

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

In the Matter of the 2022 RES)
Compliance Report and 2023 RES)
Compliance Plan of The Empire) Case No. EO-2023-0358
District Electric Company d/b/a)
Liberty)

**Office of the Public Counsel’s Comments on Liberty’s Renewable Energy
Standard Compliance Report and Plan**

COMES NOW the Office of the Public Counsel (“OPC”) and for its Comments on Liberty’s Renewable Energy Standard (“RES”) Report (“Report”) and Plan (“Plan”),¹ submits the attached Memorandum from Ms. Lena Mantle, P.E., outlining several concerns with Liberty’s Filings, and further states as follows:

RES Filings should be clear, comprehensive, and uncomplicated. Utilities must submit these Filings to the Public Service Commission (“PSC” or “Commission”) so that the OPC, the PSC’s staff (“Staff”), and the public can ensure the utilities are following the wishes of Missouri voters. The renewable energy standard was created through a voter initiative in 2008,² so voters should be able to read and understand the Filings. However, The Empire District Electric Company’s (“Liberty’s” or “Company’s”) Filings make it difficult to comprehend fully and require a lot of outside information for a full picture.

As stated in Lena Mantle’s memo, Liberty’s Report lacks information, causing it to be misleading. The issue is not merely that Liberty is not providing enough

¹ Referred to together as “Filings”

² Prop. C, 2008 Mo. Stat. (codified as Section 393.1030 RSMo (Nov. 4, 2008)), <https://www.sos.mo.gov/elections/2008ballot> (emphasis added).

information regarding its renewable resources. The issue is the *nature* of the information Liberty is withholding and the *effect* that withholding this information has on customers' and regulators' understanding of the Filings. As written, Liberty's customers receive one (1) to two (2) years more economic benefits from the three (3) new wind farms than actually occurred. Further, Liberty, and—thus—its customers, received twenty percent (20%) more *retail* sales from the Meridian Way wind farm than were actually available, due to the Missouri Joint Municipal Electric Utility Commission contract.

Ms. Mantle further addressed her concern around allowing Liberty to claim Kings Point and North Fork Ridge were required to meet RES awards the Company for poor REC management. Further, this false claim hurts future customers. The Company has admitted to the OPC that these facilities were *not necessary* to meet RES. However, the Company also stated that these facilities were still used for that purpose. If the Company were to categorize this unnecessary use of these facilities as a RES benefit in a future proceeding, it gives the Company a permission structure to burden consumers with future costs. Therefore, an accurate Report would not characterize Liberty's use of these facilities for RES as "necessary," and their use here should not be considered a "benefit" for future proceedings.

The final concern regarding Liberty's Filings is that the Company had to submit them three (3) times, with a great deal of assistance from Staff (and some from the OPC). Moreover, the OPC is still questioning the nature and content of the Company's final Report and Plan. Liberty, a subsidiary of Algonquin Power Utilities

Corporation,³ has an estimated annual revenue of \$1.5 million.⁴ This utility has approximately 273,000 customer connections across six (6) states⁵ that are residential, commercial, and industrial.⁶ It should not have taken three sets of Filings to provide this level of information.

The OPC empathizes with the Liberty employee who took on this task and did attempt to submit Filings commensurate with the Commission's RES statute and regulation(s). However, a public utility company that represents one third of the electric corporations in the state of Missouri must have a process and procedure to ensure that all employees are able to complete their assigned tasks sufficiently, without such excessive guidance from the regulatory body. The OPC is aware that the employee that was putting together Liberty's RES Filings had not done so previously, the Company should have prepared their employee to conduct this annual regulatory requirement. Neither the OPC nor Staff should be walking the utility on how to make a RES filing. That is not, nor should it be, our role.

Conclusion

Ms. Mantle's memo does state the OPC believes that Liberty does meet RES. However, finding that Liberty meets RES *does not mean* that Liberty's Filings meet RES requirements. The Filings are confusing, misleading, and contradictory. To

³ Liberty Utilities About Us, <https://libertyutilities.com/about.html> (last visited Aug. 17, 2023).

⁴ Zippia, Liberty Utilities Revenue is \$1.5 Million, <https://www.zippia.com/liberty-utilities-careers-811298/revenue/> (Aug. 1, 2023).

⁵ Arkansas, California, Kansas, Missouri, New Hampshire, and Oklahoma.

⁶ Liberty Utilities What We Do, <https://libertyutilities.com/what-we-do/electricity.html> (last visited Aug. 17, 2023).

fully understand the Company's Report and Plan, interested parties must look at extraneous information, be it from data request or past cases. Liberty amended and resubmitted their RES Filings two (2) times, over the course of almost four (4) months, with countless meetings with Staff, and one (1) meeting with Staff and the OPC. Despite this extensive lenience, the OPC still has concerns about the Filings clarity and precision. Further, the OPC is deeply concerned with Liberty's management of RECs, especially in conjunction with and relation to outside cases.

WHEREFORE, the Office of the Public Counsel respectfully requests that the Commission note the above comments and concerns, as well as take any further action that the Commission sees fit.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the forgoing have been mailed, emailed, or hand-delivered to all counsel of record this 17th of August, 2023.

/s/ Anna Martin