Exhibit No.
Issues: Storm Uri Extraordinary Costs
Witness: Geoffrey M. Rush
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Sponsoring Party: The Empire District Electric Company
Docket No.: 21-EPDE-330-GIE
Date: November 2022

**Before the State Corporation Commission
of the State of Kansas**

Direct Testimony

of

Geoffrey M. Rush

on behalf of

The Empire District Electric Company

November 23, 2022

Liberty™

TABLE OF CONTENTS
FOR THE DIRECT TESTIMONY OF GEOFFREY M. RUSH
THE EMPIRE DISTRICT ELECTRIC COMPANY
BEFORE THE STATE CORPORATION COMISSION OF THE STATE OF KANSAS
CASE NO. 21-EPDE-330-GIE

SUBJECT **PAGE**

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I. <u>INTRODUCTION</u>

Q. Please state your name and business address.

A. My name is Geoffrey M. Rush. My business address is 602 South Joplin Avenue, Joplin, MO, 64801.

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

A. I am employed by Liberty Utilities Service Corp. as a Director of Regulatory Affairs for the Liberty Central Region, which includes The Empire District Electric Company d/b/a Liberty ("Liberty" or "Company").

Q. On whose behalf are you testifying in this proceeding?

A. I am testifying on behalf of Liberty.

Q. Please describe your educational and professional background.

A. I graduated from Michigan State University in 1997 with a Bachelor of Science degree in Psychology. Prior to my employment with Liberty, I worked in the Public Utility Division ("PUD") of the Oklahoma Corporation Commission ("OCC") from March 2013 to October 2022. While employed with PUD, I was responsible for representing the OCC in Southwest Power Pool ("SPP") working groups and task forces related to the creation and implementation of the Integrated Marketplace ("IM"); sponsoring analysis, testimony, and recommendations pertaining to cost of capital; and directly supervising PUD analysts that regulated gas and electric rates, terms of conditions, and safety. Most recently as Deputy

Director, I was responsible for making recommendations to the PUD Director and Commissioners. Also, while with the OCC, I obtained my designation as a Certified Rate of Return Analyst in 2016 and was Vice-Chair of the National Association of Regulatory Commissioners ("NARUC") Accounting & Finance Subcommittee from 2019-2022. In October 2022, I was hired by Liberty as Director of Regulatory Affairs, where I lead a regulatory team tasked with the preparation of cases and required compliance filings brought before regulatory commissions in Missouri, Kansas, Arkansas, and Oklahoma.

Q. Have you previously testified in a proceeding before the Kansas Corporation Commission ("KCC" or "Commission") or before any other utility regulatory agency?

A. I have not testified before the KCC, but I have testified in numerous proceedings before the OCC as an expert witness for the PUD.

Q. What is the purpose of your Direct Testimony in this proceeding?

A. On February 15, 2021, the KCC opened Docket No. 21-GIMX-303-MIS authorizing every jurisdictional electric and natural gas distribution utility that incurred extraordinary costs associated with ensuring utility service during Winter Storm Uri to establish a regulatory asset to recover the extraordinary costs to maintain service during the extreme weather event of February 2021 ("Winter Storm Uri"). The purpose of this Direct Testimony is to (1) describe the Company's request for regulatory treatment of the extraordinary costs pertaining to Winter Storm Uri, and its respective Compliance Report that the Company is filing in this docket, (2) provide details surrounding the balances that comprise these extraordinary costs, as required by the Emergency Order in Docket 21-GIMX-303-MIS, and (3) request the appropriate rate to be applied as a carrying charge for the costs deferred.

Q. Please describe the specifics that impacted the Company's timing related to filing its Plan to recover its Winter Storm Uri extraordinary costs?

A. There are two primary reasons which impacted the filing date of the Company's request. As Company witness Aaron J. Doll discusses in more detail in his testimony, Liberty experienced unfortunate circumstances with both Southern Star Central Gas Pipeline ("SSCGP") and SPP, our regional transmission organization, during and after Winter Storm Uri. In an attempt to recover costs due to these unfortunate circumstances, the Company found it necessary to file protests and disputes to recover these costs which, because of the behavior of both organizations, negatively impacted the Company's fuel expenses during the storm. The Company endeavored to receive final rulings and resettlements prior to filing this request with the KCC, which would allow Liberty to provide the most accurate and up-to-date costs associated with Winter Storm Uri. Secondly, the Company, like many organizations, experienced a people resource constraint brought on by both the overall job market (i.e., the Great Resignation) and the additional workload in processing cases because of the storm event.

II. WINTER STORM URI EXTRAORDINARY COSTS AND COMPLIANCE REPORT

Q. Please describe the extraordinary cost impact that Winter Storm Uri had on the Company's efforts to maintain utility service for its customers during the winter weather emergency.

A. Winter Storm Uri created widespread impacts in energy markets, including large and sudden increases in the price of natural gas. As a result of the weather emergency, the cost of Liberty's fuel and power purchases, which are made to provide service to customers, were extraordinarily higher than its typical costs. The Company incurred approximately $238 million in extraordinary fuel costs, of which approximately $10,773,444 (exclusive of any carrying costs and other allowable charges relating to Winter Storm Uri) was allocated to the Company's Kansas jurisdiction. The total financial impact to Liberty is comprised of: (1) direct out-of-pocket expenses incurred by the Company to purchase supplemental quantities of gas supply through spot and daily index markets; and (2) carrying charges, which will be outlined later in this testimony. For further details regarding the impact that the weather crisis had on Liberty's fuel procurement to operate within SPP, please refer to Company witness Aaron J. Doll's Direct Testimony filed in this case.

Q. Did the Commission authorize an approach that would help address rate shock?

A. Yes. On February 15, 2021, in Docket No. 21-GIMX-303-MIS, the Commission issued an emergency order authorizing every jurisdictional electric distribution utility that incurred extraordinary costs associated with ensuring that their customers continue to receive utility service during the unprecedented cold weather event to defer those costs to a regulatory asset account (the "Emergency Order"). The deferred costs may include but are not limited to the cost of procuring and transporting natural gas supplies for jurisdictional utility customers, costs associated with jurisdictional utilities coordinating and assisting non-jurisdictional utilities with the transportation of gas supplies, and any other reasonable costs necessary to ensure stability and reliability of natural gas and electricity service. These deferred costs may also include carrying costs at the utility's weighted average cost of capital ("WACC"). In addition, the KCC ordered that all costs be segregated by detailed cost category and contain enough detail for the KCC to perform a subsequent review for prudence and reasonableness.

Q. Has the Company complied with Commission's directives as outlined in the Emergency Order?

A. Yes. The extraordinary costs incurred by the Company because of the February 2022 extreme weather event and carrying charges are detailed by category and are reflected in the Compliance Report attached to this testimony as **Schedule GMR-1**. This schedule serves as the Company's Compliance Report, which details the extent of the extraordinary costs incurred, now that all deferred costs have been accumulated and recorded.

Q. Please describe the information included in the Compliance Report and other supporting workpapers that the Company is filing as Schedule GMR-1.

A. As mentioned above, the Compliance Report details the extent of the extraordinary costs to procure and purchase natural gas and wholesale energy, legal fees, and consulting costs. The Compliance Report contains actual information through the month of October 2022. The calculations also include projected costs through April 2023. The Company anticipates beginning collection on or around May 1, 2023. This date (approximately 150 days from our filing date) was based on similar case timeframes in Kansas involving extraordinary costs arising from Winter Storm Uri. In addition to the account activity, the Company has provided an analysis that details the annual amortization and respective carrying costs if the Company were to amortize the deferred costs over alternative collection time frames of five or ten-year periods.

III. REGULATORY MECHANISM FOR F&PP RECOVERY

Q. How are the Company's fuel and purchased power costs normally recovered?

A. The Company's fuel and purchased power ("F&PP") costs are normally recovered through the Energy Cost Adjustment Rider ("ECA"), a ratemaking mechanism in the Company's tariff that allows the recovery of costs through a volumetric charge that appears on customer bills. Without the KCC's authorization for Liberty to defer its Winter Storm Uri costs, those costs would have been included on customer bills in accordance with the Company's ECA tariff. The costs have instead been carried on the Company's balance sheet beginning in February 2021, pursuant to the Emergency Order, and are yet to be reflected on customers' bills.

Q. Why did Liberty not seek to recover the costs it incurred during Winter Storm Uri through the ECA?

A. There are two reasons why the Company did not seek to recover its costs through the ECA. The first reason is the Emergency Order discussed above. Secondly, the Company had the same belief as the Commission in that recovering the costs through the ECA may be unreasonable for some of our customers. Recovering the entirety of the extraordinary costs that the Company incurred on behalf of customers during Winter Storm Uri through the ECA may have created extreme customer rate impacts, a circumstance often referred to as "rate shock". The mitigation of rate shock, where possible, is a widely recognized objective of utility regulation.

IV. STORM URI EXTRAORDINARY COSTS

Q. What is the total amount of extraordinary costs the Company anticipates recovering through its regulatory asset account?

A. The Company is proposing to recover approximately $12,636,744 in costs associated with Winter Storm Uri. This balance is comprised of the following components:

Schedule GMR-1

Component:	**Total Amount**
Fuel and Purchase Power Expenses	
February 2021 FPP Expenses	$9,990,632
March 2021 FPP Expenses	$656,716
April 2021 FPP Expenses	$50,773
June 2021 FPP Expenses	$559,414
December 2021 FPP Expenses	$(484,091)
Total FPP Expenses:	$10,773,444
Legal and Consulting Expenses:	$15,640
Projected Legal Fees:	$17,700
Carrying Charges (through May 2023)	$ 1,829,960
Total Extraordinary Costs:	$12,636,744

Q. How did the Company calculate the initial extraordinary portion of energy costs incurred in the month of February of 2021?

A. To calculate the extraordinary costs which occurred in February of 2021, the Company compared the actual energy cost incurred to the budgeted energy cost and determined that anything above the budgeted energy cost was deemed extraordinary. The extraordinary costs at that time amounted to $9,990,632.14 and were placed into the Regulatory Asset.

Q. Did the Company continue to incur additional extraordinary costs related to Winter Storm Uri after February 2021?

A. Yes. As outlined above, in March 2021 the Company incurred higher than average natural gas costs due to an imbalance in natural gas burn from Winter Storm Uri that negatively impacted the natural gas fired units' costs. Further, in April, June and December 2021 the Company incurred additional impacts to its market margin due almost exclusively to market resettlements that were associated with Winter Storm Uri.

Q. Does the Company expect any additional costs related to Winter Storm Uri?

A. At this time, the Company does not expect any additional fuel and purchase power costs associated with Winter Storm Uri. However, the Company anticipates incurring additional carrying costs associated with procuring and purchasing natural gas and wholesale energy. Furthermore, the Company will record any applicable legal fees and consulting costs as they occur.

V. CARRYING COSTS FOR STORM URI EXTRAORDINARY COSTS

Q. Did the Company include in its regulatory asset balance the carrying costs associated with the procurement and purchase of natural gas and wholesale energy associated with Winter Storm Uri expenses?

A. Yes. The Company utilized its WACC (8.8107%) for carrying costs related to Winter Storm Uri. The use of WACC as the proper carrying cost rate for Liberty's extraordinary Winter Storm Uri costs was outlined by the KCC in its Emergency Order in Docket No. 21-GIMX-303-MIS. In addition to the carrying charges incurred to date, the Company included an amount of $541,902 in its regulatory asset, which reflects the projected amount of carrying costs for the period of November 2022 through April 2023.

Q. Why is utilizing carrying costs at the Company's weighted average cost of capital of 8.8107% appropriate?

A. The appropriate carrying cost should reflect the cost of capital associated with the delay in recovery. Regulatory assets are common tools that allow a utility to smooth out the rate impacts of extraordinary expenditures to ease the near-term financial burden on customers. Regulators typically apply long-standing regulatory and corporate financial principles in determining the carrying cost, arriving at the conclusion that the weighted average cost of capital is appropriate to finance investments and operations. As noted above, the Emergency Order provides for the use of WACC in this situation. Additionally, the Joint Motion for Approval of Unanimous Settlement Agreement ("Settlement Agreement") in Docket No. 19-EPDE-223-RTS allowed the Company to apply a carrying charge of 8.8107% for its LED Lighting Regulatory Asset and Asbury Retirement. The Settlement Agreement indicated this carrying charge would apply only to those two matters; however, it is important to consider that the Winter Storm Uri regulatory asset was created after the LED Settlement Agreement was filed, was mandated in the KCC's Emergency Order, and was necessary due to the extraordinary costs that were the result of an unprecedented storm. Further, because Docket No. 19-EPDE-223-RTS is the most recent order approving Liberty's WACC, the Company believes it is appropriate to apply the WACC of 8.8107% to this Winter Storm Uri regulatory asset amortization.

Q. What legal standards govern the cost of capital for utilities?

A. While I am not an attorney, I am familiar with the seminal cost of capital decisions of the United States Supreme Court. First, in Bluefield Waterworks v. Public Service Commission of West Virginia ("Bluefield"), the court found that:

> *"A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties".*

Secondly, in Federal Power Commission v. Hope Natural Gas ("Hope"), the court found that:

> *"[T]he investor interest has a legitimate concern with the financial integrity of the company whose rates are being regulated. From the investor or company point of view, it is important that there be enough revenue not only for operating expenses but also for the capital costs of the business. By that standard, the return to the equity owner should be commensurate with returns on investments in other enterprises having corresponding risks. That return, moreover, should be sufficient to assure confidence in the financial integrities of the enterprise, to maintain its credit and to attract capital…"*

Q. Why do the Bluefield and Hope cases have relevance in this case?

A. Liberty used its own capital to cover the costs and will not be made whole until the duration of the proposed 13-year amortization period. The Company's requested carrying costs are a make-whole provision that will compensate the Company for the financial impact of providing customer rate relief. Put another way, the carrying charge is designed only to compensate the Company for the earnings opportunity it would lose from not being able to deploy the deferred amounts elsewhere – there is no profit component. Allowing a return based on a different factor, such as the long-term debt rate, would cause the Company to suffer a financial loss from the deferral, would be counter to rulings in Bluefield and Hope, and would not be appropriate or reasonable. The Company has incurred prudent costs for the benefit and safety of its customers, and it would be inappropriate to not allow recovery of those costs.

VI. PROPOSED AMORTIZATION PERIOD FOR STORM URI EXTRAORDINARY COSTS

Q. What amortization period is the Company proposing for the Winter Storm Uri regulatory asset, and why is the proposed amortization period appropriate?

A. The Company is proposing a 13-year amortization period. Liberty believes that a 13-year amortization period is the most prudent approach to mitigate the initial impact to customers and is consistent with the period proposed by the Company in Missouri and Oklahoma. The Company recognizes the potential impact that Winter Storm Uri will have on its customers rates, and Liberty has been proactive to take steps which lessen these impacts (i.e., proposed phase in of rates, length of recovery period) and help mitigate these costs. If the Commission were to approve a 13-year amortization period, customers would see a surcharge of 0.00732 per kWh. For a typical residential customer, who uses 1,000 kWh a month, the monthly increase would be $7.32. This monthly increase is similar to other Winter Storm Uri surcharges that have been approved by the KCC. While Liberty believes that the proposed 13-year amortization period is the most reasonable time period, the supporting workpapers have data for multiple amortization periods, as well as the customer impact for those amortization periods.

VII. PROPOSED REGULATORY MECHANISM TO RECOVER STORM URI EXTRAORDINARY COSTS

Q. Is the Company proposing a regulatory mechanism that will allow it to recover the extraordinary costs described above?

A. Yes. The Company is requesting that the Commission approve its proposed Winter Storm Uri Recovery Rider. Please refer to **Schedule GMR-2** which represents our tariff recommendation. The Company proposes that this Rider appear as a separate line item on our customer bills.

Q. How did Liberty design the rate to be used in recovering Winter Storm Uri costs from customers?

A. The rate design was calculated by taking the total Winter Storm Uri extraordinary costs, using a 13-year amortization schedule, and spreading this cost by the total number of annual kilowatt hours approved in Liberty's most recent rate case, Docket No. 21-EPDE-444-RTS. As I previously mentioned, for residential customers using 1,000 kWh per month, the electric bill will increase by approximately $7.32 per month when the requested Winter Storm Uri Recovery Rate is applied to their bill. Please refer to **Schedule GMR-3** for the residential bill impact analysis.

Q. Does this conclude your Direct Testimony?

A. Yes.

AFFIDAVIT OF GEOFFREY M. RUSH

STATE OF MISSOURI)
) ss
COUNTY OF JASPER)

On the 23 day of November, 2022, before me appeared Geoffrey M. Rush, to me personally known, who, being by me first duly sworn, states that he is Director of Regulatory Affairs of The Empire District Electric Company – Liberty Utilities Central and acknowledges that he has read the above and foregoing document and believes that the statements therein are true and correct to the best of his information, knowledge and belief.

Geoffrey M. Rush

Subscribed and sworn to before me this 23 day of November, 2022.

Hope E Overfelt
Notary Public

My commission expires: 11/24/22.

HOPE E OVERFELT
Notary Public – Notary Seal
STATE OF MISSOURI
Jasper County
My Commission Expires Nov. 24, 2022
Commission #14631693