

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Establishment of a Working Case)
Regarding FERC Order 2222 Regarding Participation of)
Distributed Energy Resource Aggregators in Markets Operated by) Case No. EW-2021-0267
Regional Transmission Organizations and)
Independent Systems Operators)

LIBERTY’S RESPONSE TO COMMISSION ORDER

COMES NOW The Empire District Electric Company d/b/a Liberty, and for its Response to Commission Order regarding the prohibition on the operation of aggregators of retail customers (“ARCs”) in Missouri, respectfully states as follows to the Missouri Public Service Commission (“Commission”):

1. With its *Order Temporarily Prohibiting the Operation of Aggregators of Retail Customers* issued March 31, 2010, in Commission Case No. EW-2010-0187, the Commission directed that “(d)emand response load reductions of customers of the four Missouri electric utilities regulated by the Commission are prohibited from being transferred to ISO or RTO markets directly by retail customers or third party ARCs.” This directive remains in place.

2. On September 17, 2020, the Federal Energy Regulatory Commission (“FERC”) issued Order 2222. In that Order, FERC addressed the participation of distributed energy resources aggregations in Regional Transmission Organization (“RTO”) / Independent System Operator (“ISO”) markets.

3. On February 24, 2021, the Commission issued its *Order Opening a Working Case to Consider the Commission’s Response to FERC Order 2222* herein.

4. At this time, Liberty is responding to the Commission’s *Order Regarding Opportunity for Additional Comments, Order Scheduling Workshop, and Notice of LBNL Report* issued herein May 24, 2023. In that order, the Commission stated that in light of the “ongoing developments regarding

ARCs described in the LBNL Report, the Commission will continue to evaluate modification of its 2010 temporary prohibition on ARCs as applied to commercial and industrial customers” and provided stakeholders with the opportunity to respond to questions within five categories.

5. Liberty appreciates the opportunity to participate in these discussions and submit comments. Liberty believes that further dialogue and input from utilities is critical to ensure creation of the most effective framework for the participation of ARCs, protection of the interests of all stakeholders and utility customers (ratepayers), and preservation of the safety and reliability of the distribution grid.

6. There are numerous, complex challenges surrounding the participation of ARCs in RTO and ISO markets. These challenges must be addressed and a detailed framework put in place before the Commission modifies the prohibition on ARCs that it implemented in 2010. Liberty’s responses to specific questions posed by the Commission are below.

A. Size Limitations for Demand Response (DR) Eligibility

(3) Should these size limits apply to a single location, or should a single customer be permitted to aggregate multiple locations to meet the threshold?

Liberty’s Response: size limits should apply to single p-nodes, which is consistent with the Southwest Power Pool (“SPP”) Open Access Transmission Tariff (“OATT”).

(5) Should there be a maximum aggregated size limit?

Liberty’s Response: the Commission should consider the repercussions associated with no aggregated size limits and how that relates to the communication protocols that need to be established and the visibility, if any, of the host utility into aggregated DR. Significant size could result in serious consequences relating to the reliability and safety of the distribution system. Prescriptive criteria around the utilization impacts of various sizes when compared to the existing infrastructure to be utilized should be considered. Brightline criteria may not be applicable to disparate systems (e.g., urban v. rural, industrial v. residential), and considerations should be included in the evaluation of aggregate impacts.

C. Double Counting/Dual Participation

(1) Should the Commission clarify whether a C&I customer can participate only in the wholesale market or only in the retail market? How should this clarification be made?

Liberty's Response: Yes. It is critical that the Commission prevent double-counting and double-compensation constructs. Due to the lack of an existing regulatory framework, it is reasonable to restrict participation to either a wholesale market or a retail market to mitigate the potential for double counting. Allowance of dual participation prior to having a robust regulatory framework in place could result in unintended consequences, such as the undermining of retail programs approved by the Commission. In not addressing this issue (along with other interplay issues), the frequency and magnitude of conflicts will greatly increase, simply from the different vantages of the parties involved.

Outside the financial arenas of dual participation, the intrinsic impacts on system reliability from such dual participation should not go unnoticed. The inability to deterministically identify a resource's attributed capacity lends towards compromising the reliable operation of the local and regional systems. Depending on the magnitude of participation, paired with the inability to allocate resource capacity, will have detrimental impacts during a wide range of operational conditions (i.e., winter weather events, high summer demand, resource dispatch under high congestion, resource maintenance windows). Delineated participation will need to be established before resources of this type can reliably participate on the systems of interest, both regional and local.

(2) If dual participation in the wholesale and retail markets for different services is allowed, how would improper double counting be identified and avoided?

Liberty's Response: As mentioned above, double counting could only be avoided with a significant and clear regulatory framework that accounts for the various services provided and proper communication between utility and RTO, while accommodating the regulatory framework being put in place in SPP and MISO. One aspect which has yet to be addressed is the gross magnitude allowed to participate on a given distribution system. The utilization impacts of such resources on a distribution system would not be uniform, due to the innate operational constraints existing on present infrastructure. Operation of resources, while lacking prescriptive participation boundaries, would result in negative reliability impacts, which would be further magnified under extreme load conditions.

Without participatory guardrails established, the identification and avoidance of double counting would be consequential. The administrative burden on the RTO, the utility, the Commission, and the ARCs will be beyond present capabilities and will lack subsequent conflict resolution framework. There are presently no commonalities around data retention nor reporting requirements, so identifying instances of double counting are left wanting at present. The operational and reporting constructs should be put in place to identify areas of double counting and bring ready resolution to subsequent conflicts in the operation of these resources.

(3) What specific internal processes and procedures would utilities need to implement to address double counting under the requirements and procedures imposed by MISO or SPP?

Liberty's Response: As SPP is still working through compliance filings with stakeholders at FERC, it is premature to provide a comprehensive list of processes and procedures needed to specifically mitigate concerns regarding double counting. Further, and as stated in this Commission's comments on June 9, 2022, in FERC docket ER22-1697, "challenges will inevitably arise along the way," and clearly-defined and collaborative effort will be required.

Liberty looks forward to future participation in workshops to ensure stakeholders' concerns are discussed, and processes and procedures would likely be developed as a result of the collaborative framework that results from those discussions. The above concerns are by no means an exhaustive list but rather initial concerns for consideration. As the necessary framework is developed at the different strata (federal, RTO, and state), other impacts and concerns will become evident in the implementation and utilization of these resources.

E. Regulatory Gaps: If the Commission modifies its opt-out to permit third-party demand response for C&I customers, what regulatory gaps, if any, exist under MISO and SPP rules governing demand response?

Liberty's Response: It is premature to determine whether the current framework that SPP has provided to FERC and is being commented on in FERC docket ER22-1697 will be the final resulting framework. As noted above, the ambiguity around double counting/participation has introduced several attributes yet to be addressed within the respective arenas, and additional refinement of the framework will need to be established to further define participation of such resources, the reliable operation of existing infrastructure to facilitate participation, and the interactions between the RTO and state expectations.

WHEREFORE, The Empire District Electric Company d/b/a Liberty respectfully submits this Response to Commission Order and requests such relief as is just and proper under the circumstances.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that the above document was filed in EFIS on this 22nd day of June, 2023, with notice of the same sent to all counsel of record.

/s/ Diana C. Carter