

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

In the Matter of The Empire District Electric)
Company’s Application for Approval of a)
Transportation Electrification Portfolio for) Case No. ET-2020-0390
Electric Customers in its Missouri Service Area)

**JOINT RESPONSE OF STIPULATION SIGNATORIES
TO ORDER DIRECTING FILING**

On December 3, 2021, The Empire District Electric Company (“Liberty” or the “Company”), the Staff of the Missouri Public Service Commission (“Staff”), the Office of the Public Counsel (“OPC”), the Missouri Propane Gas Association (“MPGA”), and Renew Missouri Advocates d/b/a Renew Missouri (“Renew Missouri”) (collectively, the “Signatories”), filed a Global Stipulation and Agreement (“Stipulation”) in this docket, which proposes and seeks Commission authorization for Liberty to establish and run a proposed Transportation Electrification Pilot Program (“TEPP” or the “Program”).

On January 7, 2022, the Commission issued an *Order Directing Response* posing questions to the Signatories relating to certain legal and regulatory issues in the Stipulation. Liberty, on behalf of all Signatories, presents this Joint Response of Stipulation Signatories to Order Directing Filing and respectfully respond as follows, in the order of the questions posed by the Commission.¹

¹ The following are also parties to this proceeding: the Midwest Energy Consumers Group; Charge Point, Inc.; and Union Electric Company d/b/a Ameren Missouri. Although not Signatories to the Stipulation, none objected to the Stipulation, and each has stated that it does not oppose the responses provided in this Joint Response of Stipulation Signatories.

QUESTION 1

What is the good cause for granting the variance from Commission Rule 20 CSR 4240-14.030(1), (2), and (3)?

RESPONSE:

The cited rule addresses promotional practices. The Commission’s rules in this area are designed "to deter destructive and counterproductive utility practices." *I/M/O Union Electric Company's Tariff Filing to Implement an Experimental Residential New Construction Pilot Program*, Case No. ET-95-209, 995 Mo. PSC LEXIS 52, p.6, 4 Mo. P.S.C. 3d 176 (1995). The Signatories do not foresee any such practices relating to the TEPP and request a variance only for subparts 2 and 3 “to the extent required.”²

While it is not part of the variance request, the Signatories note that Subpart 1 of the rule, 20 CSR 4240-14.030(1), requires that:

All promotional practices of a public utility or its affiliate shall be just and reasonable, reasonable as a business practice, economically feasible and compensatory and reasonably calculated to benefit both the utility and its customers.

The Signatories assert that the rates, terms, conditions of service and business practices provided for in the Stipulation are “just and reasonable, reasonable as a business practice, economically feasible and compensatory and reasonably calculated to benefit both the utility and its customers.” This was and is important to the Signatories agreement to and advocacy of the Stipulation in resolution of this case. The Signatories further submit that the Stipulation does not involve “destructive” or “counterproductive” practices.

Response for Subpart 2 - Commission Rule 20 CSR 4240-14.030(2)

Subpart 2 of the rule states:

² Stipulation, Section 9(b), p. 28.

No public utility or its affiliate, directly or indirectly, in any manner or by any device whatsoever, shall offer or grant to any person any form of promotional practice except as is uniformly and contemporaneously extended to all persons in a reasonable defined class. No public utility or its affiliate, in the granting of a promotional practice, shall make, offer or grant any undue or unreasonable preference or advantage to any person or subject any person to any undue or unreasonable prejudice or disadvantage. No public utility or its affiliate shall establish or maintain any unreasonable difference in the offering or granting of promotional practices either as between localities or as between classes to whom promotional practices are offered or granted.

The Stipulation provides for and implements the TEPP, a pilot program of limited term, with specified caps for capital and operating costs, along with provisions for program participation including incentives. The TEPP will inform future program design including rate design and potential expansion on a wider-scale basis, as well as best utility practices, not only for the Company but for other utilities in the state of Missouri. By its nature, the TEPP mitigates adverse risks to both the Company and its customers from imprudently incurred costs or stranded assets should the program not prove successful. Thus, to the extent that any differences in preference or disadvantage arise from the TEPP, such differences are not unreasonable considering the mitigative nature of the TEPP and the information gained and lessons learned by implementing this pilot program. Boiled down, waiver of subpart (2) for this pilot program will provide substantial benefits to the Company and its customers

The end result is that some customers may be treated differently. This is neither “destructive” nor “counterproductive.” Instead, the end result is reasonable and in the public interest, for the reasons stated above. Thus, there is good cause for a waiver from subpart 2, to the extend one is needed.

Response for Subpart 3 - Commission Rule 20 CSR 4240-14.030(3)

Subpart (3) provides as follows:

The promotional practices of a public utility or affiliate shall not vary the rates, charges and rules of the tariff pursuant to which service is rendered to a customer. No new promotional practice which has not been previously filed with the commission shall be made or offered unless first filed on a tariff with the commission.

The tariff attached to the Stipulation establishes riders and rates applicable to certain program participants, as applicable, which sunset by their terms, to existing residential and commercial tariff classes for participation in the available and applicable subprograms of the TEPP. The tariff riders establish rates charged and incentives paid to the Company's customers that are eligible and elect to participate in the TEPP on an equal and transparent basis. To enable this transition and limit its effect on the aggregate consumption levels and associated Level-Up provisions, the Signatories agree that, subject to the Commission's approval, Liberty may charge the amounts specified in the Appendix F2 Tariff Schedule (as applicable) on its existing public charging stations to EV end users on an interim basis – ahead of the associated tariff schedule coming into force. Once again, the Signatories maintain that a waiver of this rule is appropriate and warranted for the TEPP.

For these reasons, as well as the reasons set forth above regarding subpart 2, there is good cause for the Commission to provide a variance from 20CSR 4240-14.030(3), to the extent needed.

QUESTION 2 & 3

2. *What is the reason that the parties agree that the EV charging equipment is not metering equipment?*

3. *The Agreement requests an exemption from any billing or metering related rules. What billing and metering rules are parties concerned they might need an exemption from?*

RESPONSE:

The Signatories request that the Commission exempt, to the extent required, the EV charging equipment deployed during the TEPP from the Commission's billing and metering

related rules and from the general rules and regulations of the Company's tariff. Instead, the Signatories ask the Commission to approve tariff provisions attached to the Stipulation for billing and metering practices during the term of the TEPP.³

The reason for the exemption request is straightforward. The Stipulation provides that the Company may rely on the consumption measurement equipment embedded within the Charging Equipment to measure the volume of electricity that TEPP participants consume through their EV charging stations.⁴ One of the key objectives of the TEPP is to evaluate the accuracy of measurement within chargers and data flow integrity of such equipment embedded within the charging station and the associated operations, including wi-fi connectivity.⁵ A randomly sampled installation of calibrated AMI meters will be used to test the accuracy of the embedded meters, and persistent deviations will be addressed, including correcting participant bills if warranted during the term of the TEPP.⁶

The Signatories view the embedded metering equipment as a submeter, situated behind the Company's revenue meter, and used to measure that portion of a customer's usage through the EV charger.⁷ There will be an AMI meter upstream of each charger measurement device, which will provide traditional measurement of total usage. Additional AMI meters will at times be deployed on a limited sampling type basis to check the measurement equipment in the charging equipment.⁸ As such, the Signatories seek a determination that submetering the customer's consumption through the EV charger for billing purposes during the TEPP is lawful and will not contravene any Commission regulations or judicial decisions.

³ Stipulation, Section 9(c), p. 28.

⁴ Stipulation, Section 4(d), p. 6.

⁵ Stipulation, Appendix B, pp. 6,7.

⁶ *Id.*

⁷ *Id.*

⁸ Stipulation, Appendix B, p. 6.

The exemption request is intended to provide authority for the Company's submetered measurement of usage by the EV charging equipment and the billing calculations based thereon pursuant to the terms of the Stipulation and TEPP tariff riders, rather than contravening rules of the Commission and the Company's tariff rules and regulations governing meter quality standards, and billing and payment standards. While not specifically identified by the Stipulation, the primary rules addressing this area are 20 CSR 4240-10.030 (Standards of Quality); and 20 CSR 4240-13.020 (Billing and Payment Standards).

The Signatories further note that the Commission has broad authority to provide necessary protections to the public. All utility charges are required to be just and reasonable in all circumstances. §393.130 RSMo. Electric utilities must furnish and provide service safely and in a manner that is "in all respects just and reasonable." *Id.* The TEPP will comply with these statutory requirements and of course be subject to the Commission's continuing oversight. Thus, broad Commission oversight and consumer protections remain with the requested limited ruling.

QUESTION 4

The parties agree that the equipment provided under the pilot program is not included in construction allowances under tariff sheet 17b. What is the reason this equipment should not be included therein?

The Signatories request a Commission finding on this issue to make application of the tariffs clear for all stakeholders. Appendices A1 through A5 of the Stipulation set forth the Company's tariff riders containing the rules and regulations for the installation of EV charging equipment during the TEPP. Each subprogram provides for a construction cost estimate ("CCE"), which is non-refundable except for true up to actual cost, for customer-side cost responsibility for the installation of the EV charging equipment deployed under the TEPP. Tariff Sheet 17b specifies the extent of residential service line extension and related equipment included in the calculation of

the Construction Allowance, which is refundable to residential developers.⁹ The proposed tariffs for the TEPP make it clear to residential developers (and anyone else) that the TEPP participant's cost responsibility for EV charging equipment will not be included in the calculation of the refundable Construction Allowance.

QUESTION 5

The parties request the Commission find that it is lawful for the EV infrastructure to be included as a subset of a bill for electric service. Why is this a concern? What laws/rules are involved? Does approval of the pilot program satisfy this request?

As discussed in the response to Questions 2 and 3 above, the EV charging equipment contains embedded consumption measurement components that will stream consumption data to the Company, i.e., behind the participant customer's revenue meter installed and maintained per Commission regulation and Company tariff. The customer's consumption through the EV charging equipment will be a separately identified component (i.e., subset) of the customer's monthly electric bill, based on the billing determinants set forth the TEPP tariff riders. Thus, for the reasons stated above in response to Questions 2 and 3, the Signatories seek a determination that submetering the customer's consumption through the EV charging equipment for billing purposes during the TEPP is lawful and will not contravene any Commission regulations or judicial decisions.

QUESTION 6

The Agreement requests the Commission find use of Company-owned Charging Equipment is lawful for purposes of submetering pursuant to all applicable law/rules. Why is this a concern? What laws/rules are involved? Does approval of the pilot program satisfy this request?

⁹ Tariff Sheet 17b states, "As a Construction Allowance for residential subdivisions, the Company will calculate at the beginning of each calendar year the value of 225 feet of overhead single phase primary conductor, one (1) forty foot wood pole and necessary fixtures, one (1) down guy and an anchor, one (1) fifteen (15) KVA transformer, transformer ground rod, one hundred (100) feet of overhead service conductor and related connectors, and one (1) two hundred (200) amp meter."

Please see the responses to Questions 2, 3 and 5.

Respectfully submitted,
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CERTIFICATE OF SERVICE

I hereby certify that the above document was filed in EFIS on this 13th day of January, 2022, with a copy sent to all counsel of record.

/s/ Diana C. Carter