

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

In the Matter of the Petition of The Empire District )  
Electric Company d/b/a Liberty to Obtain a )  
Financing Order that Authorizes the Issuance of ) Case No. EO-2022-0040  
Securitized Utility Tariff Bonds for )  
Qualified Extraordinary Costs )

In the Matter of the Petition of The Empire District )  
Electric Company d/b/a Liberty to Obtain a )  
Financing Order that Authorizes the Issuance of ) Case No. EO-2022-0193  
Securitized Utility Tariff Bonds for Energy )  
Transition Costs Related to the Asbury Plant )

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**INITIAL BRIEF OF MIDWEST ENERGY CONSUMERS GROUP**

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July 13, 2022

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COMES NOW, the Midwest Energy Consumers Group, (“MECG”) and submits its *Initial Brief*:

**Introduction**

Competitive industrial rates are important for *all* of Liberty-Empire’s (Liberty) customers.

In a prior Liberty-Empire rate case Order the Commission explained:

Competitive industrial rates are important for the retention and expansion of industries within Empire’s service area. If businesses leave Empire’s service area, Empire’s remaining customers bear the burden of covering the utility’s fixed costs with a smaller amount of billing determinants. This may result in increased rates for all of Empire’s remaining customers.<sup>1</sup>

This April, in Liberty’s most recent rate case, the Commission found that the “average industrial rate is in excess of 22 percent higher than the state, regional and national averages.”<sup>2</sup> The Commission recognized that the Class Cost of Service Studies in that case supported a higher rate increase for residential customers since the rates for that class recover less than the cost of service.<sup>3</sup>

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<sup>1</sup> Report and Order, Case No. ER-2014-0351, *iss’d* June 24, 2015, p. 18.

<sup>2</sup> Report and Order, Case No. ER-2021-0312, *iss’d* April 6, 2022, p. 13; Ex. 301.

<sup>3</sup> *Id.* at 12; Ex. 301.

Those costs are then borne by other customer classes, resulting in a subsidy paid by commercial and industrial customers.

The Commission also noted that in Empire's 2014 and 2016 rate cases it took steps to realign class rates to reflect cost of service more closely but that in File No. ER-2019-0374, the Commission applied the rate adjustment equally across the classes.<sup>4</sup> In its Order this April, the Commission chose to preserve the subsidy and applied the increase on an equal percentage basis.

At the core of this securitization case are two issues: 1) what amount(s) should the Commission authorize Liberty to finance and 2) how should that amount be recovered from customers. MCEG supports the approval of securitized utility tariff bonds only to the extent that there are quantifiable present value benefits of securitizing the costs compared to traditional ratemaking. For Storm Uri costs, Staff, OPC, and Liberty have all quantified some level of cost that should be recovered. For Asbury, Staff and the Company quantified a cost to be recovered but OPC determined a credit is due to customers.

No matter the quantification the Commission chooses, customers will see an increase on their bills. To avoid needlessly making Liberty's commercial and industrial rates less competitive, the Commission should order any securitized costs to be allocated among retail customer classes using the method as proposed in the Company's direct testimony.

**Issue 8: How should securitized utility tariff charges be initially allocated among retail customer classes?**

The securitized costs should be allocated among retail customer classes as proposed in the Company's direct testimony.<sup>5</sup> This method is consistent with the provisions of the securitization

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<sup>4</sup> *Id.* at 12.

<sup>5</sup> Ex. 7, p. 22-23 (Emery Direct); Ex. 6, p. 12-13 (Hall Direct).

statute that discusses allocation among retail customer classes.<sup>6</sup> The enabling securitization statute states at Section 393.1700.2(3)(c)h, RSMo.:

A financing order issued by the commission, after a hearing, to an electrical corporation shall include all of the following elements:

...

h. How securitized utility tariff charges will be allocated among retail customer classes. The initial allocation shall remain in effect until the electrical corporation completes a general rate proceeding, and once the commission's order from that general rate proceeding becomes final, all subsequent applications of an adjustment mechanism regarding securitized utility tariff charges shall incorporate changes in the allocation of costs to customers as detailed in the commission's order from the electrical corporation's most recent general rate proceeding;<sup>7</sup>

To comply with this provision, Liberty's testimony in these cases asked that the Commission allocate the revenue requirement to each of the Company's rate classes based on the updated results of the Class Cost of Service ("CCOS") study presented in Liberty's recent rate case (ER-2021-0312).<sup>8</sup> Specifically the company calculated the percentage of the Company's total distribution revenue requirement that would be contributed by each of Liberty's rate classes and used the result to determine how much of the cost of the securitization bonds should be recovered from each class.<sup>9</sup> Using this method is consistent with the statutory mandate to allocate any costs among retail customer classes.<sup>10</sup> Treating these costs within each class minimizes the risk of further subsidization by customers in one class of customers in other classes.

In contrast, Staff's proposed cost recovery method mimics the fuel adjustment clause ("FAC") and applies the same energy (kWh) charge to all customers, adjusted only for losses. This approach socializes the entire amount without regard to cost of service or cost causation. Every

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<sup>6</sup> Section 393.1700.2(3)(c)h, RSMo.

<sup>7</sup> *Id.*

<sup>8</sup> Ex. 7, p. 22.

<sup>9</sup> Ex. 6, p. 13; Ex. 7, p. 23.

<sup>10</sup> Section 393.1700.2(3)(c)h, RSMo.

customer is treated as the same customer class with the same rate. The Commission should reject that approach because it knows, as it found in Liberty’s recent rate case, that “different classes have different costs of service.”<sup>11</sup> Despite Staff Witnesses refusal to acknowledge or calculate the impact of their recommended recovery method - there is no doubt Large Power class customers would pay more with Staff’s proposal than under the company’s allocation.<sup>12</sup> Treating these securitized charges as Staff proposes – like an FAC charge – is not what the statute says to do, it’s not based on cost to provide service, and it is a design that is detrimental to industrial customers. The Commission should reject Staff’s proposed cost recovery mechanism.

### **Conclusion**

If the Commission authorizes Liberty to issue securitized utility tariff bonds it should direct Liberty to allocate the amount among the customer classes with a rate for each class based on cost of service principles.

WHEREFORE, MECG submits its *Initial Brief*

Respectfully,

**/s/ Tim Opitz**

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### **Certificate of Service**

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all counsel of record this 13<sup>th</sup> day of July 2022:

**/s/ Tim Opitz**

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<sup>11</sup> Ex. 301, p. 11; Report and Order, Case No. ER-2021-0312, *iss'd* April 6, 2022, p. 11

<sup>12</sup> Tr. Vol. 3, p. 268. Witness Lange stating: “In general, the Empire approach would initially recover less from – for example, the large power classes.”

