessary in certain situations. Liberty uses actual reads when available**.** However, it is common – across the industry – for interval data to be incomplete due to various factors. At Liberty, this can occur when a meter temporarily stops communicating, when there are network disruptions, or when physical obstructions like tree foliage or nearby trailers interfere with signal transmission. When such gaps arise, the Company must rely on estimation processes, in some form, to address the missing intervals. Ex. 55, Walt True-Up Reb., p. 2, ln. 8-13.

Issue 149) Should the Commission order Empire to review its processes for the storage, retrieval, and presentation of customer account information to ensure Customer Service Representatives are automatically presented with past, present and scheduled account activity and information relayed to customers in prior communications, in order to provide Customer Service Representatives with such account activity or communications? This would include the incorporation of service tickets into customer account notes.

Customer Service Representatives are presented with past, present and scheduled account activity and information relayed to customers in prior communications. While agents from other regions do not have direct access to Customer Watch (a legacy system used primarily for historical account information), clear protocols have been established so that if an agent requires information from Customer Watch, they promptly escalate the request to a local agent with access. The end result is the customer receives accurate and timely support. In addition, as the Company continues to operate with the SAP system, the need to reference legacy data has steadily declined. Most customer interactions now rely on current SAP data, which is fully accessible to all agents. Ex. 31, Kelly Sur., p. 2, ln. 10-20.

Issue 150) Should the Commission order Empire to develop consistent messaging for Customer Service Representatives to convey to customers experiencing common billing issues, and to train Customer Service Representatives to use that messaging and document all information relayed to customers in customer account notes?

This is unnecessary as Liberty has reinstated call quality monitoring and continues to provide targeted training for customer service representatives who require additional support. Beyond training, the Company is actively redesigning key workflows – from meter reading to billing and collections - to streamline processes, reduce wait times, and eliminate unnecessary handoffs. Ex. 31, Kelly Sur., p. 3, ln. 1-7.

Issue 151) Should the Commission order Empire to put in place a process to ascertain that Customer Service Representatives are advising customers of their right to file an informal complaint as prescribed by Commission Rule 20 CSR 4240-13.045(9)?

This is unnecessary as Liberty understands the importance of this rule and will continue to train all customer service staff (CSRs) on how to escalate complaints, which includes the customer's right to contact the Commission's Consumer Services Department. CSRs are trained to first attempt to resolve the complaint. If the initial CSR is unable to resolve the complaint, the next step is to utilize the assistance of a Senior CSR (Representative II). If the Senior CSR is unable to resolve the complaint, the customer will be referred to either a specialist or supervisor and finally, a manager. If, at any time, the customer asks for an additional step or specifically asks for the contact information for the Missouri Public Service Commission, the CSR, supervisor, or manager will provide that information. There are also instances, depending on the customer or the specific complaint, that a CSR may reach out directly to a supervisor or manager at their discretion.

Moreover, the contact information for the Commission's Consumer Services Department is also included in the Company's booklet provided to all new customers and on the customer invoice. Ex. 31, Kelly Sur., p. 4, ln. 3-16.

Issue 152) Should the Commission order Empire to put a process in place to ensure that each CSR is trained to note account activities comprehensively, including the development of a quality assurance process to verify that CSRs are adhering to account notation guidelines?

This is unnecessary as Liberty has already taken several steps to strengthen the consistency and quality of account documentation. Proper notetaking is emphasized in both new hire training and ongoing coaching for CSRs. Most recently, Liberty held a dedicated staff meeting focused on reinforcing expectations around account documentation, including when and how notes should be entered and the level of detail required. Ex. 31, Kelly Sur., p. 5, ln. 11-16.

Issue 153) Should the Commission order Empire to establish a process for customer callbacks that effectively records the need for a callback, tracks the status of that callback, and verifies the execution of the callback within a reasonable period of time following the request?

This is unnecessary as Liberty currently has a process in place for tracking call backs in relation to the escalation process. If a Senior CSR is not able to immediately take the escalated call, an email is sent to a shared inbox and assigned to a Senior CSR to complete the call back. The Senior CSRs are advised that callbacks are to take place the same day or, at the very least, within twenty-four hours depending on the time of day when the call is escalated. This inbox is monitored by supervisors and managers to verify execution of the call back. Ex. 31, Kelly Sur., p. 3, ln. 13-20.

Issue 154) Should the Commission order Empire to provide an additional phone call notification for Autopay customers who have their accounts locked because of delayed billing notifying them of the situation and the need to speak with Empire's call center to remove the lock?

This is unnecessary as Liberty recognizes that some customers may rely solely on automatic payments and may not regularly review mailed billing notices. To address this, Liberty is enhancing its outreach efforts by supplementing the bill-up letter with direct phone outreach to affected customers. This added layer of communication will help inform Autopay participants of any changes to their billing arrangements, reinforcing our commitment to transparency and customer trust. Ex. 31, Kelly Sur., p. 8, ln. 8-14.

Issue 155) Should the Commission order Empire to investigate customer claims that My Account is not accurately displaying balances owed? Should Empire be required to report the results of its investigation to Staff, along with next steps as necessary?

The Company does not believe that an investigation of this issue is warranted, as the Company is already addressing where this has occurred. Liberty is not aware of widespread issues. However, discrepancies may occur in specific situations. For instance, the Company is aware that in a limited number of cases, such as where a correction is made to an invoice after it has been issued, those updates may not immediately sync with My Account. Liberty is actively working to improve system integration and synchronization between our billing platform and the My Account portal for consistency and clarity for its customers. Ex. 31, Kelly Sur., p. 8, ln. 19-24.

Issue 156) Should the Commission order Empire to make the tariff revisions detailed in pages 40-41 of Charles Tyrone Thomason's Rebuttal Testimony in this case?

The Company has agreed to make those changes that have been identified by Staff witness Thomason. Ex. 31, Kelly Sur., p. 9, ln. 15-19.

Issue 157) Should the Commission suspend imposition and collection of customer late payment fees until after Empire demonstrates that its customer usage collection and billing systems are working correctly?

This is unnecessary as Liberty has not terminated service for any customers for non-payment, has offered payment plans to all customers, and is not charging interest or late fees on any unpaid amounts related to Customer First billing issues. The Company will continue to waive late fees on amounts due related to a billing issue, avoid disconnections, and offer payment plans until it can demonstrate to the Commission that the billing issues have been resolved through demonstratable customer metrics. Ex. 30, Kelly Reb., p. 6, ln. 6-8; p. 12, ln. 16 - p. 13, ln. 7.

Issue 158) Should the Commission order Empire to notify customers that it will not be disconnecting customers for nonpayment until after the Company can demonstrate that its customer usage collection and billing systems are working correctly?

The Company appreciates the intent behind this recommendation and shares the concern for protecting customers, particularly those affected by billing inconsistencies. While not opposed to issuing such a notice, the Company believes it is important to carefully consider the language to avoid inadvertently encouraging non-payment or creating the impression that disconnections are permanently suspended. The Company is open to collaborating with OPC to craft messaging that is both compassionate and clear, ensuring it supports vulnerable customers without unintentionally increasing arrearages. As part of its current practice, the Company already informs customers – especially those experiencing billing issues – that they are not at immediate risk of disconnection when they contact customer service. Ex. 30, Kelly Reb., p. 13. ln. 11-20.

Issue 159) Should Empire be required to file an affordability plan with the Commission that provides a clear roadmap with deliverable actions with the expressed goal of lowering rates to be aligned with other electric utilities in Missouri? If yes, what parameters should be ordered?

The Company supports filing an annual affordability plan/report that would reflect the work Liberty is undertaking as part of its normal course of business that could serve as a constructive platform for dialogue and accountability. Ex. 62, Wilson Sur., p. 10, ln. 19-22; Ex. 54, Walt Sur., p. 12, ln. 3-17.

However, the expressed goal of aligning rates with other Missouri electric utilities may not be practical or achievable, given the fundamental differences in utility size, service territory, and operating structure. For example, Liberty serves approximately 164,000 customers compared to

Evergy's 650,000 and Ameren's 1.25 million,[7] with both of those companies operating in more urbanized areas. Ameren also belongs to a different regional transmission organization, further complicating direct comparisons. If the intent is to compare Liberty to municipal or cooperative utilities, that would be even less appropriate due to distinctly different business models and regulatory frameworks. With these considerations in mind, Liberty supports the concept of an annual plan but cautions against using rate alignment as a benchmark without accounting for structural and operational differences. Ex. 62, Wilson Sur., p. 10, ln. 22 – p. 11, ln. 8.

Issue 160) Should Empire's ROE be reduced 25 basis points for poor customer service reflected by its bottom 5% position across U.S. utilities per J.D. Power?

No. Regardless of whether a penalty is a direct ROE reduction or an imputed earnings reduction, credit rating agencies and investors focus on the end result of rate case decisions and are sensitive to not only deterioration in the creditworthiness of the subject company but also to perceived deterioration in the regulatory environment, which can affect all jurisdictional utilities, not just the subject utility. Ex. 5P/5C, Dane Reb., p. 34, ln. 21-25.

For example, in 2023, the Connecticut Public Utilities Regulatory Authority ("PURA") imposed a 47 basis point reduction to The United Illuminating Company's ("UI's") authorized ROE, resulting in an ROE of 8.63 percent. Despite PURA's bifurcation of the base ROE and the penalty reduction, the investment community did not consider this distinction in its overall evaluation of the regulatory climate in Connecticut. Ex. 5P/5C, Dane Reb., p. 33, ln. 3 – p. 34, ln. 9. The Connecticut decisions related to UI affiliates, Connecticut Natural Gas Company and Southern Connecticut Gas Company, caused S&P to downgrade the Connecticut operating companies of Eversource, *an unaffiliated utility*. This was based on a revised "assessment of

[7] MoPSC Annual Report, 2024 (2023 calendar year statistics).

Connecticut's regulatory construct," in light of the UI decision. Ex. 5P/5C, Dane Reb., p. 34, ln. 10 – p. 35, ln. 17.

Issue 161) Should the Commission exclude from Empire's revenue requirement all of Empire's costs for contractual call center representatives Empire utilized due to issues with Empire's implementation of Customer First, including the costs of its ContactPoint360 ("CP360") contract?

There are no such costs to exclude. Liberty agrees with Staff witness Young in that because the test year ordered by the Commission is the twelve months ending September 30, 2023, the test year predates SAP go-live date of April 2024 and any costs that are driven by the go-live date are not captured in the test year. Ex. 150, Young Reb., p. 8, ln. 2-13; Tr. 105-106 (Kelly).

Issue 162) Should the Commission exclude from Empire's revenue requirement all of Empire's excessive postage and billing costs related to its continued roll-out of Customer First?

There are no such costs to exclude. The test year ordered by the Commission is the twelve months ending September 30, 2023, which is prior to SAP's go-live date of April 2024. The Company's cost of service in this case reflects test year levels of spending that are necessary, used, and useful in providing service to customers. These costs have not been adjusted or distorted by the Customer First implementation, including any postage and billing costs. Ex. 31, Kelly Sur., p. 11, ln. 11-14.

Issue 163) Should the Commission leave Empire's current rates in place until the Company can demonstrate that it is timely and accurately billing its customers for service?

That is exactly what Supplemental Stipulation provides for – the phased-in rate increase will only commence after the Company has demonstrated that it has met the metrics set out in paragraph 3 of the Supplemental Stipulation for three months and the Staff has reviewed and confirmed the metrics are met. The Commission must look to its statutory authority in considering this question. It is directed that safe and adequate service be provided at just and reasonable rates. Section 393.130.1, RSMo. In determining the price to be charged, the Commission must consider all relevant facts, with due regard, among other things, to a reasonable average return upon capital actually expended. Section 393.270.4, RSMo.

In meeting this obligation, the Commission has traditionally looked to a longstanding formula for the determination of revenue requirement – Cost of Service = Operating Costs (Payroll, Maintenance, etc., Depreciation and Taxes, plus Property required for service minus Accumulated Depreciation multiplied by the rate or return. Ex. 122, Young Dir., p. 2, ln. 14-26. Applying this formula, Staff, as of true-up, proposed a rate increase of $129 million, which is over $30 million more than the $97 million increase agreed upon under the Global Settlement. It is important to note that Staff's pre-filed testimony recommendation for a $129 million increase already reflects a reduction of nearly $20 million to remove the Customer First investment and costs and a reduction that represents a 100 basis point drop from a 9.5% ROE – essentially applying an 8.5% ROE to rate of return. Ex. 174, Young Sur. And True-Up Dir., p. 20, ln. 18-26.

In light of Staff's position, any recommendation of no potential for increase,, can be seen as woefully inadequate for customers to receive safe and adequate utility service – and, if adopted by the Commission, would violate the legal standards for setting utility rates. Further, if a party is truly concerned about making sure Liberty's customers receive efficient and sufficient service, the recommendation would not be zero.

Accordingly, if it does not approve the Global Settlement, the Commission should reject any proposal for no increase as unsupported by the record and inconsistent with the statutory mandate to set just and reasonable rates that enable the Company to provide reliable service and maintain financial integrity. A zero-increase outcome would not only disregard the substantial evidence of the Company's prudent investments and ongoing service obligations but would also send a negative signal to capital markets regarding regulatory predictability in Missouri. Such an approach risks undermining investor confidence, increasing the Company's cost of capital, and ultimately harming customers by jeopardizing the Company's ability to fund necessary infrastructure improvements and maintain high standards of service. The record demonstrates that a measured rate increase, as further refined in the Global Settlement to be conditioned on stated billing metrics being met, serves the public interest by balancing customer interests with the Company's obligation and ability to provide safe, adequate, and reliable utility service now and in the future.

Issue 164) Should the Commission order Empire to change the name of its billing platform?

The Company does not object to changing the colloquial name of its billing platform from "Customer First" for customer and other external communications. The Company does not have testimony on this matter. However, in the Base Stipulation the Company agrees to make this change. Non-Unanimous Global Stip., p. 11, para. 39.

Issue 165) Should the Commission order Empire to utilize an agreed-to, independent 3rd party auditor of its Customer First program and practices? If yes, what parameters should be followed?

Liberty is in the process of engaging a third-party industry expert to provide independent insights and performance standards for the Company's customer service and billing operations. Liberty understood that waiting to do this until a Commission order has been issued, would likely delay the process. Ex. 53, Walt Reb., p. 13; Ex. 54, Walt Sur., p. 15.

However, in the Global Settlement, if adopted by the Commission, Liberty has agreed to engage an independent third-party auditor to conduct external audits to include, but not be limited to, customer billing accuracy and timeliness and customer service and satisfaction levels across all channels. This would involve other parties in the process as a committee composed of equal representation from Staff, OPC, and the Company will develop a Request for Proposal ("RFP") outlining the scope of work, with input from all members. Costs up to $500,000 will be borne by

Liberty shareholders. The benefit of involving Staff and OPC in the process should outweigh the delay associated with waiting for the conclusion of this case.

Global Settlement and the Customer Experience Issues.

If adopted by the Commission, the Global Settlement specifically addresses many of the Customer Experience issues. Those issues addressed by the Base Stipulation are identified in the following provisions:

> Para. 4. Total Revenue Requirement (**Issues 142 (A, B, and D), 160, 163**). The Signatories agree that Empire should be authorized to file tariffs designed to increase the Company's revenues by $97M (to be phased in as parties agree below), exclusive of any applicable license, occupation, franchise, gross receipts taxes, or similar fees or taxes, to become effective on February 1, 2026. This amount reflects a $(20,181,324) revenue reduction associated with Customer First. The Customer First assets shall be considered to be included in Empire's rate base as of the effective date of rates for this case and will be amortizing between rate cases. Furthermore, the Customer First reduction is comprised of a rate base amount of $149,287,965 earning a 0% rate of return $(13,750,356) and the reduction of expenses in the amount of $(6,430,968) consisting of the following:
>
> o O&M Expenses: $(1,308,017)
> o Incentive Compensation: $(2,113,492)
> o Amortization Expense: $(3,009,459)
>
> Para. 6. Customer First Performance Metrics (**Issues 142C, 145, 147**). The Parties will confer on the appropriate and reasonably achievable monthly normalized performance metrics and targets in the separate investigation and reach agreement by May 31, 2026. The performance metrics should be related to billing accuracy, billing timeliness, number of estimated bills, call center responsiveness, and customer experience index. The term "normalized" shall mean the exclusion of certain extraordinary events that occur from time to time, which (1) are beyond the control of the utility such as an act of nature, and (2) may affect the utility's ability to meet the performance metrics. Upon the occurrence of an extraordinary event, Empire shall document the event and its impact on the performance metrics. The normalized performance metrics will be filed with the Commission until the Company achieves agreed upon performance metrics, compliance with Commission rules, and the Commission approved Empire tariff for at least 12 consecutive months, or as otherwise agreed to by the parties.
>
> Para. 7. Customer First Regulatory Asset (**Issues 142C, 145, 147**). Only after meeting the monthly normalized Customer First Performance Metrics, and only in those months where the Company has met the monthly normalized Customer First Performance Metrics, shall the Company begin recording a monthly amount in a regulatory asset account equal to the rate of return that would have been earned on the asset balance had it been included in rate base in the amount of $1,145,863 ($13,750,356/12). Empire shall file in the ER-2024-0261

docket a notice of compliance and notice of deferral for each month it has met the monthly normalized Customer First Performance Metrics. The amounts are subject to review and recovery in a future rate case.

Para. 19. External Audits (**Issue 165**). Liberty will engage an independent third-party auditor to conduct external audits to include, but not be limited to: customer billing accuracy and timeliness and customer service and satisfaction levels across all channels. The primary goal of these audits is to evaluate Liberty's current policies and performance against industry standards and peer utility benchmarks, with the intent of identifying opportunities for improvement and establishing measurable criteria for future success. The audits will be completed within one year from the effective date of new rates established in this proceeding. A committee composed of equal representation from Staff, OPC, and the Company will develop a Request for Proposal ("RFP") outlining the scope of work, with input from all members. The RFP will be circulated internally within 120 days. Selection of the auditor, if any, will be made by majority vote of the committee. If consensus cannot be reached on the scope or auditor, the matter will be submitted to the Commission for resolution. To ensure independence, the auditor's contract will prohibit any direction or influence over the report's conclusions by Staff, OPC, or Liberty. Upon completion, the audit report will be filed with the Commission in EFIS. Up to $500,000 of the costs of the audits will be borne by Empire shareholders. Any amount over $500,000 will be booked to a regulatory asset account, recovery or non-recovery of which to be determined in a future rate case.

Para. 28. Arrearage Forgiveness. The Company will forgive $8.5 million in customer arrears through a targeted relief initiative. The intent is to support those most in need — including customers who are ineligible for federal assistance due to exceeding arrearage limits, are at high risk of disconnection, or are struggling to stay current on payment plans. The Company will work collaboratively with stakeholders to design a creative and impactful program that facilitates the funds being used in the most meaningful and effective way.

Para. 38. Estimated Bills (**Issues 146, 148**). Empire agrees to the below provisions regarding estimations.

a. To immediately minimize any instance of interval billing estimation;
b. Within three months after the effective date of rates in this proceeding, Empire shall begin providing a monthly report to Staff that contains the number of meters rendering interval data and the number of those meters that contain interval estimates;
c. Within thirty days of the filing of this Agreement, Staff and Empire will come to an agreement on how to provide transparency on the estimation of interval reads across TOU periods;
d. Empire will work with Staff to implement appropriate tariff revisions and process improvements related to this issue no later than six months after the effective date of rates in this proceeding, unless otherwise ordered by the Commission in the investigation docket; and
e. Empire will issue customer notifications after three consecutive estimated bills.

Para. 39. Customer First Name Change (**Issue 164**): Change the name of "Customer First" to a neutral name.

Para. 41. Customer Notification (**Issue 158**): The Company agrees to work with the parties to develop targeted customer messaging regarding the disconnection moratorium, with specific emphasis that customers experiencing billing issues will not be subject to disconnection or late fees. Messaging will be crafted to support clarity and accuracy, while avoiding any unintended signals that could discourage timely payment from customers not impacted by billing issues. The Company further agrees to collaborate with the parties and the Commission to establish a communication plan and approach for when disconnections for nonpayment resume.

Further, as described above, the Supplemental Stipulation directly addresses Issue 163, in that the phased-in rate increase will only commence after the Company has demonstrated that it has met the metrics set out in paragraph 3 of the Supplemental Stipulation for three months and the Staff has reviewed and confirmed the metrics are met

Green Button Connect (Issue 114)

The Green Button Connect ("GBC") standards refer to the global initiative to have digital access to consumption data to support the efficient use of resources. Ex. 29P/29C, Kelly Dir., p. 4, lines 11-13. Liberty previously provided customers with the ability to view and download their AMI usage data in August 2021, achieving compliance ahead of the goal of March 31, 2023, that was established in Case No. ER-2021-0312. Liberty later implemented an explicitly Green Button-compliant version of its online My Account platform in April 2024. Ex. 29P/29C, Kelly Dir., p. 4, lines 8-11; Ex. 30, Kelly Reb., p. 14, ln. 15 – p. 15, ln. 3. There are significant customer benefits that could be realized through GBC adoption. However, implementation of GBC could be technically difficult and costly, and for any utility those challenges need to be thoughtfully considered before moving forward with GBC. Ex. 142, Lucas Reb., p. 5, lines 16-21.

Liberty supports the following agreement of the parties as to this issue as found in the Base Stipulation (para. 35) and recommends the Commission approve the terms of the Global Settlement in total and without modification.

> **Green Button Connect:** Empire agrees to conduct further evaluation of the Green Button Connect initiative prior to committing to full implementation. This evaluation will include a review of customer experience impacts, system integration costs (particularly within SAP), Green Button Connect implementation costs, and the value of customer interval data. Empire agrees to initiate a competitive solicitation process for the implementation of Green Button Connect, with the goal of evaluating both cost parameters and compatibility with the Company's existing SAP systems. This comprehensive assessment will be completed within one year of the effective date of rates established in this proceeding. Based on the results of the evaluation and input from stakeholders, Empire will determine the appropriateness of moving forward with implementation. If deemed appropriate, Empire will target full implementation no later than the end of 2028. A tariff workshop will be held beginning six months prior to any planned launch to support transparency and stakeholder engagement.

Liberty is working through billing challenges and has been doubtful that now would be an appropriate time to launch the proposed new GBC customer interface. Ex. 30, Kelly Reb., p. 16, lines 7-9. The provision of the Global Settlement, however, instead of ordering immediate implementation, sets forth a process and timeline for assessing such implementation, with an ultimate goal for implementation depending on such assessment. This is a well-reasoned and measured approach to digital access.

a. In the event that the Commission orders Empire to implement GBC in this rate case, should the Commission order the tariff proposed by Renew Missouri related to GBC?

No. This matter is not ripe for approval of tariff language. There has been no GBC tariff filed by Liberty and no meaningful discussion of the tariff proposed by Renew Missouri. While Ameren Missouri has agreed to further implementation of GBC as a part of the resolution of Case No. ER-2024-0319, the agreed-to implementation date is December 31, 2026, and Ameren Missouri's tariff will only be filed within 60 days prior to the offering of the program. Thus, there is no GBC tariff yet on file or approved as a result of that matter. Ex. 142, Lucas Reb., p. 5, ln. 6-14. There is no basis to order the adoption of a GBC tariff in this case.

b. In the event that the Commission orders Empire to implement GBC in this rate case, should the Commission adopt Renew Missouri's revenue requirement recommendation?

Yes. However, the Company is concerned that the cost would be greater than the $201,000 originally estimated by Renew Missouri witness Murray. First, many of the utilities listed in Mr. Murray's Direct Testimony are significantly larger (between seven and forty times) in scope and customer count to Liberty. While Mr. Murray, to his credit, did make efforts to shrink the costs commensurate to a utility of Liberty's size, Liberty has concerns it may be unrealistic to project that these costs would shrink to this degree. Liberty has concerns that, at some point, the up-front or annual costs would hit a "floor" and shrink no further. Wherever this point may be, Liberty is concerned the cost would be greater than $201,000. Ex. 30, Kelly Reb., p. 15, ln. 11-17.

Staff is also concerned with the costs associated with GBC implementation and the costs of operating and maintaining such a system. Currently, Staff indicates that it does not have a reliable estimate for how much GBC would cost ratepayers. Ex. 142, Lucas Reb., p. 3, ln. 10-12.

c. In the event that the Commission orders Empire to implement GBC in this rate case, should $100,000 be included in Empire's ordered revenue requirement to study its participation in a regional data hub?

Yes. However, Liberty is not aware of a justification or cost basis for the $100,000 for this study. The cost of such a study is unknown. Moreover, Liberty would need to investigate further if the "ends justify the means" regarding the centralized "data hub." Liberty, like many companies in all industries, puts a significant amount of care and consideration into the handling of its customer data, weighing the benefits versus the risks. Ex. 30, Kelly Reb., pp. 15-16.

Staff indicates that there are real cybersecurity concerns associated with GBC. GBC is not only about adopting a standard computer-friendly format to data but also involves the direct connection of customers or their third-party representatives to a utility's data systems through an Application Programming Interface ("API"). While APIs are commonly used throughout the world safely each day, care does need to be taken to minimize potential security vulnerabilities. Staff is also concerned about the risk to customer privacy since there are few guardrails on what third-party energy managers can do with customer data after the customer has authorized the third-party to obtain it. Ex. 142, Lucas Reb., p. 3, ln. 3-10.

Fuel Adjustment Clause (Issues 41-43, 85, 90-99)

Liberty asked to continue and modify its fuel adjustment clause ("FAC") in this case. Ex. 42, Palumbo Dir., pp. 4-13. Nearly every state in the United States has some form of energy cost recovery mechanism for regulated utilities. These adjustment clauses are designed to align the costs associated with purchasing fuel to generate electricity or purchased power agreement costs with the rates that are charged to customers. Ex. 44, Reed Dir., p. 4, lines 17-20; Ex. 44, Reed Dir., p. 19, lines 11-13. It is because electric utilities' fuel and power costs are large, unpredictable, and volatile that FACs are a common ratemaking tool. Ex. 44, Reed Dir., p. 7, ln. 6-8.

Empire was granted its first FAC in Commission Case No. ER-2008-0093. The Commission emphasized that while the statute does not provide specific guidance on when an FAC should be approved, it must reasonably be designed to provide the utility with a sufficient opportunity to earn a fair return on equity.[8] Ex. 44, Reed Dir., p. 12, ln. 12-17. In granting Empire's FAC, the Commission determined that the Company's situation met the three-pronged test for determining whether an FAC was appropriate for the Company's fuel and purchased power costs. That three-pronged test asked if: 1) the costs were a substantial portion of the Company's costs, 2) the costs were variable and could rapidly eat up the returns the Company might otherwise

[8] Report and Order in Case No. ER-2008-0093, July 30, 2008, p. 35.

earn; and 3) large portions of the costs were beyond the control of the Company. The Commission concluded that given the market conditions in place at the time, "it would be impossible for Empire to earn its Commission allowed return on equity without a fuel adjustment clause."[9] Ex. 44, Reed Dir., p. 12, ln. 17 – p. 13, ln. 4.

The underlying energy costs and revenues in the FAC continue to be large, volatile, unpredictable and largely beyond the utility's control. It is therefore virtually impossible to estimate the amount of energy and transmission cost that should be included in base rates that are set as much as four years in advance of the costs actually being incurred. Ex. 44, Reed Dir., p. 17, ln. 1-5; *See also* Ex. 144, Mastrogiannis Reb., p. 9, ln. 8-12 ("Empire's total energy costs have continued to be both large and volatile."), p. 11, ln. 1-2.

The proposed FAC will allow Empire to largely recover the Company's prudently incurred fuel and energy costs, including transportation, and to provide customers with reductions in those costs in a way that provides a sufficient opportunity for the Company to earn a fair return on equity. The Commission should continue Empire's FAC.

By rule, the Commission must rebase a utility's base energy costs in each general rate proceeding in which the FAC is continued or modified.[10] "Base energy costs means the fuel and purchased power costs net of fuel-related revenues that are included in the revenue requirement used to set base rates in a general rate case."[11] The FAC base factor, which will be a part of Empire's FAC tariff, is the base energy cost divided by net generation in kilowatt-hours. Ex. 49, Tarter Dir., p. 4, ln. 13-14.

[9] Report and Order in Case No. ER-2008-0093, July 30, 2008, p. 39.
[10] Commission Rule 20 CSR 4240-20.090(2).
[11] Commission Rule 20 CSR 4240-20.090(1)(C).

There are several issues related to the FAC tariff and determination of base energy costs and the FAC base factor that have been discussed in this case. These issues will be addressed in the following section based on the positions taken by the Company in its pre-filed testimony in this case. The section will conclude with a discussion as to Liberty's modified positions concerning the FAC treatment found in the Global Settlement filed on October 6, 2025, and the reasonableness of those positions given the evidence of the parties.

Issue 41) Renewable Energy Credits ("RECs")

a. **What amount of revenues from the sale of RECs should be included in Empire's revenue requirement?**
b. **What amount of revenues from the sale of RECs should be included in Empire's FAC base factor?**

A REC is a tradable certificate that represents the environmental benefits of one megawatt-hour ("MWh") of electricity generated from a renewable energy source. A REC can be used to meet regulatory requirements for compliance with a renewable portfolio standard ("RPS") or can be sold on the open market. Ex. 50, Tarter Rebuttal: p. 4, ln. 5-9.

In the Company's calculation of net REC revenue, a base rate $/REC was established based on history and the current market. Broker fees and agreements with the Empire Wind Holdings Company were also considered. This rate was applied to the normalized and annualized number of RECs that was assumed to be available for sale. It is important to note that not all RECs generated by the Company's renewable resources can be sold. Some of the Company RECs are needed to meet RPS requirements and some are associated with capacity and energy sales. The remaining number of RECs that can be sold is based on market demand. Ex. 50, Tarter Reb., p. 4, ln. 11-18.

As of its true-up testimony, Empire calculated the REC revenue offset to be $5,851,899. Ex. 51P/51C, Tarter Sur. and True-Up Dir., p. 4, ln. 12-18. This amount should be included in Empire's FAC base factor.

Issue 42) What level of TCR/ARR revenues should be included in Empire's revenue requirement and for calculating Empire's FAC base factor?

In the SPP integrated marketplace, Transmission Congestion Rights ("TCR") and Auction Revenue Rights ("ARR") are financial instruments that entitle the holder to receive revenue or incur charges based on the difference in hourly Day-Ahead marginal congestion costs between the designated source and sink locations. In essence, TCRs serve as a hedge against transmission congestion costs. The revenue generated from TCRs reflects the value of congestion on the transmission system and is credited to the holders of these rights. For the Company, net TCR revenues are flowed through the FAC where they act as an offset to energy costs. This mechanism helps reduce the overall costs of energy for customers and is incorporated into the FAC base factor proposal to ensure those benefits are reflected in rates. Ex. 50, Tarter Reb., p. 9, ln. 12-21.

The Company's approach involves estimating congestion under "normalized" conditions, while actively monitoring historical trends and anticipating future system changes that could affect congestion and hedging strategies. Ex. 50, Tarter Reb., p. 10, ln. 16-19. OPC witness Schaben, on the other hand, used a straight five year average and does not account for the impact of the Riverton-Neosho 161 kV/69kV transmission upgrade, which was energized in early 2023 and has significantly reduced congestion in the Company's service territory; or the implications of FERC Docket No. ER24-1775, in which SPP proposed – and FERC approved – tariff revisions aimed at improving congestion hedging mechanisms. Ex. 50, Tarter Reb., p. 12, ln. 20 – p. 13, ln. 1.

Moreover, with an increase in natural gas prices comes an increase in market prices. This includes the cost to purchase native load costs for customers from the market. In its updated FAC base factor proposal, the Company increased the TCR revenue in order to offset more of that cost.

This was accomplished by having about a year of additional data and by weighing more recent years higher in the calculation. Ex. 51P/51C, Tarter Sur. and True-Up Dir., p. 4, ln. 4-10.

Empire provided an updated production cost run in its true-up direct testimony that incorporated revised inputs and produced an updated recommendation for TCR/ARR revenue. The TCR/ARR revenue estimate as of true-up is $38,179,084. Ex. 52, Tarter True-Up Reb., p. 5, ln. 16-20.

Issue 43) What is the appropriate balance of net fuel and purchased power costs?

a) **Should the Commission set rates based on natural gas fuel costs based on natural gas fuel prices (actual and/or projected) for periods beyond the March 31, 2025 true-up cut-off date?**
b) **Should the Commission set rates based on energy market costs based on energy market prices (actual and/or projected) for periods beyond the March 31, 2025 true-up cut-off date?**

By rule, the Commission must consider "all relevant factors that may affect the costs or overall rates and charges of the petitioning electric utility."[12] This is for good reason. Setting the Base Factor in Empire's FAC tariff sheets is important to ensure a well-functioning FAC and a well-functioning FAC sharing mechanism. Ex. 113, Mastrogiannis Dir., p. 7, ln. 9-10. If the Base Factor in the FAC is set as close to the actual net energy costs as reasonably possible, the customers will not see such a huge swing of over or under recovery in its subsequent Fuel Adjustment Rate filings. Ex. 113, Mastrogiannis Dir., p. 9, ln. 9-11. OPC witness Mantle also indicated the importance of the FAC Base Factor in stating that "if you get your base factor correct, it really doesn't matter what the incentive mechanism is." Tr. 68 (Mantle). Lastly, the FAC base factor will likely be in effect for a number of years. For example, Empire's current FAC Base went into effect on June 1, 2022, and has now been in effect for over three years. PSC MO No. 6, Sec. 4, Tariff Sheet No. 17i.

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[12] Commission Rule 20 CSR 4240-20.090(2).

For these reasons, Empire reviews information as to what fuel and market prices are expected during the initial period the FAC base factor is to be in effect. As in prior cases, the natural gas prices and the associated sets of nodal market prices used in the FAC base factor modeling were provided by Horizons Energy, a consulting firm with which the Company contracted to provide input data for the EnCompass production cost model. This is the third consecutive Missouri rate case that Liberty has utilized Horizons Energy's fuel and market price data. Ex. 49P/49C, Tarter Dir., p. 10, ln. 5-9; *see also* Ex. 200 and 201.

Horizons Energy developed both fuel and market prices using a consistent and integrated approach for fuel modeling. Horizons Energy specializes in modeling energy markets and provides hourly locational marginal prices ("LMPs") that reflect congestion, transmission losses, and other market dynamics. Horizons Energy develops hourly LMPs and natural gas prices using a consistent set of underlying modeling assumptions. Ex. 52, Tarter True-Up Reb., p. 4, ln. 5-11. This ensures that natural gas prices and market prices are internally consistent and aligned with the operational realities of the SPP nodal market. Ex. 50, Tarter Reb., p. 8, ln. 6-9.

The natural gas prices are very key to these determinations. There is a strong correlation between natural gas prices and market prices and even SPP has indicated that electric market prices follow the gas prices. Tr, 44-45 (Tarter).

Initially, the Company utilized data from Horizons Energy's Spring 2024 Reference Case. The true-up run makes use of the most recent data from Horizons Energy's Spring 2025 Reference Case. In the most recent iteration of natural gas and market price development, Horizons Energy is predicting higher nationwide demand for electricity with the expected growth of larger load customers such as data centers and cryptocurrency mining customers. Additionally, due to the advent of more stringent resource adequacy requirements, such as, increased planning reserve margins by season and unit performance-based accreditation, lower retirement rates for natural gas-fired resources and a lower installation rate for new renewable resources are anticipated as compared to the prior set of data. These are the primary factors putting more pressure on the projected natural gas and market price outlook. Ex. 51P/51C, Tarter Sur. and True-Up Dir., p. 3, ln. 11 – p. 4, ln. 2.

As stated above, the base energy costs are not good for anyone if they do not represent a realistic level of costs to be incurred. Further, the FAC is different than expense amounts and other items that may be included in the Company's revenue requirement because there will be an ongoing true-up against the FAC base factor. As stated by Staff witness Mastrogiannis, failure to utilize a realistic FAC base factor can result in a huge swing of over or under recovery in subsequent Fuel Adjustment Rate filings. Ex. 113, Mastrogiannis Dir., p. 9, ln. 9-11.

When information beyond the true-up date, such as natural gas prices and market costs, may affect the costs to be experienced in the FAC, those factors are very much "relevant factors that may affect the costs or overall rate and charges" and should be taken into account in determining the energy base costs.

Issue 85) What is the value of the variable fuel and purchase power expense?

In testimony, the Company took the position that the value of variable and purchased power expenses that should be included is $92,430,658, which would capture the total fuel and purchased power expenses that would be included in the Company's proposed FAC base factor. Ex. 51P/C, Tarter Sur. and True-Up Dir., Sched. TWT-2 Confidential. However, the Company notes that its position has been modified by the Global Settlement, in the event its terms are accepted as a complete resolution of this case.

Issue 90) Which FERC subaccounts should be included in Empire's FAC tariff sheets?

This issue is resolved by the FAC Agreement, filed on October 21, 2025, and to which no timely objection has been filed.

Issue 91) What should be the FAC base factor for this case?

The Company's updated FAC base factor proposal as of true-up was $17.85/MWh. However, this FAC base factor assumed that 100% of transmission revenue and expense associated with retail load would be eligible to be recovered through the FAC. Ex. 51P/51C, Tarter Sur. and True-Up Dir., p. 2, ln. 11, 15-17.

In order to compare to the Staff's proposed FAC base factor, the Company calculated a FAC base factor of $15.28/MWh at true-up using the same percentage of transmission cost as Staff's proposal. Ex. 52, Tarter True-Up Rebuttal: p. 2, ln. 13-17. This proposal compares favorably to the weighted average of costs of $16.21/MWh Empire experienced from May 2022 through August 2025, a period during which Company had a similar generation mix to today. Ex. 52, Tarter True-Up Rebuttal: p. 7, ln. 8-10.

Issue 92) What are the appropriate FAC Voltage Adjustment Factors for Empire?

The FAC Voltage Adjustment Factors for Empire should be updated to reflect the revised VAF recommended by Staff witness Bax, which reflect the updated loss study provided by the Company and more accurately reflects the current system losses. Ex. 9P/9C, Doll Rebuttal, p. 19, ln. 4-11. Those factors, which are also agreed to in the Global Settlement, are as follows:

- VAF Transmission 1.0376
- VAF Primary 1.0534
- VAF Secondary 1.0748

Ex. 101, Bax Dir., p. 10, ln. 10 - p. 11, ln. 7.

Issue 93) What is the percentage of SPP and MISO transmission expense that should be recovered through the FAC?

The SPP is a Regional Transmission Organization ("RTO") and is responsible for independently coordinating non-discriminatory access to transmission services. Transmission service is taken through the SPP Open Access Transmission Tariff ("OATT"), and Liberty is considered a Transmission Customer. Ex. 8, Doll Dir., p. 4, ln. 4-7. Transmission service provides the delivery of electric energy over high-voltage transmission lines and facilities to local distribution facilities for the purpose of providing energy for end-user consumption. Ex. 8, Doll Dir., p. 3, ln. 9-11.

Transmission service and Network Integration Transmission Service ("NITS") allow for a more efficient pooling of resources that lowers costs and improves reliability. This is accomplished because Liberty can optimize its load serving efficiency by utilizing a market geared toward maximizing economic commitment and dispatch efficiency. Rather than each market participant determining which resources need to generate to cost effectively serve load, Liberty's customers share in the benefits of all SPP members by allowing for a regional solution to serve load to maximize cost-effectiveness. The transmission infrastructure in the SPP footprint enables this construct and creates immediate benefits for members. Ex. 8, Doll Direct: p. 3, ln. 13 – p. 4, ln. 2.

Currently, Liberty is recovering approximately 19.39% of eligible SPP transmission expense and 50% of eligible MISO expense. These percentages relate to any deviation from what is set in the base rates and also subject to the 95%/5% sharing mechanism in Missouri. Transmission expenses are revised on an annual basis, which can result in large discrepancies between amounts previously included in base rates and are largely outside of the Company's control. Ex. 8, Doll Direct: p. 12, ln. 25 – p. 13, ln. 2.

These transmission expenses are prudent, unavoidable costs of serving Missouri load in a regional market and the benefits show up immediately. Ex. 9P/9C, Doll Reb., p. 16, ln. 10-11.

Moreover, Liberty should recover 100% of its SPP transmission costs through the FAC for the following reasons:

1) 100% of the transmission expense Liberty incurs as an SPP participant is prudent. It is reasonable that a utility's rates both reflect and provide an opportunity to recover *all* of its prudently incurred costs.
2) Good regulatory policy ensures the alignment of costs and benefits, including the timing of recovery. For example, it is just and reasonable to initiate the recovery of costs linked to benefits derived from improved APC and reliability enhancements, which begin to deliver benefits to customers the moment the facilities are operational. Complete FAC recovery of such costs is therefore appropriate and reasonable because it aligns the timing of costs with the onset of the related benefits as closely as possible.
3) The Company incurs these costs under SPP's FERC-approved tariff, and the cost allocation reflected in that tariff is prescribed by SPP's Regional State Committee.

Ex. 8, Doll Direct: p. 13, ln. 14 – p. 14, ln. 5.

The benefits provided by a robust transmission system are clear, the rates are approved by FERC, and the Company has limited control over these costs. Ex. 44, Reed Dir., p. 27, ln. 4-5. The FAC is designed to capture variability and the fluctuations in cost that occur between rate cases. Transmission expenses, especially those tied to RTO settlements and congestion charges, can vary significantly, even on a month to month basis. The FAC is the appropriate mechanism to recover those costs that are beyond the utility's control on a more "real time" basis. Ex. 46, Reed Sur., p. 5, ln. 6-10.

The Commission has previously stated that transmission costs associated with "prudently incurred fuel and purchased-power costs" should flow through the FAC, and has referenced the FAC statute in its decisions. Ex. 44, Reed Dir., p. 27, ln. 18-20. However, circumstances have changed in two important ways. First, as part of the ongoing energy transition, there is much greater emphasis on connecting new generating resources and improving reliability, causing significant new transmission investment to be planned for the SPP region. At the same time, the share of SPP transmission expense recovered by the Company through the FAC has fallen, heightening the risk of the Company's ability to earn a fair and reasonable return. This is because the Company can incur higher transmission costs than it recovers through base rates. This creates significant issues of regulatory lag and recoverability of costs, which creates a less favorable climate for investment in Missouri's utilities. Currently the SPP transmission capital expenditures are planned to increase due to a record level of investment that is expected to produce a benefit-to-cost ratio above eight. The importance of the buildout itself, as well as the importance of timely cost recovery, results in changed circumstances that warrant a reconsideration of this FAC policy as it applies to the utility's share of regional transmission expenses. Ex. 44, Reed Dir., p. 29, lines 5-18.

Liberty's participation in SPP under a FERC-approved tariff delivers lower adjusted production costs, congestion relief, and stronger reliability the moment projects go in service. Ex. 9P/9C, Doll Reb., p. 16, ln. 11-13. These charges are dynamic, formula-driven, and revised regularly, similar to fuel. Including 100% of those prudently incurred SPP and MISO transmission expenses in the FAC (not just a percentage) treats them consistently with their nature - necessary, benefit-linked, and time-varying. Ex. 9P/9C, Doll Reb., p. 17, ln. 4-7.

However, if the terms of the Global Settlement are adopted by the Commission, that Agreement would direct the use of the transmission percentages calculated by Staff witness Mastrogiannis.

Issue 94) Should SPP Schedules 1A and 12 for administrative costs be included in the FAC?

The Company incurs costs related to administration of the open access transmission tariff ("OATT") and the Southwest Power Pool Integrated Marketplace ("SPP IM") in the form of Schedule 1-A and administrative oversight by the FERC in the form of Schedule 12. The Company proposed to include these charges in its FAC cost recovery. Ex. 8, Doll Dir., p. 13, ln. 3-13. However, if the terms of the Global Settlement are adopted by the Commission, it directs that these items not be included in the FAC.

Issue 95) What percentage of the SPP transmission revenues should be included in the FAC and its base factor calculation?

SPP transmission revenues associated with retail load should be included in the FAC at a percentage equal to that used for SPP transmission expenses (Issue 93).

Issue 96) What additional FAC reporting requirements, if any, should the Commission require of Empire?

a. **Should Empire's FAC reporting include providing its FAC reports to Public Counsel?**

Liberty does not object to the FAC reporting requirements proposed in the Direct Testimony of Staff witness Mastrogiannis and does not object to also providing those FAC reports to Public Counsel. Ex. 9P/9C, Doll Reb. p. 17, ln. 11-22.

Issue 97) How should the FAC tariff sheets be revised?

The FAC tariff may need to be revised depending on the Commission's decisions as to subaccounts (Issue 90), FAC Base Factor (Issue 91), voltage adjustment factors (Issue 92). transmission expense and revenue percentages (Issues 93 and 95), SPP administrative costs (Issue 94), FAC sharing percentage (Issue 98), and large load applicability (Issue 99).

Issue 98) What ratio of the difference between Empire's actual and base net fuel costs should the Commission order be shared between Empire and its customers as an incentive mechanism in Empire's FAC, should the Commission authorize continuation of an FAC for Empire?

Nearly all traditionally regulated states in the United States have some form of energy cost recovery mechanism, and fuel and purchased power costs are traditionally considered "pass through" costs in utility ratemaking. Ex. 44, Reed Dir., p. 19, ln. 11-13. However, only 10 regulatory jurisdictions have at least one utility with some form of sharing related to its FAC. Ex. 44, Reed Dir., p. 20, ln. 1-2. In fact, all of the other states in which Empire operates – Arkansas, Kansas and Oklahoma – have a fuel and purchase power recovery mechanism and no provision for sharing. Ex. 44, Reed Dir., p. 19, ln. 14-16 (". . . the Company operates in three other retail jurisdictions and has a FERC approved Generation tariff, each of which provides full cost recovery of fuel expenses."); *see also* Tr. 69 (Mantle).

Empire's current FAC utilizes a 95/5 sharing mechanism by which the Company passes on 95% of over- or under-recoveries to its customers. If actual total energy costs exceed the base rate amount, Liberty recovers 95% of the difference through the FAC and absorbs 5%. If actual fuel costs drop below the amount in base rates, Liberty's FAC credits customers with 95% of the difference and retains 5% for the utility. Ex. 44, Reed Dir., p. 10, ln. 8-12.

The Company initially recommended the Commission discontinue the sharing mechanism historically applied to the FAC as the sharing provision at least partially divorces rates from costs and can materially affect the utility's opportunity to earn a fair return on equity. Ex. 44, Reed Dir., p. 17, ln. 16-17. It further places undue and unneeded importance on the estimate of fuel and purchase power costs included in base rates. Ex. 44, Reed Dir., p. 19, ln. 3-4.

The OPC's primary position as to the FAC was that the Commission should terminate Empire's FAC. Ex. 206, Mantle Dir., pp. 22-24. In the alternative to terminating the FAC, OPC proposed to move the sharing mechanism from 95/5 to 50/50. Ex. 206, Mantle Dir. 25, ln. 4-6.[13]

Again, only 10 regulatory jurisdictions have at least one utility with some form of sharing related to its FAC. Ex. 44, Reed Dir., p. 20, ln. 1-2. However, almost none of the states with some form of sharing have a mechanism like that which Liberty has currently in Missouri. Rather, the sharing is most commonly applied to profit margins *after* the utility is provided its full recovery of costs to serve customers. Ex. 44, Reed Dir., p. 19, ln. 20-23. Additionally, none of the 10 other states that have utilized some form of sharing mechanism use a 50/50 sharing mechanism. Ex. 44, Reed Dir., p. 20, ln. 1- p. 21, ln. 7.

In three of these states (Colorado, Kentucky, and South Dakota) sharing between the utility and customers is limited to the margins (i.e., profits) from off-system power or REC sales, which is a practice more applicable to states without a wholesale market. Ex. 44, Reed Dir., p. 20, ln. 7-10.

Four states, Idaho, Oregon, Wyoming, and Washington, include sharing associated with variations between a benchmark and actual fuel and energy costs, but they differ importantly from Liberty in Missouri because they do not operate in organized wholesale markets. Hawaii also does not operate in an organized market, and its FAC sharing is limited to 2% of fossil fuel purchases. Ex. 44, Reed Dir., p. 20, ln. 19-23. The remaining two states, Montana and Wisconsin, operate in an organized wholesale electric market (as does Missouri) and have some form of sharing of costs in the FAC. Ex. 44, Reed Dir., p. 21, ln. 1-3.

[13] In her Surrebuttal Testimony, OPC witness Mantle indicated that she thought the Commission was unlikely to terminate Empire's FAC and that the Commission would likely view changing to a 50/50 sharing to be too drastic. Ex. 208, Mantle Sur., p. 19, ln. 2-5.

Staff recommended, and stated that it was comfortable in maintaining, the current 95/5 sharing mechanism. Ex. 144, Mastrogiannis Reb., p. 10, ln. 11, p. 11, ln. 3-4. However, it also offered a 90/10 sharing mechanism as an alternative. Ex. 144, Mastrogiannis Reb., p. 11, ln. 8-9.

The Company believes that a move toward 90/10 level of sharing is not merely incremental, it is structurally harmful. It would signal to investors that Missouri is willing to impose disproportionate risk on utilities for costs they cannot control. Fuel prices are volatile and driven by global markets. Penalizing utilities for fuel cost increases would be a disruptive signal to the investment community about the efficacy of Missouri's regulatory environment. It would undermine the regulatory compact and introduce uncertainty that is fundamentally incompatible with sound regulatory policy. Ex. 46, Reed Sur., p. 7, ln. 5-11.

As indicated above, such a move would represent a further departure from regulatory norms and introduce a level of risk that is incompatible with the utility business model. This would increase Liberty's cost of capital, reduce its financial flexibility. Ex. 46, Reed Sur., p. 7, ln. 19-20, 22-23. Balancing these factors, the Commission should leave the sharing mechanism at 95/5, as agreed to as part of the Global Settlement.

Issue 99) Should Empire's FAC tariff sheets be revised in this docket to address the fuel and purchased power impacts of large load customers with 25 MW or more of demand?

No. The Company currently has no such customers on its system. *See* Ex. 207, Mantle Reb., p. 29, ln. 20-21. It is premature to modify the FAC tariff to address large load customers without the full picture as to how large load customers with 25 MW or more of demand will be treated.

The Company intends to propose a framework for serving large loads within its service territory that is consistent with the provisions of Section 393.130.7, RSMo. In the Commission's *Order* issued on August 8, 2025, in this case, the Commission acknowledged that the other investor-owned utilities in Missouri have pursued stand-alone cases to address large load tariffs and not within a general rate case. The Commission found that Liberty should be afforded the same procedural treatment. Ex. 19, Emery Sur./True-Up Dir., p. 20, ln. 1-8.

Making a tariff change at this time to exclude such customers for the FAC, without making a change to base rates to account for any fuel or purchased power costs associated with these potential customers, leaves Empire without any means of recovery.

Liberty remains committed to working within the established regulatory framework to ensure equitable and efficient service to large load customers while protecting its existing customers. Ex. 19, Emery Sur./True-Up Dir., p. 20, ln. 9-11. This issue should be addressed as a part of that process.

FAC Issues in the Global Settlement. Staff, MECG, Renew Missouri, Liberty, and the Union agree that the proper resolution of the FAC issues is found in the filed Global Settlement. The agreement provides that the FAC mechanism should be continued with:

- sharing at 95/5 (the Staff recommendation);
- transmission costs/revenues included at currently authorized percentages;
- transmission expenses included at 21.39% SPP and non-SPP 50% (the percentages recommended by Staff and OPC);
- SPP schedules 1A and 12 not to be included in the FAC (Staff and OPC position); and,
- the FAC Base Factor set at $13.97/MWh.

The agreed upon FAC Base Factor expressly incorporates the Staff and OPC positions as to the percentage of transmission expenses to be included in the FAC, as well as the non-inclusion of SPP schedules 1A and 12 charges. The Global Settlement further includes a provision that FAC reporting going forward will be as outlined within the Direct Testimony of Staff witness Brooke

Mastrogiannis, and that reporting will also be provided to OPC (consistent with the pre-filed positions of Liberty, Staff, and OPC).

The FAC Base Factor of $13.97 is between the FAC Base Factors proposed by Staff and Liberty. Staff proposed a $11.11/MWh fuel base factor in its true-up testimony. Ex. 165, Mastrogiannis Sur. and True-Up Dir., p. 5, ln. 9. The Company indicated in true-up that its FAC base factor, when using Staff's transmission expense percentages (the percentages agreed upon in the Global Settlement), would be $15.28/MWh. Ex. 52, Tarter True-Up Rebuttal: p. 2, ln. 13-17. OPC did not perform a production cost model.

While there is no specific method to derive the agreed to FAC Base Factor in the Global Settlement, Liberty witness Tarter explained during the hearing that starting with the Company's true-up position of $15.28 and increasing the TCR/ARR revenues from the Company's $38M to about $45M (which is close to Ms. Schaben's $46.3M) would result in a $13.97 FAC Base Factor. Tr. 42-43 (Tarter).

Moreover, the $13.97 FAC Base Factor of the Global Settlement is much closer to the $16.21/MWh weighted average of actual costs Liberty experienced from May 2022 through August 2025, a period during which the Company had a similar generation mix to today, than the $11.11/MWh recommended by Staff in prefiled testimony. Ex. 52, Tarter True-Up Rebuttal: p. 7, ln. 8-10.

Other issues such as REC revenues and TCR/ARR revenues are not specified in the Global Settlement. However, once a FAC Base Factor is established in the tariff, the underlying elements are not significant on a going forward basis. Those expenses actually incurred during accumulation periods will be totaled and compared to the FAC Base Factor. Whether RECs, TCR/ARR, purchased power and other elements are individually higher or lower than what may have been assumed when the FAC Base Factor was established, does not impact the determination of what amount of over or under recovery there may be. Tr. 41-42 (Tarter).

Lastly, OPC witness Mantle explained why customers are better off with the FAC Base Factor at $13.97, rather than $11.11. She stated, "the bar at which actuals would be compared to would be higher with the 13.97 versus the 11 dollars. So the -- if costs increase, then customers would see a smaller FAC rate and the amount that Empire would absorb would be smaller. If there was a decrease -- if the actual costs were closer to what Staff's estimating, then customers, after a six-month accumulation period, three months to get the FAC right, then the next six months they would get a reduction to their bills, but they would only get 95 percent of that reduction." Tr. 74 (Mantle).

Given these factors, the treatment of the FAC issues in the Global Settlement represents a fair and reasonable resolution of the FAC issues and is well supported by the record.

Various Tax Issues (Issues 31-33, 36-37, 77, 82, 86-87, 129)

Both Empire and Staff agreed that the over-amortization of Empire's unprotected Excess Accumulated Deferred Income Taxes ("EADIT") should be reflected in rate base and amortization expense (Issue 31). Empire and Staff did not agree on the amount that should be reflected in rate base and amortization expense (Issue 32). Empire contended that the EADIT tracker was established in its last rate case, ER-2021-0312, and that it has refunded millions of dollars under that EADIT tracker relating to both protected and unprotected EADIT. The over-amortization of Empire's unprotected EADIT as of the March 31, 2025, true-up date period should be reflected in rate base and amortization expense. Empire requested that the unprotected EADIT tracker mechanism remain in place until rates are effective from this case and that any additional over-amortization incurred in the regulatory asset account be included for recovery in Empire's next general rate case. Ex. 17, Emery Dir. p. 26, lines 3-14; Ex. 19, Emery Surreb./True-Up Dir.

p. 22, table 1; p. 27, table 2; Ex. 38, McCuen Dir. p. 9, lines 5-14; Ex. 39, McCuen Reb. p. 1, line 17 through p. 2, line 18.

Staff testified that the balance of unamortized unprotected EADIT was a rate base item in Empire's prior rate cases and that unprotected EADIT was authorized to be tracked in Empire's prior rate cases. Staff recommended that the over-amortization balance of Empire's EADIT tracker as of the March 31, 2025, true-up date should be recognized in rate base, as well as a corresponding amortization expense in the income statement for consistency purposes. Ex. 175, Staff Accounting Schedules, Schedules 2 and 9.

OPC argued that Empire's over-amortization of unprotected EADIT should not be reflected in rate base and amortization expense. OPC contended that Empire's tracker only related to refunding and returning protected EADIT and not unprotected EADIT. OPC's argument makes no sense. If as suggested by OPC, the EADIT tracker approved by the Commission only related to protected EADIT, then Empire had no Commission authority to refund and return the unprotected EADIT to customers. Per OPC's argument, if the refunds made by Empire relating to the unprotected EADIT were not authorized by the Commission, then they would have to be returned to the utility. Such is not a reasonable position and should not be accepted by the Commission.

With respect to Issue 32, OPC's argument that Empire is not entitled to any rate base recognition and amortization expense of the unprotected EADIT tracker is based upon OPC's same argument it makes with respect to Issue 31 and should be rejected by the Commission.

The appropriate rate balance for the unprotected EADIT is $14,978,762 and annual amortization expense is $4,992,921 based on a three-year amortization period. Empire contended that it was appropriate to include both the tax amount and the associated gross-up balance as this was now a revenue/amortization adjustment above the line and should be the gross amount since it will be subject to income tax. Ex. 39, McCuen Reb. p. 3, line 17 through p. 4, line 2. Staff contended that the Missouri jurisdictional unprotected EADIT tracker balance was a $11,407, 810 asset and the corresponding five-year amortization expense was $2,281,562. Ex. 175, Staff Accounting Schedules, Schedules 2 and 9. The Global Settlement addresses this issue by establishing a fair compromise and ensuring that rate base recognition and amortization expense for the unprotected EADIT tracker are set in a manner that is fair, transparent, and consistent with the overall settlement framework. However, if the terms of the Global Settlement are not approved by the Commission, then Empire submits that its position on the appropriate balance for the rate base recognition and amortization expense of the unprotected EADIT tracker is correct and should be approved by the Commission.

Staff recommended that the appropriate rate base and amortization balance for protected EADIT as of March 31, 2025, was a Missouri jurisdictional protected EADIT tracker balance of a $81,610,215 liability and the corresponding average rate method amortization expense was ($1,773,691) (Issue 33). Ex. 175, Staff Accounting Schedules, Schedules 2 and 11. Empire did not agree with the methodologies used by Staff for protected EADIT. However, Empire testified that Staff's true-up period figures for rate base and amortization expense to be reasonable and acceptable for purposes of this case. Ex. 20, Emery True-Up Reb. p. 2, table 1; p. 3, lines 1-6; p. 9, table 2; p. 10, lines 6-11; Ex. 39, McCuen Reb. p. 5, lines 12-17. OPC did not submit testimony on Issue 33 and did not state a position. Accordingly, the Commission should accept Staff's recommendation on Issue 33.

The appropriate March 31, 2025, true-up balance of Accumulated Deferred Income Taxes ("ADIT") to be included in rate base is ($345,724,599). (Issue 36). Staff erroneously included ($25,678,825) in its ADIT balance that pertained to a regulatory liability account, specifically the gross-up associated with Missouri EADIT liability. Empire and Staff did arrive at the same total rate base impact when both balances are combined. However, the ($25,678,825) should be properly classified as a regulatory liability and not as a part of ADIT. This distinction is important for accurate categorization and compliance with regulatory accounts. Ex. 17, Emery Dir. p. 15, lines 15-22; Ex. 19, Emery Surreb./True-Up Dir. p. 7, line 16 through p. 8, line 10; p. 22, table 1; Ex. 39, McCuen Reb. p. 5, line 18 through p. 6, line 9; p. 6, line 21 through p. 7, line 16; Ex. 40, McCuen Surreb./True Up Dir. p. 1, line 14 through p. 5, line 5; Ex. 41, McCuen True-Up Reb. p. 3, lines 3-10. Ex. 175, Staff Accounting Schedules, Schedules 2 and 9.

OPC contended that the appropriate balance for ADIT should be adjusted upward for Empire's unprotected EADIT and net operating loss ("NOL") balances. The sole basis for OPC's position was that such were not included in Empire's last rate case. Ex. 212, Riley Dir. p. 4, lines 1-5. This is not an appropriate reason to make such adjustments. Interestingly, OPC's witness Mr. Riley only looked at the deferred tax assets that increased rate base and did not suggest any deferred tax liabilities be removed from rate base. Ex. 39, McCuen Reb. p. 6, line 20, through p. 7, line 9.

Empire's NOL carryforward balance should be included in its rate base as a deferred tax asset. (Issue 37). In the current case, Empire reflected the impact of its NOL carryforward for tax purposes as an ADIT asset (deferred tax asset) of approximately $26 million. This had the effect of increasing rate base by that amount by decreasing the overall ADIT balance which reduced rate base. Empire reduced its rate base by its net ADIT liability balance (the sum of deferred tax assets and deferred tax liabilities) as a result of timing differences between deductions for tax purposes and financial statement purposes. The net deferred tax liability is used to reduce rate base because it represents a source of cost-free capital (a reduction in the amount of cash paid for tax purposes) that Empire has received as a consequence of claiming certain tax deductions. In a year when Empire generates an NOL for tax purposes it is carried forward, the NOL carryforward reduces the amount of cost-free capital it received, Therefore, Empire reflected in its rate base computation the actual impact its NOL has had on the amount of cost-free capital. Ex. 39, McCuen Reb. p. 7, line 17 through p. 9, line 6.

Staff testified that its standard approach was to include a utility's book ADIT balance in the ratemaking accounting schedules and as such, Staff's recommended ADIT balance included Empire's NOL deferred tax asset. Ex. 175, Staff Accounting Schedules, Schedule 2.

OPC's position with respect to Issues 36 and 37 should therefore be rejected by the Commission.

The appropriate amortization expense balance for the stub period EADIT (Issue 77) should be zero. This is because the liability account will be fully amortized prior to the effective date of new rates in this case. Empire and Staff agreed on this issue and OPC did not submit testimony and did not state a position on Issue 77. Ex. 17, Emery Dir. p. 39, lines 9-20; Ex. 18, Emery Reb. p. 50, lines 8-17; Ex. 19, Emery Surreb./True-Up Dir. p. 29, lines 1-8; Ex. 20, Emery True-Up Reb., p. 16, line 20 through p. 17, line 5. Ex. 122, Young Dir., pp. 16-18. Accordingly, the Commission should find that the appropriate amortization expense balance for the stub period for EADIT should be zero.

Both Empire and Staff agreed that federal income tax credits should be recognized in the revenue requirement (Issue 82). However, they disagreed on how they should be recognized, when they should be recognized and the amount that should be recognized in the revenue requirement. For example, the alternative fuel tax credits should be in the revenue requirement. However, this tax credit is not the same as other tax credits and should not go directly to the income tax expense line as was done by Staff. The benefit of the alternative fuel tax credit should be an above-the-line adjustment and should be a reduction to the overall fuel costs and not directly as a reduction to tax expense. When Empire pays a vendor invoice that has an excise tax related to a qualified purchase of kerosene, it is considered a pre-pay against the tax payable, but it never reduces tax expense directly. Just like any other pre-tax item, the impact is then tax affected at the statutory tax rate. Ex. 39, McCuen Reb., p. 6, lines 10-19; Ex. 41, McCuen True-Up Reb., p. 1, line 15 through p. 3, line 2.

Another example relates to production tax credits. Production tax credits should not currently be a reduction to Empire's income tax expense in the revenue requirement. This is because Empire is in a net operating loss position and has not benefitted from the production tax credits. These credits should only be passed back to customers as part of the revenue requirement when they are monetized by Empire. *Id.*

Lastly, while Empire agreed with Staff's inclusion of the general business tax credits included in income tax in the revenue requirement, Empire did not agree with the methodology applied by Staff. Staff's calculation double-counted production tax credit benefits and also included a non-reoccurring credit for Empire's Prosperity Solar project that should be not included for the calculation of normalized credits going forward. *Id.*

OPC did not submit testimony on Issue 82 and did not take a position on the issue. To the extent the Global Settlement is not approved, Empire would request that its treatment of tax credits be approved by the Commission.

Empire should be authorized to utilize the Reverse South Georgia Method to return protected EADIT to customers (Issue 86). Empire has been calculating the ARAM amortization using the book depreciation rate, which contains factors to recover both depreciation expense over the estimated book life, as well as, the cost of removal ("COR"). By calculating the ARAM amortization using the combined depreciation rate, the amortization of EADIT is occurring too rapidly. This does not comply with IRC normalization rules. A normalization violation is detrimental to Empire and its customers because the utility could lose the benefits associated with accumulated depreciation tax timing differences. Instead of using ARAM, Empire requested to adopt the Reverse South Georgia Method ("RSRM"), which is an acceptable alternative method for reversing protected EADIT. Using the RSRM method, life and COR book-tax differences existing in protected EADIT would all be reversed over book lives and thus avoiding any potential normalization violation and assuring customers will receive 100% of the protected EADIT. The appropriate annual amortization as of December 31, 2024, would be $2,798,153 and 29.34 is the appropriate weighted average remaining plant life. Ex. 38, McCuen Dir., p. 5, line 19, through p. 9, line 3; Ex. 39, McCuen Reb. p. 4, line 3, through p. 5, line 11. Staff recommended that Empire continue to use the ARAM method. Ex. 174, Young Sur./True-Up Dir. p. 5. The Global Settlement allows Empire to use the RSRM method and includes the total annual amortization as recommended by Empire, as well as, the remaining average life of 29.34 years. If the terms of the Global Settlement are not approved, Empire requests that the Commission allow Empire to use the RSRM method and approve the annual amortization amount and remaining average life proposed by Empire.

Empire and Staff agreed the Commission does not need to set rates based on amortization of unprotected EADIT beyond the true-up cut-off date of March 31, 2025 (Issue 87). Empire and Staff further agreed that the tax balance for the unprotected EADIT as of March 31, 2025, was $11,407,810. However, as applied to the revenue requirement, the tax balance amount should be grossed-up with the revenue requirement calculation. This is to account for the fact that Empire has to pay taxes on the net book income. The original unprotected EADIT refund was $25 million in tax and an additional $8 million in gross-up for a total of $33.6 million. The original amount over-funded was based on the gross amount. Therefore, the amount due back to Empire was both the tax and the gross-up, which is $15 million not $11.4 million. Ex. 41, McCuen True-Up Reb., p. 3, line 11 through p. 4, line 2. This issue is addressed in the Global Settlement. If the terms of the Global Settlement are not approved by the Commission, then Empire requests that its position on the amount to be returned to Empire be approved by the Commission for the reasons set forth herein.

The unprotected EADIT tracker mechanism should remain in place until rates are effective from this case (Issue 129). The over-amortized balance in the regulatory asset account should then be resolved in the next rate case. As it relates to the protected EADIT tracker, it should be discontinued. The IRS has issued numerous Private Letter Rulings ("PLRs") specific to the normalization requirements around how utilities should treat true-ups within their EADIT calculations. The IRS has ruled that the Consistency Rule in IRC 168(i)(9)(B)(I) precludes taxpayers from adjusting one aspect of ratemaking under the normalization rules without the others. The Consistency Rule requires that the reserve for ADIT, tax expense, and book depreciation expense must be consistent. PLR 202142002 extended that concept to protected EADIT and found that a public utility cannot adjust its amortization of protected EADIT using the ARAM without making similar adjustments to ADIT, book depreciation and tax expense. Currently, Empire's tracker for protected EADIT does not take into account adjustments to ADIT, book depreciation and tax expense. Therefore, the tracker is inconsistent and creates a potential normalization violation under the PLR and should be discontinued. Ex. 38, McCuen Dir., p. 9, line 5 through p. 11, line 19; Ex. 39, McCuen Reb., p. 1, line 18, through p. 2, line 9; p. 2, line 19 through p. 3, line 16. Staff indicated that the EADIT tracker should also be discontinued on the effective date of rates in this case, albeit for a different reason. Ex. 122, Young Dir. p. 21. OPC did not take a position on Issue 129 and did not submit testimony on the issue. Accordingly, the Commission should find that the EADIT tracker should be discontinued on the effective date of rates in this case. The over-amortized balance in the regulatory asset account should then be resolved in the next rate case.

A&G Expenses and Costs and Jurisdictional Allocations (Issues 73, 74, and 84)

The appropriate level of administrative and general ("A&G") expenses to be included in the revenue requirement is $53,621,366 (Issue 74). Ex. 18, Emery Reb. p. 41, lines 9-12. The allocators included in Empire's 2025 cost allocations most accurately represent the Company's current cost distribution across jurisdictions and functions, and therefore, should be used in the revenue requirement (Issue 75). Ex. 20, Emery True-Up Reb. p. 12, lines 3-9. The Staff's recommended rate increase of $129 million included $41,643,800 in A&G expenses based upon Staff's final EMS run. Vol. 12, Tr. 48, lines 4-11. With respect to jurisdictional allocations to use in this case (Issue 84), Empire does not fully agree with the methodologies used by Staff. However, Empire found Staff's jurisdictional allocations to be reasonable and acceptable for purposes of this case. OPC did not file testimony and did not state a position on Issue 84.

OPC witness Ms. Angela Schaben recommended that Staff's proposed A&G expenses be reduced by $17.1 million. Vol. 12, Tr. 48, lines 5-11 (Schaben). She based her recommendation on a high-level analysis comparing Empire's A&G expenses, as reported in FERC Form 1, on a per customer basis between 2013 and 2024 with the A&G expenses per customer based upon reports by the other investor-owned electric utilities operating in Missouri. She concluded that Empire's A&G expenses per customer should be reduced to an amount equal to the A&G expenses per customer charged by those other utilities. Ex. 218, Schaben Dir. pp. 6-8; 10. Alternatively, Ms. Schaben recommended that A&G expenses be set using Empire's A&G expenses per customer based upon what those customers were paying over 12 years ago (2013-2016), prior to Empire's merger with APUC. Ex. 218, Schaben Dir., p. 11. Ms. Schaben also supported her recommendation to reduce the A&G expenses by arguing that Empire's rates were the highest in Missouri. Ex. 219, Schaben Reb., p. 63; Ex. 220, Schaben Surreb., p. 14, lines 14-16.

Ms. Schaben did not submit any detailed supporting documentation, workpapers or analysis demonstrating that the A&G costs incurred by Empire were inappropriate, unreasonable, or inaccurately recorded. Her proposed disallowance was based solely on general comparisons and subjective opinion rather than substantive evaluation of Empire's actual cost drivers or regulatory obligations. Ex. 15, Eichler Reb., p. 3, lines 2-13. She did not perform any detailed or in-depth analysis for Liberty's A&G costs or cost drivers. Moreover, as set forth below, her pre-filed testimony and analysis were incomplete, replete with errors, her testimony during the hearing was at best misleading, and therefore her analysis, conclusions and recommendations are not credible and should be rejected in their entirety.

Ms. Schaben confirmed during the hearing on cross-examination that none of the numbers she included in the various tables in her testimony were normalized. Vol. 12, Tr. 46, lines 9-11 (Schaben). She also confirmed that the accounting term "normalized" referred to "adjusting a company's financial statements to remove or account for non-reoccurring, or unusual or discretionary items." Vol. 12, Tr. 46, line 24 through Tr. 47, line 8 (Schaben). On redirect examination, Ms. Schaben testified there was no reason in her opinion to normalize the numbers in her Table 1 because there were no "outliers." Vol. 12, Tr. 46, line 24 through Tr. 47, line 28 (Schaben). There are a number of concerning problems with Ms. Schaben's testimony. First, her testimony is at best misleading. While she did limit her response to her Table 1, her suggestion was that normalization of the numbers in her tables was unnecessary because there was no outlier information in those numbers. However, Ms. Schaben, herself, identified in her direct testimony that the year 2018 for Empire and the other Missouri electric utilities included a very large "outlier." Referring to Tables 3 and 4 in her direct testimony, Ms. Schaben testified "the year 2018 appears as an outlier and could partially be explained by certain economic conditions present in 2018 that affected each of the Missouri electric IOUs as shown in Table 4." Ex. 218, Schaben Dir. p. 6, lines 18-20.

Second, Ms. Schaben's attempt to identify and explain the outlier raises a number of points of concern, as well as, provides a good example as to why normalized numbers should be used in analyzing expenses and revenues in setting rates. Of course, if she had taken the time to use normalized numbers, which is what reasonable and responsible accountants and regulatory auditors do in a rate case so they can identify and address any non-reoccurring or unusual expenses, she would have likely been able to identify the cause or causes for the A&G expenses in 2018 being an outlier year. She did not do so, and therefore, had to speculate as for the reason.

In addition, and even more troubling, is Ms. Schaben's attempt to speculate that the outlier for the A&G expenses for 2018 was due in part to the increase in natural gas prices in 2018, which are identified in the report attached to Ms. Schaben's direct testimony as Schedule ADS-d-5. Ex. 218, Schaben Dir. p. 6, lines 18-20, footnote 10, Schedule ADS-d-5. As an accountant, who has held various accounting, auditing and administrative positions for over 20 years, and who obviously knows whether an expense qualifies as an A&G expense or not (she includes a list of expenses that qualify as A&G expenses in her testimony), Ms. Schaben should have known that natural gas expenses are not A&G expenses. She should have realized increases in natural gas prices could not have been the reason as to why the 2018 A&G expenses were much higher than in previous and subsequent years. Yet, Ms. Schaben continued to maintain that speculation knowing such could not have been the cause for the outlier in her tables 3 and 4 for 2018. Ex. 218, Schaben Dir. p. 1, lines 15-19; p. 2, lines 1-6; Schedule ADS-d-1; Ex. 15, Eichler Reb. p. 4, lines 19-22.

Finally, Ms. Schaben reprinted and included in her rebuttal testimony her Tables 3 and 4 that she included in her direct testimony. Ex. 218, Schaben Dir., p. 7, Table 3, p. 8, Table 4; Ex. 219, Schaben Reb., p. 68. However, Tables 3 and 4 in her rebuttal testimony showed much different numbers for 2018 than what were shown in those tables in her direct testimony. She provided absolutely no explanation for the different numbers for 2018 in either table. Whether such was intentional or unintentional, without any explanation being provided in the record, it clearly calls the efficacy of her testimony into question. For all of the above reasons, Ms. Schaben's A&G expense adjustment should be rejected.

Ms. Schaben's other recommendation that Empire's A&G expenses should be set using A&G expenses incurred by Empire between 2013 and 2016, should be summarily dismissed. There is simply no basis or support for using A&G expenses that were incurred twelve years ago to set rates in this case. Moreover, Mr. Eichler in his rebuttal testimony showed that between 2015 and 2024 Empire experienced a 3.14% compound growth rate in its A&G expenses. He testified that such was within typical industry benchmarks and could be accounted for due to the many inflationary events including a pandemic, rising interest rates and changing trade dynamics. Ex. 15, Eichler Reb., p. 3, lines 14-20.

Finally, Ms. Schaben's suggestion that the Commission needed to accept her A&G expense adjustment because Empire has the highest rates among Missouri electric utilities, including those electric cooperatives that serve in close proximity to rural areas served by Empire, was misleading, untrue and should also be rejected. Ex. 220, Schaben Surreb., p. 14, lines 14-16.

To support her position, Ms. Schaben compared Empire's electric rates to Ozark Electric Cooperative's ("Ozark") electric rates and White River Valley Electric Cooperative's ("White River") electric rates and concluded Empire's rates were higher. Ex. 219, Schaben Reb., pp. 62-64. On page 63 of her rebuttal testimony, Ms. Schaben showed what she found on the Ozark website regarding Ozark's new rates as of April, 2025, for an Ozark residential customer using 1,200 kWh per month and who has a demand of 10 kW. Ex. 219, Schaben Reb., p. 63. She pointed out that Ozark has offices in Nixa, Mount Vernon and Cape Fair, Missouri, and provides electric service in areas near Empire's service areas. *Id.* She showed that the total bill estimate for an Ozark residential customer prior to Ozark's rate increase was $179.30. The Ozark bill included a $35 per month facilities charge, an energy charge of 8.9 cents per kWh and a demand charge at $3.75 per kW for the customer's 10 kW demand to come up with the $179.30 total bill paid by the Ozark customer before the April 2025, rate increase. *Id.* She also showed that based on Ozark's new rates starting in April of 2025, the total bill was increasing from $179.30 to $199.70, for an increase of $20.40 per month and a percentage increase of 11.38%. *Id.* This is compared to Empire's current rate and year one rate under the Global Settlement of going from $167.75 to $176.66, which would be an increase of $8.91 per month or a 5.31% rate increase. Vol. 11, Tr. 126 line 23 through Tr. 127, line 1 (Wilson). Contrary to Ms. Schaben's contention, her comparison does not show that Empire's rates will be higher than Ozark's rates.

Staff's Demonstrative Exhibit 180, which compared the Empire's rates per the rate increase under the Base Stipulation to White River's rates, also showed that Empire's new rates would not be higher than White River's rates for a typical residential customer. Vol 12, Tr. 192, lines 6-12.

Ms. Schaben's exercise in comparing electric bills was misleading because she did not attempt to compare Ozark's total bill with Empire's total bill, but instead merely focused on the difference in the kWh energy charge. In order to make a fair comparison of electric rates, that comparison cannot be limited to just comparing kWh charges. In Ms. Schaben's bill analysis it is important to consider all components of the bill and what costs are recovered under each component of the bill and not just the kWh charge. For example, Ozark has a $35 per month Facilities Charge. Ozark explains on its website reviewed by Ms. Schaben that the Facilities Charge is the monthly charge for having electric service available. This is also the minimum monthly bill. This charge includes investment related cost including poles, wire, transformers and meters at the service location. In addition, expense related cost such as maintenance of investment, billing, collections and customer information are included. Empire's monthly customer charge and minimum bill is $13.00 per month and likely covers less of the costs than what is covered by the Ozark Facilities Charge. More importantly, where Ozark recovers all of those costs it mentions in its Facilities Charge, Empire recovers a lot of those same costs in its per kWh energy charge and thus the reason why Ozark's energy charge in Ms. Schaben's comparison is 8.9 cents per kWh while Empire's energy charge is 12.6 cents per kWh. Ms. Schaben also failed in her comparison to account for the fact that Ozark has a residential demand charge of $10 per kW and Empire has no demand charge and in her example the Ozark residential customer pays a $35 per month demand charge while the Empire residential customer does not pay a demand charge.

Ms. Schaben did recognize that there are significant differences between Empire and cooperatives like Ozark and White Water that should be taken into account when comparing their rates. However, she did not include the fact that this Commission is legally bound to principles of rate setting that is different from how other entities rates are set, the cooperative members do not have to pay for the cost of regulation, do not have to pay for federal and state income taxes and have access to low-cost loans from the federal government, all of which reduce the cooperatives' cost and their rates when compared to Empire.

Various Income Statement Issues (Issues 38-40, 44-72, 75-76, 78-81, 83, 88-89)

Approval of the terms of the Global Settlement is the proper resolution of all of these issues, which will result in just and reasonable rates for Liberty's electric customers in Missouri. The Global Settlement involves a "black box" revenue requirement, providing for an annual revenue requirement increase of $97 million. As noted above, Liberty's pre-filed testimony supports an annual revenue requirement increase of approximately $169 million. The Staff's pre-filed testimony supports an increase of approximately $129 million. The Company addresses approximately 20 of the income statement issues below. For specific testimony references and other factual support for the remaining issues in this section, Liberty refers the Commission to its

Statement of Positions filed herein on September 30, 2025, as well as the Statement of Positions filed herein by Staff on the same date. For many of these issues, although the Company may not fully agree with the methodologies used by Staff, the Company finds Staff's balances to be reasonable and acceptable for purposes of this rate case.

Issue 38) What is the appropriate balance of retail revenues? The appropriate balance of retail revenues that should be included in the revenue requirement is $514,444,495, prior to the requested rate increase. Ex. 20, Emery True-Up Reb., p. 27, ln. 15 - p. 28, ln. 16. This balance incorporates Staff's billing determinants except for the Economic Development Rider revenues (Issue 107) and Staff's revenue imputation adjustment. *See* Ex. 37, Lyons True-Up Reb., p. 1, ln. 13 - p. 2, ln. 13.

The Commission should reject Staff's EDR revenue adjustment. The Company has included the SB-EDR discounts in a regulatory asset. This regulatory treatment was established to isolate the financial impact of SB-EDR related discounts from operating revenues, thereby preserving revenue neutrality and enabling recovery through rate proceedings. Staff's removal of EDR discounts from revenue is unwarranted and inconsistent with the Company's regulatory account treatment. Instead, the SB-EDR discount amount – recorded in a regulatory asset – should be included in rate base consistent with RSMo. §393.1640. Ex. 18, Emery Reb., p. 23, ln. 1 - p. 24, ln 4.

The Commission should also reject Staff's imputed revenue adjustment. Staff applied a 15% adjustment to the normalized off-peak credit revenues to reflect the revenue impact of estimated TOU billing intervals that do not align perfectly with actual customer usage patterns. For the April 2024 through March 2025 time period, the total estimated intervals for the Missouri time-of-use tariff classes amounted to only 0.82% of all intervals. Staff's application of a 15% revenue imputation significantly overstates the proportion of estimated intervals and does not align with the Company's actual operational experience. Ex. 20, Emery True-Up Reb., p. 24, ln. 18 - p. 25, ln. 14; Ex. 55, Walt True-Up Reb., p. 1, ln. 16 – p. 3, ln. 20.

Issue 39) What level of PAYGO revenue should be included in the revenue requirement? The tracker should be continued, and the baseline revenues should remain at zero. Staff had proposed a new baseline amount of revenues be included in the Company's cost of service and that the PAYGO tracker be discontinued. The total baseline amount proposed by Staff for the cost of service is $7,705,708. Ex. 18, Emery Reb., p. 24, lines 10-17.

The tracker was authorized by the Commission in the Fourth Partial Stipulation and Agreement in Case No. ER-2021-0312 to address the inherent volatility of PAYGO-related revenues. That volatility has only intensified: in 2022, the Company received $0 in PAYGO-related revenues; in 2023, $1.95 million; and in 2024, $9.18 million. This level of fluctuation underscores the need for a mechanism that smooths revenue impacts over time. Staff's proposal to include the highest year of PAYGO revenue – without a tracker – would expose the Company to significant under-recovery risk in future years when revenues decline and jeopardize the Company's ability to recover its authorized revenue requirement. Ex. 18, Emery Rebuttal: p. 24, ln. 19 - p. 25 ln. 7.

If the Commission were to include PAYGO revenues in base rates, the Company recommends using a three-year average of $3.71 million, which more accurately reflects the variability and avoids overstatement of expected revenues. Ex. 18, Emery Reb., p. 25, lines 7-9.

If the Commission approves the terms of the Global Settlement, Liberty supports the agreement of the parties (para. 15) that the tracker should continue and that the revenue reflected in the tracker should be $7,705,078.

Issue 46) Excluding Riverton 10 and 11, what is the appropriate level of depreciation and amortization expense of plant to include in the cost of service? The appropriate amount of depreciation expense to include in the cost of service is $127,005,756. Ex. 19, Emery Sur. and True-Up Dir., Sched. CTE-1, p. 94, row 318, column (i), which would include Riverton 10 and 11 for the reasons stated in Issue 47 below. This amount is also largely in line with the Staff position of $129,063,619. Ex. 175, Staff Accounting Schedules, Sched. 5; Staff's Statement of Positions, pp. 11-12, Issue 46.

OPC has proposed new generation asset depreciation rates without the benefit of a new depreciation study. Ex. 56, Watson Reb., p. 3, ln. 15-16, p. 4, ln. 9-10.

First, in addressing depreciation rates, it should be noted that Empire did not file a depreciation study in this case, nor did it propose revision of existing depreciation rates. The Company has prepared a new depreciation study that was submitted on October 15, 2025, in compliance with 20 CSR 19 4240-3.175(1)(B)2. Ex. 56, Watson Reb., p. 3, ln. 18-21. This study was based on updated plant data, incorporates appropriate modeling techniques, and will be subject to full review and adjudication by all parties in the Company's next rate case. Ex. 56, Watson Reb., p. 15, ln. 10-12.

Second, OPC's analysis relies on outdated data, omits critical components such as interim retirement curves, and contains errors in remaining life calculations and retirement dates. These deficiencies result in depreciation rates that do not reflect the actual condition or expected lifecycle of Liberty's generation assets and should be rejected. Ex. 56, Watson Reb., p. 4, ln. 2 – p. 15, ln. 12.

Issue 47) What is the appropriate level of depreciation and amortization expense of plant to include in the cost of service for Riverton 10 and 11?

The appropriate level of depreciation and amortization expense to include in the cost of service for Riverton 10 and 11 at the March 2025 true-up period is $1,767,411. This balance includes both Riverton 10 and 11 assets that are slated to be retired in 2026, in addition to ones that will remain in service beyond that date. Ex. 19, Emery Sur. and True-Up Dir., Sched. CTE-1, p. 89, row 142, column (i). This amount is also largely in line with the Staff position of $1,700,997. Ex. 175, Staff Accounting Schedules, Sched. 5; Staff's Statement of Positions, p. 12, Issue 47.

OPC has proposed that costs associated with Riverton Units 10 and 11 be removed from plant balances and reclassified into a regulatory asset, and amortized over five years, based on the assertion that OPC believes the Company will have a large, stranded cost for these assets at the time of retirement. Ex. 215, Robinett Dir., p. 8, ln. 16 – p. 9, ln. 3. The Commission should reject OPC's claim that the Company faces a substantial stranded asset due to the retirement of these units. OPC's analysis is based on plant balances that include more than just the components scheduled for retirement in 2026. By using inflated balances that encompass assets not subject to near-term retirement, OPC's proposed rates appear unreasonably high and do not accurately reflect depreciation needs of the units. Accordingly, OPC's analysis is flawed, as it relies on plant balances that include Riverton 10 & 11 assets beyond those scheduled for retirement in 2026. Ex. 56, Watson Reb., p. 4, ln. 21 - p. 5, ln. 5.

OPC's analysis as Riverton 10 and 11 significantly inflates the undepreciated balance of the assets actually slated for retirement and is therefore unnecessary to reclassify into a regulatory asset.

Issue 48) If Empire is not allowed to earn a return on retired non-AMI meters that created a negative reserve balance, how should the negative reserve balance be treated?

The Company should be allowed to earn a return on the retired non-AMI meters that created a negative reserve balance. These costs largely result from prudently incurred costs associated with the deployment of its advanced metering infrastructure. This modernization effort replaced legacy meters with an industry-standard AMI solution, including advanced meters, communication networks, and data management systems—delivering immediate operational benefits for customers. Denying recovery solely because the legacy assets are retired and no longer "used and useful" would discourage future investments in technologies that enhance reliability, efficiency, and customer experience. Ex. 19, Emery Sur. and True-Up Dir., p. 7, lines 5-12.

The Company carefully designed and planned its AMI system in 2019 and began installing the system by sectors. Moving through the Company's territory by sector allowed the Company to replace all in-scope meters in an area before moving onto the next. This was a more efficient approach than skipping the undepreciated meters in sectors and then travelling all over the service territory to replace those meters ad hoc as they depreciate. Ex. 59, Westfall Sur., p. 14, ln. 9-14.

Additionally, the AMI solution implemented by the Company relies on a mesh network. This means that each meter in the system acts as a repeater and forms a mesh network that communicates with the Company's meter data management system. When all the meters in a sector are AMI meters, they work in concert with each other to create a strong mesh network of two-way communication between the customers and the Company. However, if the Company were to only replace fully depreciated meters, there would be fewer AMI meters to act as repeaters, and the resulting mesh network would be weaker than the one described above. With reduced overlapping coverage, there is great risk of meters becoming stranded and unable to communicate with Company assets. Ex. 59, Westfall Sur., p. 14, ln. 14 - p. 15, ln. 5.

Furthermore, if the Company only replaced fully depreciated meters, this would have prevented some of the Company's customers from realizing the benefits of the AMI system at the same time as their neighboring customers, even though they are paying for a portion of the AMI implementation.[14] The Company strongly believes all customers should be able to access the benefits of the AMI meters. Ex. 59, Westfall Sur., p. 15, ln. 8-12.

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[14] Account 370 (Meters) currently carries a depreciation rate of 4.39%. Ex. Robinett Dir., Sched. PAR-D-9, ln. 254, Account 370, column F. This is the rough equivalent of a service life of 22.8 years.

Issue 49) What is the appropriate amount to include for vegetation management expense? The test year does not reflect a representative level of on-going vegetation management costs. To develop rates that reflect the actual cost of providing safe and reliable service, the Company proposed an adjustment based on its 2024 budget. Ex. 18, Emery Reb., p. 47, lines 15-20. The proper level of expense for vegetation management costs is $9,215,139. This amount reflects a reasonable level of ongoing vegetation management activity necessary to maintain system reliability and safety. Ex. 20, Emery True-up Reb., p. 26, lines 14-19.

Staff's analysis of 12-month ended vegetation management costs are flawed as they reviewed the full general ledger balances of the associated accounts, rather than looking specifically at the non-labor costs that were recorded to the vegetation management department/cost center. This resulted in an overstatement in Staff's analysis. Ex. 20, Emery True-up Reb., p. 26, ln., 4-12.

Issue 51) What is the appropriate rate case expense for this case? The appropriate annual amount of rate case expense is $479,297. This amount includes remaining depreciation study costs, line loss study costs, and projected rate case expense for this case. Ex. 17, Emery Dir., p. 43, line 12 through p. 44, line 20; Ex. 19, Emery Sur. and True-Up Dir., p, 29, lines 10-12.

a. Should the Commission disallow rate case expense associated with Empire witness Reed?

No. Mr. Reed has more than 47 years of experience in the energy industry and has worked as an executive in, and consultant and economist to, the energy industry. He has served as Vice Chairman and Co-CEO of the nation's largest publicly-traded consulting firm and as Chief Economist for the nation's largest gas utility. He has provided regulatory policy and regulatory economics support to more than 100 energy and utility clients and has provided expert testimony on regulatory, economic, and financial matters on more than 200 occasions before the Federal

Energy Regulatory Commission ("FERC"), state utility regulatory agencies, Canadian regulatory agencies, various state and federal courts, and before arbitration panels in the United States and Canada. Ex. 44, Reed Dir., p. 1, lines 11-21.

Mr. Reed's three rounds of testimony addressed complex issues related to the Company's Fuel Adjustment Clause ("FAC") and Customer First system and provided valuable expert insight. Ex. 20, Emery True-Up Reb., p. 14, lines 2-5. The entirety of Mr. Reed's Direct Testimony concerned aspects of the FAC and primarily provided a survey and in some cases detailed review of the approaches to sharing of fuel and purchased power costs taken in regulatory environments across the United States. Ex. 44, Reed Dir. This is information that should be of interest to the Commission and parties regardless of the outcome that may eventually be ordered in this case.

Mr. Reed's Rebuttal Testimony drew the ire of OPC witness Marke because of testimony contained therein addressing the Staff's and OPC's proposed cost disallowances associated with Customer First. Ex. 205, Marke Sur., p. 11, ln. 8 – p. 12, ln. 25. That portion of the Rebuttal Testimony acknowledged challenges the Company had experienced related to Customer First and provided Mr. Reed's expert opinion on remedial actions, after comparison to other utility situations. Ex. 45, Reed Reb., pp. 6-25. Again, whether the Commission chooses to follow Mr. Reed's recommendations or not, the information provided is relevant and worthy of the Commission's consideration. Moreover, in addition to the Customer First testimony, Mr. Reed's Rebuttal Testimony also addressed aspects of the FAC issues in this case. Ex. 45, Reed Reb., pp. 2-6.

Subsequently, Mr. Reed filed Surrebuttal Testimony that addressed, in its entirety, issues related to the FAC. The fact OPC does not agree with a portion of Mr. Reed's Rebuttal Testimony provides no reason or justification for the costs associated with Mr. Reed to "be removed in their entirety," as recommended by OPC. The consulting costs related to Mr. Reed were reasonable, necessary, and properly incurred. Ex. 20, Emery True-Up Reb., p. 14, lines 2-5.

b. What amortization period should be used for the depreciation study and line loss study?

The depreciation study was authorized to amortize over five years in Case No. ER-2021-0312. The remaining amount should continue to amortize until the end of the five year period. The amortization period for the line loss study is four years. Ex. 19, Emery Sur. and True-Up Dir., p, 29, lines 9-18.

These amortization periods are supported by Commission Rule 20 CSR 4240-3.160(1), which calls for depreciation studies at least every five years, and Commission Rule 20 CSR 4240-20.090(13)(B), which requires a loss study every four years in conjunction with a request to continue or modify the FAC.

Issue 54) What is the appropriate level of payroll expense and payroll taxes to be included in Empire's revenue requirement? The appropriate levels of payroll expense and payroll taxes are $40,039,488 and $2,880,134, respectively. Ex. 19, Emery Sur. And True-Up Dir., p. 30, lines 13-16, 18-21.

To calculate the adjustment, the Company: 1) obtained the annual salary for each employee as of March 31, 2025; 2) included annualized payroll related to overtime, based on an overtime rate using a two-year average as of March 2025 of actual overtime hours and dollars for union and non-union employees; and, 3) incorporated payroll costs for open positions as of March 2025 that have since been filled. Ex. 19, Emery Sur. And True-Up Dir., p. 29, ln. 24 - p. 30, ln. 6.

Given the inherent volatility of overtime, a two-year average better reflects long-term labor trends. Ex. 18, Emery Reb., p. 32, ln. 8-12.

Additionally, the 2025 CAM allocators should be used to calculate normalized 2025 payroll and payroll tax expense to avoid a mismatch of time periods. Staff has used the 2024 CAM allocators, which are not reflective of conditions as of March 31, 2025. Staff's reliance on outdated allocators introduces a misalignment between the cost allocation methodology and the actual operational and financial structure of the Company during the true-up period. The CAM allocators in effect as of March 31, 2025, more accurately represent the Company's current cost distribution across jurisdictions and functions, and therefore 8 should be used to ensure precision in the revenue requirement. Ex. 20, Emery True-Up Reb., p. 12, ln. 3-9; Ex. 18, Emery Reb., p. 32, ln. 4-7.

Staff has also excluded the full salary related to employees on short-term and long-term disability at the March 2025 true-up period. These employees are expected to return to active employment and excluding their full salaries distorts the payroll base and understates the Company's ongoing labor costs, leading to an inaccurate representation of the cost of service. Ex. 20, Emery True-Up Reb., p. 12, ln. 10-17.

Lastly, the Commission should also allow recovery of payroll expense related to open positions as those positions have since been filled. These positions are budgeted and necessary to maintain adequate staffing levels and for continued service reliability and obligations. The Company should not be penalized for temporary vacancies that are part of normal workforce turnover. The open positions that are included are essential to operations and are expected to be filled in the near term. Their exclusion understates the true cost of service and fails to account for the Company's ongoing recruitment efforts. Ex. 20, Emery True-Up Reb., p. 12, ln. 15-21.

Issue 55) What is the appropriate level of payroll related benefits to be included in Empire's revenue requirement? The appropriate level of payroll related benefits expense is $6,934,986. Ex. 19, Emery Sur. and True-Up Dir., p. 31, ln. 20-22.

To calculate this adjustment, the Company: 1) obtained the annualized 2025 benefit amounts for each employee active at the true-up date; 2) included benefit costs for open positions as of March 2025 that have since been filled, to reflect a fully staffed operation; 3) calculated the annualized 401(k) expense by applying the actual match rates received by employees at the true-up date to their pro forma salaries (as were discussed in Issue 54). For open positions, the Company's standard match rate was applied. Ex. 19, Emery Sur. and True-Up Dir., p. 31, ln. 5-13.

Issue 56) What is the appropriate level of incentive compensation expense to be included in Empire's revenue requirement? Incentive compensation is a core component of Liberty's total compensation. It is not discretionary or supplemental - it is embedded in the compensation structure and treated as deferred salary contingent on performance. This approach is consistent with industry norms and necessary to attract and retain qualified employees in a competitive labor market, especially for technical and operational roles. Ex. 18, Emery Reb., p. 34, ln. 15-18.

The Company's incentive pay is performance-based and tied to metrics such as safety, reliability, customer satisfaction, and cost control. These metrics directly impact the quality of service delivered to customers. By motivating employees to meet or exceed these standards, incentive compensation enhances operational efficiency and service outcomes, which are tangible benefits to customers. Ex. 18, Emery Reb., p. 34, ln. 19-23.

Liberty's customers benefit from a workforce that is motivated to perform at a high level. Without competitive compensation, including performance-based pay, Liberty would face challenges in hiring and retaining the talent necessary to deliver safe, reliable, and efficient service. Therefore, the full inclusion of incentive compensation in the Company's cost of service is just and reasonable, and in the public interest. Ex. 18, Emery Reb., p. 35, ln. 1-6.

Additionally, the Company should not be penalized for incentive compensation related to financial metrics. Customers benefit directly and indirectly from the inclusion of financial metrics in employee incentive compensation. These metrics are designed to promote disciplined budgeting, cost control, and financial efficiency across the organization. When employees are incentivized to manage resources prudently, the result is more efficient operations, reduced waste, and lower overall costs. These outcomes contribute to the financial health of the utility, which is essential for maintaining safe, reliable service and investing in infrastructure improvements. A financially sound utility is better positioned to deliver service at just and reasonable rates, absorb unexpected costs, and avoid volatility that could negatively impact customers. Incentive compensation tied to financial performance provides additional encouragement to employees to remain focused on cost-effective service delivery, which ultimately benefits customers. Ex. 18, Emery Reb., p. 35, ln. 9-21.

The appropriate level of incentive compensation expense to be included in Empire's revenue requirement is the Company's test year level of incentive compensation. These costs are part of Liberty's normal salaries and wages—reasonable and necessary expenses required to provide utility service. Disallowing these costs would ignore the integrated nature of total compensation and penalize Liberty for adopting performance-based practices that align employee behavior with customer and operational outcomes. Ex. 18, Emery Reb., p. 35, ln. 22 - p. 36, ln. 3.

Issue 57) Should severance be included in the revenue requirement? If not, what is the appropriate rate base and expense reduction for severance costs? The Company agrees with Staff's position to remove severance costs. The appropriate amount to be removed from rate base is $349,177, and the amount to be removed from expenses is $750,107. Ex. 20, Emery True-Up Reb., p. 3, lines 7-12; p. 17, lines 14-23.

Issue 58) What is the appropriate level of PSC assessment expense to be included in Empire's revenue requirement? While the Company may not fully agree with the methodologies used by Staff for PSC assessment expense, the Company finds Staff's balances to be reasonable and acceptable for the purposes of this rate case. Ex. 18, Emery Reb., p. 48, ln. 1 - p. 49, ln. 10.

Issue 59) What is the appropriate level of Department 115 wind O&M expense to include in the revenue requirement? Department 115 captures costs to support services for many of Liberty's generating facilities, including the Company's wind farms. Ex. 17, Emery Dir., p. 51, ln. 20-21.

The Company does not agree with Staff's methodology for calculating the Department 115 wind O&M expense. While Staff updated their methodology to use a three-year average instead of a two-year average, the Company still believes that utilizing the 2024 budget is more indicative of a normal level of expense for Department 115. Staff's update to a three-year average further supports the inclination that there is a general incline in the amount of O&M expense associated with Department 115. Ex. 20, Emery True-Up Reb., p. 21, ln. 4-14. Therefore, the appropriate level of Department 115 wind O&M expenses is a total Missouri pro forma ending balance.

Issue 66) What level of dues and donations expense should the Commission recognize in Empire's revenue requirement? The test year level of dues and donations should be included in the Company's revenue requirement, less any costs removed in the Company's EXP ADJ 11 non-recoverable expense adjustment.

Liberty supports the principle of ensuring that only prudent and customer-beneficial costs are recovered through rates. Staff's proposed disallowance, however, Staff applies overly broad criteria and fails to account for the operational relevance and strategic value of certain expenditures. The Company makes a variety of contributions to service area entities in a continuing effort to uphold and increase the well-being of the Company's customers by aiding the communities, educational institutions, civic organizations and service groups like the Chamber of Commerce who works to promote the local economy, which is beneficial to customers. Ex. 18, Emery Reb., p. 28, ln. 2-9.

In addition, the Company disagrees with Staff's proposed disallowance of EEI dues related to regulatory advocacy, public relations, marketing, and advertising. EEI membership provides direct value to customers by supporting the Company's ability to deliver safe, reliable, and affordable service. Through EEI's Restoration, Operations, and Crisis Management Program, the Company gains access to industry-wide best practices for outage response and emergency coordination – tools that enhance service continuity and resilience. EEI also facilitates collaboration on emerging technologies that strengthen the grid and improve operational efficiency. These benefits translate into better service outcomes and long-term cost savings for customers. As with other industry organizations like NARUC, EEI's research and policy work help ensure the Company remains informed and proactive in a rapidly evolving energy landscape. Ex. 18, Emery Reb., p. 29, ln. 18 - 30, ln. 3.

The Company has already taken care to exclude any non-recoverable portions of EEI dues and has included only the prudent, customer-benefiting share of EEI dues in its cost of service. These remaining dues support regulatory engagement, technical collaboration, and industry benchmarking – activities that directly enhance the Company's ability to provide safe, reliable, and cost-effective service. These remaining dues support regulatory engagement, technical collaboration, and industry benchmarking – activities that directly enhance the Company's ability to provide safe, reliable, and cost-effective service. Ex. 18, Emery Reb., p. 30, ln. 5-11.

Issue 70) What is the appropriate amount of expense to be included in cost of service associated with water used at State Line facility? Liberty's State Line generation plant uses water in the steam cycle of the combined cycle plant. The primary use is in the cooling tower as a heat exchanger for the steam turbine. Therefore, Liberty's water usage is important to efficient operation of the State Line plant. Liberty's State Line plant takes water delivery service from Missouri-American Water Company ("MAW") under MAW's Rate J Schedule. Ex. 1, Berkstresser Dir., p. 4, ln. 19 – p. 5, ln. 3. New rates became effective for MAW on May 28, 2025, as a result of Commission Case No. WR-2024-0320.

Empire agrees with Staff's use of a two-year average of historical water usage ending March 31, 2025. However, it disagrees with Staff's exclusion of the new water rates that became effective on May 28, 2025. These rates represent the actual costs the Company is incurring today and will incur during the rate-effective period. Excluding them would result in an understatement of the Company's operating expenses and fail to reflect the most accurate and forward-looking cost of service. Ex. 20, Emery True-Up Reb., p. 21, ln. 22 - p. 22, ln. 4.

Issue 71) Should new MAWC water rates that took effect on May 28, 2025 be included in the calculation of expense associated with water usage at State Line? Yes, On May 28, 2025, the new MAW rates took effect as the result of Commission Case No. WR-2024-0320. These rates replaced the prior flat rate of $0.32754 per 100 gallons with a two-block structure:

• Up to 450,000 gallons: $0.74719 per 100 gallons; and 9

• Over 450,000 gallons: $0.34625 per 100 gallons.

Ex. 18, Emery Reb., p. 40, ln. 7-10.

The new water rates that took effect on May 28, 2025, were known and measurable as of May 16, 2025. *See Order Approving Tariffs*, Case No. WR-2024-0320 (issued May 16, 2025). These rates represent the actual costs the Company is incurring today and will incur during the rate effective period. Not using the new rates would result in an understatement of the Company's operating expenses and fail to reflect the most accurate cost of service today and during the period rates will be in effect. Ex. 20, Emery True-Up Reb., p. 22, ln. 2-4.

Issue 75) What is the appropriate interest rate to calculate interest expense on customer deposits to include in Empire's rate base? The appropriate interest rate to calculate interest expense on customer deposits to include in the revenue requirement (Issue 75) should be the one proposed by Staff. Staff used the prime interest rate published in the Wall Street Journal as being in effect on the last business day of December of the prior year (7.5% at December 31, 2024) plus 1%, for a total of 8.50%. Ex. 118, Smith Dir., pp. 6-7; Ex. 170, Smith Surreb./True-Up Dir. p. 10, line 19 through p. 11, line 9. This is consistent with the language in Empire's tariff. *Id.* Empire did not oppose Staff's balance of interest expense on customer deposits for purposes of this case. Ex. 20, Emery True-Up Reb. p. 17, lines 15-22. OPC did not file testimony and did not state a position on Issue 75. Accordingly, the Commission should approve Staff's balance of interest expense on customer deposits.

Issue 80) What are the appropriate depreciation rates to be ordered by the Commission? The Commission should approve the depreciation rates set forth in Exhibit A to the Global Settlement, which reflect the depreciation rates approved in the Company's last general rate case, Case No. ER-2021-0312, with a few clarifications.[15] OPC proposed new generation asset depreciation rates without the benefit of a new depreciation study. Ex. 56, Watson Reb., p. 3, ln. 15-16, p. 4, ln. 9-10. OPC's analysis relies on outdated data, omits critical components such as interim retirement curves, and contains errors in remaining life calculations and retirement dates. These deficiencies result in depreciation rates that do not reflect the actual condition or expected

[15] Empire did not file a depreciation study in this case, nor did it propose revision of existing depreciation rates. The Company prepared a new depreciation study that was submitted on October 15, 2025 in compliance with 20 CSR 19 4240-3.175(1)(B)2. Ex. 56, Watson Reb., p. 3, ln. 18-21. This study was based on updated plant data, incorporates appropriate modeling techniques, and will be subject to full review and adjudication by all parties in the Company's next rate case. Ex. 56, Watson Reb., p. 15, ln. 10-12.

lifecycle of Liberty's generation assets and should be rejected. Ex. 56, Watson Reb., p. 4, ln. 2 – p. 15, ln. 12.

Issue 81) What level of property tax should be included in the revenue requirement calculation for non-wind property and wind property? The level of property taxes that should be included in the revenue requirement for non-wind property is $29,173,041 and wind property is $4,060,955. Ex. 17, Emery Dir., p. 49, ln. 10-19; p. 50, ln. 7-17. Ex. 18, Emery Reb., p. 27, ln. 11-22. Ex. 19, Emery Sur. and True-Up Dir., p. 33, ln. 1-11 and Sched. CTE –1, p. 96, ln. 7-9. Ex. 20, Emery True-Up Reb., p. 9, Table 2; p. 10, ln. 12 - p. 11, ln. 4.

However, if the Commission orders the terms of the Global Settlement, Liberty supports the agreement of the parties (para. 24) that the base amount of property tax is $25,850,330 for non-wind property and $4,261,941 for wind property, as of the effective date of rates in this case.

Issue 88) Riverton 10 Repairs

a. Were the Riverton 10 repair costs prudently incurred? b. What amount of the Riverton 10 repairs capital cost should be included in rate base? c. Has Empire violated the Commission-ordered Stipulation and Agreement Paragraph 4(j) in Case No. EA-2023-0131? For discussion of Riverton 10 repair costs, please see the discussion of Issue 2h below.

Issue 89) Ozark Beach Crane Extension

(a) Were the costs of the crane extension project at Ozark Beach prudently incurred? The approximate $2.9 million cost of the Ozark Beach crane extension was prudently incurred and should be included in the revenue requirement. The Global Settlement does not exclude the costs of the project.

As Company witness Brian Berkstresser testified during the evidentiary hearing, the original crane at the Powersite Dam was added in the 1930s. Transcript of October 16, 2026 Evidentiary Hearing, at page 7, lines 7 – 20. Its original configuration required equipment and materials that needed to be taken over the dam, such as 55-gallon drums of hydraulic oil, to be loaded on a barge at a nearby public park, then a boat would pull the “shoebox” barge across the water to the dam, the boat and barge would then be tied off at the dam, so then the equipment or materials could be hoisted over the dam and water by the original crane. Tr. at page 7, line 21 - page 9, line 18. This transportation process would take at least half a day and all the employees working at the dam to complete. Tr. at page 12, line 13 – page 13, line 4. And, Mr. Berkstresser estimated that such transportation process was required a dozen times a year. Tr. at page 9, line 19 – page 10, line 3.

Thus, Mr. Berkstresser explained that, in 2020, the Company began evaluating how to better mitigate environmental risk (for example, avoiding sleepless nights for Mr. Berkstresser as he worried about the hoisting of 55-gallon drums of hydraulic oil over the dam and an accidental spill with oil heading towards Bull Shoals) and improve safety and efficiency. Tr. at page 8, line 2 – page 9, line 18 & page 11, lines 16 - 21. The initial estimate for the project’s feasibility study was only $10,000, but the estimate for the full crane extension project was $3.5 million. Ex. 3, page 1, line 18 – page 2, line 5.

The crane extension was placed in service in December 2022, came in over half-a-million-dollars **under-budget** (approximately $2.9 million actual cost compared to the $3.5 million initial budget), and is now regularly used to transport equipment and materials to the dam. Ex. 3, Brian Berkstresser Surrebuttal, at page 2, lines 6-20. The original transportation process, which used to take at least half a day, now takes only 30 minutes. Tr. at page 13, lines 1-4. Thus, this prudent project accomplishes its purposes – mitigation of environmental risks and safety and efficiency improvement – at a reasonable cost and should be included in the annual revenue requirement.

b. Does the crane extension project at Ozark Beach qualify for PISA? The project is eligible under Missouri’s PISA framework. According to the statutory language governing PISA, Section 393.1400, RSMo., "qualifying Electric Plant" includes all rate-base additions, except rate-base additions for new coal-fired generating units, new nuclear generating units, or rate-base additions that increase revenues by allowing service to new customer premises. The crane extension project does not fall under any of these exclusions; therefore, the project qualifies for PISA treatment. Ex. 19, Emery Surrebuttal: p. 4, lines 10 through p. 5, line 5. During the evidentiary hearing on October 15, 2025, OPC witness Dr. Geoff Marke agreed that the project would qualify for PISA treatment. Transcript of October 15, 2025 Evidentiary Hearing, at page 109, line 24 – page 110, line 8.

Various Rate Base Items (Issues 2-3)

Approval of the terms of the Global Settlement is the proper resolution of all of these issues, which will result in just and reasonable rates for Liberty's electric customers in Missouri. The Global Settlement involves a "black box" revenue requirement, providing for an annual revenue requirement increase of $97 million. As noted above, Liberty's pre-filed testimony supports an annual revenue requirement increase of approximately $169 million. The Staff's pre-filed testimony supports an increase of approximately $129 million. The Company addresses four rate base these issues below. For specific testimony references and other factual support for the remaining issues in this section, Liberty refers the Commission to its Statement of Positions filed herein on *, 2025, as well as the Statement of Positions filed herein by Staff on the same date.

Issue 2) What is the appropriate amount of plant in service and depreciation reserve to include in rate base?

h. Should Empire recover the cost of repairs to Riverton 10? The Company should recover the cost of repairs to Riverton 10 because they were prudently incurred. The Global Settlement does not exclude recovery of the Riverton 10 repair costs. As explained in Company witness Brian Berkstresser's rebuttal testimony, the Company only chose to repair Riverton Unit

10 after Riverton Unit 11 demonstrated significant blade migration following two separate borescopes of the unit. The Company conducted a borescope of Riverton Unit 11 on April 5, 2023; and, following a short market run on August 1, 2023, the Company conducted a second borescope to provide a comparative analysis of the risk of continuing to run the unit. The results of the borescopes presented the Company with significant safety and reliability concerns. Further, the Company had a borescope of Riverton 10 performed to provide an assessment of the most cost-efficient unit to repair, with the cost to repair Unit 10 being significantly less than the cost to repair Unit 11. The Company then made the prudent decision to repair Riverton Unit 10 based on the appropriate balance between cost, safety, and reliability based upon what was known at the time of its decision. Ex. 2, Berkstresser Rebuttal: p. 2, line 1 through p.4, line 4.

As Company witness Aaron Doll explained rebuttal testimony, OPC witness John Robinett's claims of imprudence are recycled from the Certificate of Convenience and Necessity ("CCN") proceeding (Case No. EA-2023-0131), are unfounded, and have no record support. Mr. Robinett suggests the Company repaired Unit solely to qualify for the Generator Facility Replacement process under the SPP OATT, but his argument depends on a mischaracterization of timelines and a misunderstanding of process requirements. While Mr. Robinett acknowledges that the Riverton Unit 10 outage occurred on February 8, 2021, the one-year submission window for the Generator Facility Replacement process ended February 8, 2022, and the Company's IRP was filed April 1, 2022, he disregards that it would have been impossible for the Company to complete the IRP, conduct necessary technical reviews required by SPP, and submit the extensive replacement application in that timeframe. Mr. Robinett's argument, if accepted, would effectively advocate bypassing both the IRP process and the technology review process, an approach that would be reckless and contrary to customers' interests. Ex. 11, Doll True-Up Rebuttal: p. 2, lines 6 through p. 3, line 24 & True-Up Rebuttal Schedule AJD-1.

i. Should the Commission order OPC's recommended disallowance of 2% of the rate base inclusion of transmission and distribution projects since Empire's last rate case over $1 million? The Commission should completely disregard OPC's proposal to disallow 2% of investment into distribution and transmission assets, because such proposal is arbitrary and unreasonable. As explained in the direct, rebuttal, and surrebuttal testimony of Company witness Jefferey Westfall (Exhibits 57P/57C, 58 & 59), the Company's distribution and transmission projects are designed to deliver long-term benefits by modernizing infrastructure, reducing outage risk, supporting load growth, meeting compliance standards, and improving system resiliency. Mr. Westfall's direct testimony explains large distribution and transmission investments made by Liberty since its last general rate case, including substation security improvements (Project DA0630, Ex. 57P, page 7, line 21 – page 8, line 2), replacement of distribution and transmission poles (Projects DR0002 & TR0001, Exhibit 57P, page 8, lines 3-12 & page 12, lines 7-8.), and rebuild of the Riverton – Neosho 16kV line to comply with an SPP Notice to Construct issued to Liberty (Project TR 0166, Ex. 57P, page 13, line 10 through page 14, line 6). OPC witness Seaver fails to identify a single distribution or transmission project that was imprudently selected, poorly executed, or failed to meet its intended purpose, and instead, arbitrarily proposes to disallow 2% of all distribution and transmission investments.

Mr. Seaver also improperly conflates short-term reliability outcomes with the prudence of capital investment. Reliability indices can fluctuate significantly from year to year due to factors beyond the Company's control, including weather events, vegetation growth cycles, acts of man, and customer usage patterns. The snapshot of one to two years of performance data presented by Mr. Seaver does not demonstrate that the Company's investments were unnecessary or ineffective. The benefits of the Company's distribution and transmission investments are realized over a multi-year horizon and provide the foundation for future reliability improvements. Disallowing recovery of a portion of these costs based on an arbitrary percentage would outrageously penalize the Company for making prudent investments that were necessary to meet customer long-term needs. Ex. 59, Westfall Surrebuttal: p. 6, line 16 through p. 8, line 12.

The Global Settlement does not include any portion of OPC's proposed disallowance of distribution and transmission investments.

j. Should Empire be allowed to earn a return on Empire's investment in new AMI meters? (*see also* discussion of Issue 48) The Company should be allowed to earn a return on its prudent investment in new AMI meters, and the Global Settlement does not exclude any return on the Company's investment in new AMI meters. The meters, which are accounted for in Accounts 370 and 370.1, have continued to perform their core functions reliably: measuring energy usage, supporting outage detection, and enabling time-of-use rate structures. From an operational standpoint, the meters were installed correctly, are functioning as intended, and continue to provide value to customers every day. Ex. 58, Westfall Reb., p. 3, ln. 13 - p. 4, ln. 7.

OPC witness Dr. Geoff Marke's basis for recommending disallowance of the "return on" calculation for Accounts 370 and 370.1 totaling over $4 million in annual revenue requirement was summarily identified as meters contributing to erratic billing resulting in alleged net detriment to customers. Ex. 20, Marke Direct, page 54, lines 11-17. However, Dr. Marke never explains how AMI meters contributed in any way to the billing challenges the Company has been facing nor counters Company witness Jefferey Westfall's testimony describing the continued reliable performance of the meters, including accurate measurement of electricity usage. To remove the return on the meters because of billing issues not associated with them is inconsistent with utility ratemaking principles and arbitrarily penalizes the Company for making a prudent investment.

Issue 3) What is the appropriate value for the income tax expense lag in the Cash Working Capital schedule? The Global Settlement does not specify the appropriate value for the income tax expense lag, and neither OPC nor CCM took any position on this issue in testimony or at the evidentiary hearing. As stated in Company witnesses' testimony, the appropriate amount of income tax expense lag in the cash working capital schedule is 39.38 days. This value is what the Company originally requested and was also approved by the Commission in the Company's general rate case, Case No. ER-2019-0374. Including a 365-day expense lead as proposed by Staff implies that the Company receives money on the first day of the year for its annual income tax expense which is not accurate as the Company receives money over the course of the year as it issues its invoices and receives respective payment from customers. Ex. 34, Lyons Direct: p. 37, lines 1-9; & Ex. 18, Emery Rebuttal: p. 6, line 21 through p. 7, line 6.

Billing Determinants and Rate Design (Issues 100-110)

The Global Settlement provides for utilization of Staff's billing determinants attached to the Global Settlement agreement as Exhibit C, with an amount of current rate revenue subject to adjustment in this case of $511,391,047 after application of current EDR discounts. *See* Non-Unanimous Global Stip., para. 18 & Exhibit C. The Global Settlement further calculates rates as set out in Exhibit C using the following rate design points:

(1) equal percentage increases to classes,

a. class revenues for purpose of calculating percentage increases will not include revenue from charges such as net metering credits and solar facilities charge,

b. EDR gross up applied consistent with statute,

(2) For LGS, SP, LP classes – increase demand charges by 1.25 times the overall class increase with the remaining revenue not recovered in the demand charges recovered through a uniform percent increase to the customer and kWh charges,

(3) increases to the transmission interruptible credit to $6/kW,

(4) Residential summer charges stay flat (existing winter decline stays),

(5) Residential customer charge will remain at current amount,

(6) All changes are equal percent within residential, except that the Time Choice differential stays the same size,

(7) Time Choice differentials stay the same in all classes.

Id. Neither OPC nor CCM objected to paragraph 18 in the Base Stipulation's resolution of the Billing Determinants and Rate Design issues (Issues 100 – 110). *See* OPC Objection, at pages 5-6, paragraph 18; CCM Objection, at pages 1-2 (echoing OPC's objections).

Empire's 2024 Infrastructure Inspections (Issue 123)

The Commission should not, and does not need to, take any action in this case related to the Company's 2024 infrastructure inspections. This issue was not addressed in the Global Settlement. Neither OPC nor CCM took a position on this issue in their Position Statements and Objections to the Base Stipulation and did not raise it as a contested issue for the evidentiary hearing. *See* Public Counsel's Position on the Amended List of Issues, at page 21; Position Statements of the Consumers Council of Missouri, at page 10.

As Company witness Jefferey Westfall explained in rebuttal and surrebuttal testimony, while all 2024 infrastructure inspections were not completed by the end of 2024 calendar year, the Company developed a recovery plan and is on track to complete the 2024 and 2025 inspection schedules by December 31, 2025. OPC witness Seaver incorrectly attributed the delay to the Enterprise Asset Management ("EAM") component of the Customer First platform. The delays in completing the 2024 inspections were actually driven by strategic changes aimed at improving long-term efficiency and effectiveness. The Company has made significant structural improvements to strengthen oversight, enhance scheduling and execution, and provide for long-term consistency in inspection performance. This initiative reflects the Company's commitment to system reliability, operational excellence, and regulatory alignment. The Company remains focused on continuous improvement and sustained performance in this critical area. Ex. 58, Westfall Rebuttal, pp. 6-8 and Ex. 59, Westfall Surrebuttal, p. 11, line 14 – p. 12, line 5.

Proceeds of GRIP Awards (Issue 131)

"GRIP" refers to the Grid Resilience and Innovation Partnership program related to federal money targeted to cover a portion of grid hardening and resilience projects. Ex. 224, Seaver Dir., p. 2, ln. 8-17. The impetus for this program was a desire to address extreme weather events. Ex. 224, Seaver Dir., p. 9, ln. 13-15.

This issue was not addressed in the Global Settlement and was not identified as a contested issue by OPC and CCM to be addressed at the evidentiary hearing in this case. Such approach makes sense given the fact that no GRIP project grants and costs are at issue in this case, so this issue is not even ripe for decision here.[16] Although the Company conceded that it is still evaluating the accounting treatment of the GRIP grants and costs because the accounting treatment is complex and requires further analysis, the Company agreed with the following principles: that grant proceeds should be used to offset the total cost of the project for ratemaking purposes; and the PISA deferral calculations should reflect the net cost of the project after accounting for the grant funds received. Ex. 58, Westfall Rebuttal, pages 4-6.

Heat Rate Testing Procedures and Results (Issue 140)

The Global Settlement addresses the Company's heart rate testing results and procedures in paragraph 42 as follows: "Company agrees to file any new Heat Rate Testing results that have occurred since its prior response, which included the procedural schedule timeline in Case No.

[16] *See Ameren Transmission Co. v. PSC of Mo*., 467 S.W.3d 875 (Mo. Ct. App. 2015) ("In bringing its declaratory judgment action, ATXI was merely speculating that the PSC would, at some later date, if ATXI chose to proceed with the proposed construction projects, attempt to assert regulatory authority over ATXI. ATXI was asking for an advisory opinion regarding whether such an assertion of authority, were it ever to occur, would be proper. 'Declaratory judgments are not available to adjudicate hypothetical or speculative situations that may never come to pass.'").

ER-2024-0261. Additionally, the Company will submit documentation outlining its heat rate testing procedures in this docket no later than March 31, 2026." OPC objected to paragraph 42 of the Base Stipulation and alternatively recommended: "Liberty should produce to Public Counsel by December 31, 2025, or tell Public Counsel where it can find in the Commission electronic filing and information system (EFIS), the underlying data or reports generated that were used to arrive at the single net heat rate it reported for each generating unit, with the date the test was performed as Schedule LP-8-Final HC attached to Liberty witness Ms. Leigha Palumbo's direct testimony." *See* OPC Objection, at page 7, paragraph 22; & CCM Objection, at pages 1-2 (echoing OPC's objections).

Company witness Brian Berkstresser acknowledged in pre-filed testimony that certain heat rate test results initially provided for jointly owned generation units were outside the 24-month period required by Commission Rule 20 CSR 4240-20.090(2)(A)15. The Company obtained the most recent heat rate test results and provided those results as workpapers supporting Company witness Berkstresser's rebuttal testimony. The Company explained it is implementing process improvements to support timely collection and submission of current heat rate data from our jointly owned units to maintain full compliance going forward. The Company otherwise provided a comprehensive set of supporting materials, including detailed testing procedures and data sheets for each unit tested. Ex. 2, Berkstresser Rebuttal, page 8, lines 2-18.

Counsel for the Company has also directed OPC counsel on where detailed heat rate testing data can be found in the Company's response to data request 19 in Case No. EO-2026-0057 on EFIS. The Company remains open to providing other relevant information so that this issue may be resolved.

Audit of Capitalization Practices and Ethical Controls (Issue 124)

Liberty's policies contain guidelines requiring employees to adhere to ethical standards regarding disclosing confidential information, bribery, quid-pro-quo, conflict of interests, and acceptance of gifts or gratuities from business organizations or financial institutions which do business with Liberty. In addition, the Company conducts annual training on Algonquin's Code of Business Conduct and Ethics, and the Company maintains an ethics hotline where employees can report any concerns on an anonymous basis if desired. Ex. 61, Wilson Reb., p. 20, lines 5-11.

Regarding capitalization, Liberty strictly follows Generally Accepted Accounting Principles and Federal Energy Regulatory Commission accounting standards. Since acquiring Empire in 2017, all capital expenditures have undergone full prudency reviews in Missouri, Kansas, Oklahoma and Arkansas – with no disallowances to date. Ex. 61, Wilson Reb., p. 18, ln. 24 – p. 19, ln. 5. However, out of abundance of caution, the Company has asked its Internal Audit team to review the concerns raised in this case and determine whether any further action is warranted. Liberty is committed to maintaining strong internal controls and ensuring that any issues are thoroughly evaluated and addressed. Ex. 61, Wilson Reb., pp. 18-19.

Company witness Wilson indicated in his Rebuttal Testimony that Liberty's Internal Audit department is prepared to conduct a review of its ethics and capitalization policies and procedures within the timeline recommended by Staff, and the Company is committed to supporting this process and will allocate the necessary resources for a thorough and timely evaluation of these areas. Ex. 61, Wilson Reb., p. 21, ln. 22 – p. 22, ln. 2. The Company further notes that if the terms of the Global Settlement are ordered by the Commission, there is a provision that will require Liberty to complete ethics and capitalization internal audits within one year from the effective date of new rates in this proceeding (para. 20). Such a provision is reasonable and consistent with the Staff proposal in this case.

WHEREFORE, Liberty respectfully requests an order of the Commission approving the three partial settlement agreements that may be treated as unanimous and approving the terms of the Global Settlement, in total and without modification, as the just and reasonable resolution of each remaining contested issue in this proceeding. Liberty requests such further relief as is just and proper under the circumstances.

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CERTIFICATE OF SERVICE

I hereby certify that the above document was filed in EFIS on this 16th day of December, 2025, with notification of the same being sent to all counsel of record, and I further certify that the above document was sent by electronic transmission to all counsel of record.

/s/ Dean L. Cooper