

**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 Community Solar Program for                            ) Case No. ET-2020-0259  
Electric Customers in its Missouri Service Area    )

**RESPONSE IN OPPOSITION TO  
STAFF’S REQUEST FOR REJECTION OF TARIFF**

COMES NOW The Empire District Electric Company d/b/a Liberty (“Liberty” or the “Company”) and provides this Response in Opposition to Staff’s Request for Rejection of Tariff regarding the Company’s community solar pilot program (“CSPP”) and renews its request that its revised tariff sheets filed on May 24, 2022 (YE-2022-0261) be approved or allowed to take effect by operation of law. In this regard, Liberty respectfully states as follows to the Missouri Public Service Commission (the “Commission”):

**Liberty’s Initial CSPP Application and Facility I**

1. On April 17, 2020, Liberty filed an Application and proposed tariff sheets seeking the Commission’s approval of a “Community Solar Pilot Program” to provide electric customers the opportunity to voluntarily subscribe to the generation output of solar facilities connected to the Company’s distribution system and owned and operated by the Company within its service or certificated territories.

2. In its Application, Liberty explained it had “worked in cooperation with stakeholders, including a large retailer, to devise a pilot program that will be attractive to commercial and residential customers alike. Unlike the rooftop solar rebate program, customers enrolling in the Community Solar Pilot Program will not add a financial burden to customers who choose not to participate in the Community Solar Pilot Program.”

3. The Application also noted that RSMo. §393.1665 (Senate Bill 564) required Liberty to “invest in the aggregate no less than three million five hundred thousand dollars in utility-owned solar facilities located in Missouri or in an adjacent state during the period between August 28, 2018, and December 31, 2023” and that Liberty’s initial CSPP facility would be designed and built to allow the Company to satisfy, in part, the utility-owned solar investment required by RSMo. §393.1665.2.

4. In its 2020 CSPP Application, Liberty also proposed “to offer two approximately 5-MW solar facilities (Units 2 and 3) for subscription, with the potential to add four additional approximately 5-MW solar facilities (Units 4-7) based on customer commitments.” Liberty further explained it “intends to build approximately 30MW of solar capacity through the Community Solar Pilot Program in multiple facilities across the service territories, assuming a capacity of approximately 5MW at each of the additional facilities (Units 2-7).”

5. Liberty noted that CCNs would be sought for all CSPP facilities beyond the first one, with applications filed in this docket, and Liberty proposed that for CSPP Units 2-7, customers “would be required to enroll in the solar program in advance, and each approximately 5-MW solar facility will only be constructed when 90 percent of the proposed solar resource is committed.”

6. Liberty’s first facility under the CSPP, the Prosperity Community Solar Farm, is fully subscribed and operational.

### **Liberty’s CSPP Tariff Sheets**

7. In an order issued September 30, 2020, effective October 15, 2020, the Commission approved tariff sheets to implement Liberty’s CSPP. Among other revisions after initial

approval, the tariff sheets were revised to remove imposition of a \$25 upfront, per block fee for the first facility and were updated to reflect the Final Solar Facility Charge for CSPP-I.

8. CSPP tariff sheet 4.25c, as initially approved and as currently in effect, contains the following chart:

Solar Resource Increment	Number of Solar Blocks	Pre-Construction Solar Facility Charge Estimate per Block	Final Solar Facility Charge per Block	Expected Annual Energy per Block
CSPP-I				

9. CSPP tariff sheet 4.25h, as initially approved and as currently in effect, provides, in part, that construction of a new CSPP facility shall not begin until it is fully subscribed.

10. The \$25 upfront, per block fee was initially included in the original CSPP tariff at the request of the Staff of the Commission (“Staff”). As explained in prior filings, this upfront fee was a significant impediment to customers enrolling in Liberty’s CSPP.

11. CSPP tariff sheet 4.25i, currently in effect, provides, in part, as follows: “(f)or each additional Solar Resource other than CSPP-I, eligible customers enrolling in the Solar Program will be assigned to the Solar Resource until such time as all of the Solar Blocks for the Solar Resource are subscribed, and, upon enrollment, such customers may be required to pay a Program participation fee per Solar Block, with said amount to be established by the Commission, and this tariff to be updated accordingly.”

**Community Solar Facility II and Liberty’s Revised Tariff Sheets**

12. At this time, Liberty would like to move forward with consideration of a possible second CSPP facility. As noted, the initial CSPP Application contemplated up to seven CSPP facilities, the tariff contemplates revision for an estimated pre-construction charge to be provided

for each facility, and the tariff provides that it shall be “updated accordingly” regarding any upfront, per block participation fee for facilities beyond the first one.

13. Proceeding pursuant to its initial CSPP Application and its tariff sheets now on file with the Commission, Liberty submitted revised CSPP tariff sheets on May 24, 2022 (YE-2022-0261). Like with the first CSPP facility, Liberty requests that there be no upfront, per block charge for the second CSPP facility. The revised tariff sheets contain the estimated facility charge for CSPP-II, and Liberty is also proposing minor changes to the tariff sheets to reflect lessons learned from operation of the first CSPP facility.

14. On July 12, 2022, Staff submitted its Recommendation to Reject Tariff Sheet. Staff states as follows regarding its opposition to the revised CSPP tariff sheets submitted by Liberty on May 24, 2022 (YE-2022-0261): “Liberty has not yet filed an application for a Certificate of Convenience and Necessity (“CCN”) for the second facility under the program nor offered justification for expansion of the pilot program.”

15. As noted above, Liberty’s initial Application filed April 17, 2020, as well as the CSPP tariff sheets originally approved and currently in effect, contemplate additional facilities beyond the first one that is now fully subscribed and in service. As such, there is no “expansion” of the CSPP being requested at this time.

16. Regarding Staff’s statement that Liberty has not yet filed for a CCN for the potential second facility, this is certainly accurate. Liberty, however, is not aware of a requirement to file a CCN application before first having its proposed tariff revisions approved or otherwise take effect. The proposed revisions will simply provide Liberty’s customers with the information they need to properly consider the possibility of becoming a CSPP subscriber for the second facility.

17. The Company, however, is fully aware of the need to file for a CCN for additional CSPP facilities, including CSPP-II, and is cognizant of the requirement in its tariff that a facility be fully subscribed before construction is commenced.

18. Notably, one component of a CCN application is demonstration of need, and the requested tariff revisions must be in effect in order for Liberty to determine if there is enough interest to justify moving forward with seeking a CCN for a second CSPP facility. This is particularly true with regard to the estimated facility charge and whether there will be an upfront, per block fee imposed. Given the significance of these items to Liberty's customers, they are unable to express their interest in a second CSPP facility until these items are addressed in Liberty's CSPP tariff.

19. As detailed above, Staff did not provide a valid basis for rejection of Liberty's revised CSPP tariff sheets; and, thus, Staff's request should be denied. Further, if the Commission accepts Staff's recommendation and does not allow Liberty's proposed tariff revisions to take effect at this time, the Commission will hamstring the Company's ability to properly prepare a CCN application for a second CSPP facility, effectively pre-judging and denying the certificate request before it is even filed.

WHEREFORE, Liberty submits this Response in Opposition to Staff's Request for Rejection of Tariff and requests that the revised tariff sheets filed on May 24, 2022 (YE-2022-0261) be approved or allowed to take effect by operation of law on August 1, 2022. Liberty requests such additional relief as is just and proper under the circumstances.

Respectfully submitted,

/s/ Diana C. Carter  
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**CERTIFICATE OF SERVICE**

I hereby certify that the above document was filed in EFIS on this 14<sup>th</sup> day of July, 2022, and sent by electronic transmission to all counsel of record, including the Staff of the Commission and the Office of the Public Counsel.

/s/ Diana C. Carter