

**BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA**

APPLICATION OF THE EMPIRE DISTRICT )  
ELECTRIC COMPANY, A KANSAS )  
CORPORATION, FOR AN ADJUSTMENT IN ITS )  
RATES AND CHARGES FOR ELECTRIC SERVICE )  
IN THE STATE OF OKLAHOMA )

CAUSE NO. PUD 202100163

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**Direct Testimony**

**of**

**Nathaniel W. Hackney**

**Submitted on behalf of**

**The Empire District Electric Company**

**February 28, 2022**



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THE EMPIRE DISTRICT ELECTRIC COMPANY  
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DIRECT TESTIMONY OF NATHANIEL W. HACKNEY  
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1 **I. INTRODUCTION**

2 **Q. Please state your name and business address.**

3 A. My name is Nathaniel W. Hackney, and my business address is 602 S. Joplin Avenue,  
4 Joplin, Missouri, 64801.

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

6 A. I am currently employed by Liberty Utilities Services Corp. (“LUSC” or “Liberty”) as  
7 Analyst III, Reporting and Systems, for the Liberty Central Region, which includes The  
8 Empire District Electric Company (“Liberty-Empire” or “Company”).

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

10 A. I am testifying on behalf of Liberty-Empire.

11 **Q. Please describe your educational and professional background.**

12 A. In 2009, I received a Bachelor of Arts from the University of Minnesota’s Hubbard School  
13 of Journalism and Mass Communication. I began my employment with Liberty-Empire in  
14 2010, and I accepted the promotion to Associate Energy Efficiency Coordinator in 2012.  
15 In 2014, I was promoted to Energy Efficiency Coordinator. In 2018, I was promoted to  
16 Senior Energy Efficiency Coordinator. In 2019, I was promoted to Central Region Senior  
17 Reporting and Systems Analyst. In 2022, I was awarded my current position of Analyst III,  
18 Reporting and Systems. In this job, I interface on behalf of the Company with trade allies,  
19 Community Action Agencies, contractors, implementers, consultants, evaluators,  
20 marketers, regulatory stakeholders, and customers in various matters related to Liberty-

1 Empire’s active portfolios of electric and natural gas energy efficiency programs for  
2 residential, commercial, and industrial customers in Arkansas, Iowa, and Missouri. I  
3 process and approve payment of energy efficiency rebates and lead the regulatory  
4 stakeholder reporting process and stakeholder relations. I represent the Company as an  
5 expert witness in regulatory proceedings on topics related to energy efficiency, including  
6 energy efficiency cost recovery and portfolio development filings. I also assist with the  
7 development of the demand-side analysis for Liberty-Empire’s Integrated Resource Plan  
8 (“IRP”), and with the regulatory functions of solar and net metering, as well as  
9 administration, payment, tracking, and reporting of Liberty-Empire’s Solar Rebate and  
10 various low-income programs in Missouri.

11 **Q. Have you previously testified in a proceeding before the Oklahoma Corporation**  
12 **Commission (“Commission”) or before any other utility regulatory agency?**

13 A. I have not previously testified before this Commission. I have filed testimony with the  
14 Missouri Public Service Commission,<sup>1</sup> the Arkansas Public Service Commission<sup>2</sup> and the  
15 Kansas Corporation Commission.<sup>3</sup>

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

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<sup>1</sup> Case No. ER-2016-0023 (in support of Empire’s Energy Efficiency Programs), Case No. GR-2018-0213 (in support of Liberty’s natural gas energy efficiency programs), Case No. ER-2019-0374 (in support of Empire’s Energy Efficiency, Solar, and low-income programs), and Case No. ER-2021-0312 (in support of Empire’s Energy Efficiency and Low-income programs).

<sup>2</sup> Arkansas Public Service Commission Docket No. 07-076-TF (in support of Empire’s annual Energy Efficiency Cost Recovery Riders for 2019, 2020, 2021, and 2022, and Empire’s Energy Efficiency portfolio designs for 2016-2019 and 2020-2022).

<sup>3</sup> Kansas Corporation Commission Docket No. 13-EPDE-209-TAR (in support of Empire’s Energy Efficiency Rider). Note: Empire’s energy efficiency portfolio in Kansas is no longer active.

1 A. In my Direct Testimony, I will provide a brief history of Liberty-Empire’s energy  
2 efficiency offerings in Oklahoma. I will also express Liberty-Empire’s desire to begin  
3 offering energy efficiency programs again.

4 **II. HISTORY OF LIBERTY-EMPIRE’S OKLAHOMA ENERGY EFFICIENCY**  
5 **OFFERINGS**

6 **Q. Has Liberty-Empire previously offered energy efficiency programs to its customers**  
7 **in Oklahoma?**

8 A. Yes. From 2010-2014, Liberty-Empire offered a portfolio of energy efficiency programs  
9 to its customers in Oklahoma.

10 **Q. What programs did Liberty-Empire offer during this time?**

11 A. Beginning in January 2010, Liberty-Empire offered a Low-Income Weatherization  
12 program, Central Air Conditioner Tune-up and Replacement program, Commercial and  
13 Industrial Prescriptive rebate program, and an Interruptible Program.

14 **Q. When and how did the Company discontinue its energy efficiency programs?**

15 A. On November 21, 2013, the Company filed testimony requesting the removal of its energy  
16 efficiency programs in PUD Cause No. 201300203. This request was granted by Order No.  
17 624718 in that same case, which was filed and effective on May 1, 2014.

18 **Q. Please cite the portion of the rule upon which Liberty-Empire based its request.**

19 A. Energy efficiency programs in Oklahoma are described in Oklahoma Corporation  
20 Commission rule OAC 165:35-41 (“Subchapter 41”). Liberty-Empire sought the  
21 permanent waiver of Subchapter 41 under OAC 165:35-1-3(f), which states:

22 *Whenever compliance with any provision or requirement of this Chapter*  
23 *would be unduly burdensome, or cause an unreasonable hardship or an*  
24 *excessive expense, or result in an unusual difficulty, or for other good cause*  
25 *shown the Commission may, upon application of the utility or the consumer*

1                    *and after notice and hearing, suspend or excuse compliance therewith or*  
2                    *make such other requirements as it shall deem appropriate.*

3    **III.    LIBERTY-EMPIRE’S CURRENT POSITION ON ENERGY EFFICIENCY**

4    **Q.    Please describe Liberty-Empire’s current energy efficiency offerings.**

5    A.    Since 2007, Liberty-Empire has continued to offer energy efficiency programs to its  
6            electric customers in Missouri and Arkansas. Its commitment to energy efficiency has  
7            increased significantly in that time period. Liberty-Empire was also acquired by Liberty  
8            Utilities Co. in January 2017. Since the acquisition, Liberty-Empire’s energy efficiency  
9            programs have received further support from Liberty in the form of institutional  
10           knowledge, resources, and infrastructure, which it has developed and acquired through  
11           offering energy efficiency programs all across the United States. Liberty-Empire has  
12           significantly increased its commitment to energy efficiency since its acquisition by Liberty  
13           Utilities Co.

14   **Q.    Does Liberty-Empire have interest in beginning to administer programs to its**  
15       **customers in Oklahoma again?**

16   A.    Provided that it could work with regulatory stakeholders to agree upon parameters that  
17            would no longer be “unduly burdensome” to its customers, Liberty-Empire believes its  
18            customers would benefit greatly from the re-introduction of energy efficiency programs.

19   **Q.    How would energy efficiency programs benefit Liberty-Empire customers?**

20   A.    A moderately-sized portfolio of energy efficiency programs would benefit Liberty-Empire  
21            customers in several ways, the most obvious of which would be the benefits to participants  
22            of the programs. Energy efficiency programs are designed to lower the energy bills of  
23            customers with severely inefficient homes. This improves not only the comfort, but the

1 safety of the homes in which it is implemented. Further, by lowering their energy bills, it  
2 allows participants to make their way out of a cycle of bill arrearages, and potentially, the  
3 cycle of poverty.

4 **Q. How do energy efficiency programs benefit non-participants?**

5 A. By targeting some of the most inefficient homes, energy efficiency programs benefit non-  
6 participants by lowering the overall energy usage of the system. The usage reduced by most  
7 energy efficiency programs also has a high coincidence to peak periods, when energy usage  
8 is more costly to the Company. These types of programs are also designed reduce the  
9 overall arrearages and past due bills. Reducing arrearages and past due balances benefits  
10 all customers, participants and non-participants.

11 **Q. Does Liberty-Empire believe this could be reasonably be done?**

12 A. Yes, but with some qualifications.

13 **Q. Please elaborate.**

14 A In 2014, the small size and demographic challenges of Liberty-Empire’s Oklahoma  
15 customer base were the primary factors that made full compliance with Subchapter 41  
16 “unduly burdensome”. These challenges still remain. However, the current version of  
17 Subchapter 41 rule seems to acknowledge at least the challenges with small customer  
18 bases, as it states in section OAC 165:35-41-4(a):

19 *All electric utilities under rate regulation of the Commission having more*  
20 *than 10,000 meters in the state of Oklahoma shall propose, at least once every*  
21 *three years, and be responsible for the administration and implementation of*  
22 *a Demand Portfolio of Demand Programs within their service territories.*  
23 *Such proposals shall be made by filing an application with the Commission*  
24 *on or before July 1 prior to the year the programs will be effective.*

25  
26 **Q. Does Liberty-Empire have fewer than 10,000 customers in Oklahoma at the time of**  
27 **this rate case filing?**

1 A. Yes, it does.

2 **Q. How can this help Liberty-Empire successfully deliver energy efficiency programs to**  
3 **its Oklahoma customers?**

4 A. Because Liberty-Empire has fewer than 10,000 customers in Oklahoma, this portion of  
5 Subchapter 41 can be interpreted to mean it no longer needs the permanent waiver under  
6 OAC 165:35-1-3(f), as granted by Order No. 624718. As an electric utility with fewer than  
7 10,000 meters, Liberty-Empire believes OAC 165:35-31-4(a) can grant it exemptions it  
8 would need from portions of Subchapter 41 that it can, in good faith, see compliance as  
9 potentially burdensome.

10 **Q. Is Liberty-Empire willing to work with regulatory stakeholders in Oklahoma to**  
11 **determine which specific sections of Subchapter 41 would be unduly burdensome to**  
12 **it?**

13 A. Yes, these specific exemptions could be itemized, with input from Stakeholders, as part of  
14 a three-year portfolio application, as described in Subchapter 41.

15 **Q. Does Liberty-Empire plan to offer different programs than those which it expressed,**  
16 **for various reasons, were not a success in 2010-2013?**

17 A. Liberty-Empire would aim to ensure the design of a hypothetical portfolio that would be  
18 better set up for success. To do so, it would leverage:

- 19 • The institutional knowledge of Liberty,
- 20 • The lessons learned from delivering programs in other jurisdictions—some of  
21 which are similarly-sized and challenged—since 2014,
- 22 • The input of regulatory stakeholders,
- 23 • Lessons learned from delivery in 2010-2013, and



1                   • The input of demand-side consultants.

2 **IV. CONCLUSION**

3 **Q. Does this conclude your direct testimony?**

4 **A. Yes.**

**CERTIFICATION**

The undersigned, Nathaniel Hackney, deposes and states that he is an Analyst III, Reporting and Systems, that he has personal knowledge of the matters set forth in the foregoing responses and the information contained therein is true and accurate to the best of his information, knowledge and belief after reasonable inquiry.

*/s/ Nathaniel W. Hackney* \_\_\_\_\_

Nathaniel W. Hackney