

5. On February 16, 2023, the Commission issued its Order Directing Filing wherein it ordered Liberty and New-Mac to respond on or before March 20, 2023, to the Application filed by Mr. Lindsay.

6. Mr. Lindsay's residential home, campground, and rental home are not within an area subject to an existing Territorial Agreement between New-Mac and Liberty.

7. RSMo. §393.106, commonly referred to as Missouri's anti-flop law, governs the Application. This statute provides, in part, that "(o)nce an electrical corporation or joint municipal utility commission, or its predecessor in interest, lawfully commences supplying retain electric energy to a structure through permanent service facilities, it shall have the right to continue serving such structure, and other suppliers of electrical energy shall not have the right to provide service to the structure..."

8. Applicant's campground and rental properties are currently served by Liberty, and any change of supplier entertained by the Commission must center on a public interest determination.

9. On information and belief, Liberty has adequately met the customer's power needs in terms of amount and quality. Since April of 2020, Liberty has only received one call from Mr. Lindsay's accounts regarding an outage. Ultimately, that outage was due to a transformer being struck by lightning during a storm. Liberty is not aware of any power surge issues at these locations.

10. A change in supplier would lead to unnecessary expense and duplication of services and facilities. Further, when Liberty loses a customer, its remaining customers are negatively impacted, because Liberty's total cost to provide electric service to the public is shared by all customers. As previously noted by the Commission, a primary policy reason for the anti-flip flop law is to provide assurance to electric utilities like Liberty that if they spend money to build facilities to provide service to a customer, they will be able to keep that customer absent a compelling reason to allow a change.

11. Given the foregoing, a change in electric power supplier in this case is not in the public interest and such request is not supported by Missouri law.

WHEREFORE, Liberty respectfully requests that the Commission adhere to existing precedent and statutory law in this cause and issue an order denying Mr. Lindsay's Application. Liberty seeks such additional relief as is just and proper under the circumstances.

Respectfully submitted,

/s/ Diana C. Carter

Diana C. Carter MBE #50527

The Empire District Electric Company d/b/a Liberty

428 E. Capitol Ave., Suite 303

Jefferson City, Missouri 65101

Joplin Office Phone: (417) 626-5976

Cell Phone: (573) 289-1961

E-Mail: Diana.Carter@LibertyUtilities.com

CERTIFICATE OF SERVICE

I hereby certify that the above document was filed in EFIS on this 20th day of March, 2023, with notification of the same being sent to all counsel of record. This pleading was also sent by electronic mail or U.S. Mail to all parties/counsel of record.

/s/ Diana C. Carter