

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 15th day of December, 2021.

In the Matter of the Application of The)
Empire District Electric Company d/b/a)
Liberty to Implement Robust and Mutually-)
Beneficial Energy Efficiency Offerings)
Under the Framework Prescribed by)
MEEIA)

File No. EO-2022-0078
Tariff Nos. YE-2022-0057
YE-2022-0161

ORDER APPROVING AGREEMENT AND TARIFFS

Issue Date: December 15, 2021

Effective Date: January 1, 2022

On September 15, 2021, the Empire District Electric Company d/b/a Liberty filed tariff sheets and an application seeking the Commission’s approval to establish a Demand Side Investment Mechanism (DSIM) under the Missouri Energy Efficiency Investment Act (MEEIA). The application also requests a waiver of the Commission’s 60-day notice requirement and a variance of Commission Rule 20 CSR 4240-20.093(2)(I), with regard to Evaluation Measurement & Verification (EM&V) and Commission Rule 20 CSR 4240-20.093(9), with regard to the filing of annual reports. The Commission directed notice of the application and established an intervention deadline. The Commission granted intervention to the Missouri Department of Natural Resources – Division of Energy (DNR), Midwest Energy Consumers Group (MECG), the National Housing Trust, and Renew Missouri Advocates d/b/a Renew Missouri.

On November 23, 2021, Liberty, the Commission’s Staff (Staff), the Office of the Public Counsel (OPC), the National Housing Trust, and Renew Missouri (collectively "Signatories") filed a Global Stipulation and Agreement (Agreement) purporting to resolve

their issues concerning Liberty's MEEIA Cycle 1 application. MEEG and DNR were not signatories to the Agreement, but the Agreement states that they do not oppose it as a complete resolution of the issues. Where all parties are not signatories to a stipulation and agreement, Commission Rule 20 CSR 4240-2.115(2) allows seven days to object to the stipulation and agreement. If no party files a timely objection to a stipulation and agreement, the Commission may treat it as a unanimous. More than seven days have passed since the stipulation and agreement was filed, and no party has objected. Therefore, the Commission will treat the Agreement as unanimous.

The terms of the Agreement are contained in the attached stipulation and agreement. Under the terms of Agreement, Liberty will implement a portfolio of DSIM programs as part of its MEEIA Cycle 1. Liberty's MEEIA Cycle 1 runs for one year beginning on January 1, 2022, and continuing until December 31, 2022. The 12 month portfolio is comprised of five residential programs and two business programs.

The Residential Efficient Products program provides instant point-of-purchase incentives for qualifying measures purchased at participating retailers either online or in-store. It also provides for a free online energy audit. The Residential Low Income Multifamily program offers free energy audits and installation of low-cost measures for multifamily customer. Customers are also eligible for prescriptive and custom rebates for qualifying measures. The Residential HVAC Rebates program provides rebates for the purchase and installation of qualifying energy efficient HVAC systems installed through the Trade Ally Network. The Trade Ally Network provides energy efficiency contractors, installers, distributors and other energy professionals who provide training and technical support to help install energy efficient equipment. The Residential Whole Home Energy: Pay As You Save® (PAYS®) program provides customers free in-home evaluations and

customized recommendations for energy efficient measures. Customers can choose to install the recommended upgrades, receive rebates for qualifying measures and Liberty will cover the full installation cost of measures that meet the requirements of PAYS®. The total budget for the residential programs is \$1,486,815.

The Small Business Direct Install program provides customers an energy evaluation identifying potential energy savings. Customers are eligible to receive an incentive, direct installation of measures, and a customized recommendation for energy efficient equipment upgrades. The Commercial and Industrial program provides customers rebates for purchasing energy efficient equipment for commercial and industrial facilities. The total budget for the Business programs is \$1,940,801.

Staff will conduct a prudence review of Liberty's DSIM costs no less frequently than at 24-month intervals.¹

Liberty will file a new DSIM mechanism for its MEEIA Cycle 2. Under the terms of the Agreement, Liberty, Staff, and the stakeholders will work on the development of a mechanism that considers Staff's proposed Sales Reconciliation to Levelized Expectations (SRLE) mechanism with modifications. Staff's SRLE was previously proposed in Liberty's last rate case (File No. ER-2019-0374), but the Commission rejected the SRLE mechanism in that rate case. The Commission is not authorizing an SRLE mechanism for Liberty's MEEIA Cycle 1 in this case, and any SRLE mechanism for Liberty's MEEIA Cycle 2 would need Commission approval prior to implementation.

As part of the Agreement, Liberty used zero avoided capacity costs to evaluate the cost effectiveness of its MEEIA Cycle 1 programs. The Signatories agree that these

¹ Commission Rule 20 CSR 4240-20.093(11) provides that a prudence review of the costs subject to the DSIM shall be conducted no less frequently than at 24-month intervals.

avoided capacity costs do not represent or replace the official avoided capacity costs presented in Liberty's current or future Integrated Resource Plan (IRP) proceedings. Accordingly, the Signatories to the Agreement ask that the Commission grant a variance of Commission Rule 20 CSR 4240-20.092(1)(C), which requires a utility to use its IRP risk analysis to calculate avoided costs. Good cause exists to grant the variance under Commission Rule 20 CSR 4240-20.092(2), because the zero capacity costs are only being used as a tool to evaluate the effectiveness of the DSIM programs, and not to replace other avoided capacity costs.

Liberty requests a waiver of the 60-day notice requirement of Commission Rule 20 CSR 4240-4.017. The Commission finds that Good cause to grant the waiver exists under Commission Rule 20 CSR 4240-4.017(1)(D), because Liberty asserts that it has had no ex parte communications with the Commission within the previous 150 days regarding any substantive issue in this case.

Liberty requests a variance from Commission Rule 20 CSR 4240-20.093(2)(l) with regard to EM&V, and Commission Rule 20 CSR 4240-20.093(9) with regard to the filing of annual reports. Liberty states that because of the abbreviated time in Liberty's MEEIA Cycle 1, it would be unable to comply. As an alternative Liberty proposes the earnings opportunity be based on a combination of participation and program spending. The Signatories agree that there is good cause to grant this variance, and this variance would only be necessary for Liberty's MEEIA Cycle 1. The Commission finds that good cause exists under Commission Rule 20 CSR 4240-20.093(14) to grant this variance for Liberty's MEEIA Cycle 1, because of the abbreviated MEEIA Cycle 1 time period and because the proposed alternative earnings opportunity is acceptable.

Concurrent with the Agreement, Liberty filed substitute Tariff No.YE-2022-0057 and revised Tariff No. YE-2022-0161 to implement Liberty's MEEIA Cycle 1. The Signatories request that the Commission approve those tariff sheets to become effective January 1, 2022.

After reviewing the Agreement, the Commission finds it is a reasonable resolution of the issues contained therein and should be approved. The Commission will make this order effective on January 1, 2022, so that the tariff sheets and the Agreement become effective simultaneously, and so that the DSIM programs start at the beginning of 2022.

THE COMMISSION ORDERS THAT:

1. The Agreement filed on November 23, 2021, is approved. The Signatories are ordered to comply with its terms. A copy of the Agreement is attached to this order and is incorporated by reference.

2. Liberty is granted a waiver of Commission Rule 20 CSR 4240-4.017, as discussed in the body of this order.

3. Liberty is granted a variance from Commission Rule 20 CSR 4240-20.093(2)(I) and Commission Rule 20 CSR 4240-20.093(9), as discussed in the body of this order.

4. Liberty is granted a variance of Commission Rule 20 CSR 4240-20.092(1)(C), as discussed in the body of this order.

5. The following original tariff sheets bearing Tariff No.YE-2022-0057, filed November 14, 2021, and substituted November 23, 2021, are approved to be effective January 1, 2022:

P.S.C. Mo. No. 6 Sec. 4

- Original Sheet No. 21
- Original Sheet No. 21a
- Original Sheet No. 21b
- Original Sheet No. 21c
- Original Sheet No. 21d
- Original Sheet No. 21e
- Original Sheet No. 21f

6. The following original tariff sheets bearing Tariff No. YE-2022-0161, filed November 23, 2021, are approved to be effective January 1, 2022:

P.S.C. Mo. No. 6 Sec. 4

- Original Sheet No. 27
- Original Sheet No. 27a
- Original Sheet No. 27b
- Original Sheet No. 27c
- Original Sheet No. 27d
- Original Sheet No. 27e
- Original Sheet No. 27f
- Original Sheet No. 27g
- Original Sheet No. 27h
- Original Sheet No. 27i
- Original Sheet No. 27j
- Original Sheet No. 27k
- Original Sheet No. 27l

7. This order shall be effective on January 1, 2022.



BY THE COMMISSION

A handwritten signature in black ink that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

Silvey, Chm., Rupp, Coleman, Holsman, and
Kolkmeier CC., concur.

Clark, Senior Regulatory Law Judge

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

In the Matter of the Application of The Empire)	
District Electric Company d/b/a Liberty to)	
Implement Robust and Mutually-Beneficial)	Case No. EO-2022-0078
Energy Efficiency Offerings Under the)	
Framework Prescribed by MEEIA)	

GLOBAL STIPULATION AND AGREEMENT

COME NOW The Empire District Electric Company (“Liberty” or “Company”), the Missouri Public Service Commission (“Commission”) Staff (“Staff”), the Missouri Office of the Public Counsel (“OPC”), the National Housing Trust, and Renew Missouri (collectively, the “Signatories”), and, pursuant to 20 CSR 4240-2.115, present this Global Stipulation and Agreement (“Agreement”) as a complete resolution of the above-captioned case. In this regard, the Signatories respectfully state as follows:

1. On September 15, 2021, Liberty filed its Application seeking approval of demand-side programs and a Demand-Side Programs Investment Mechanism (“DSIM”) as prescribed by the Missouri Energy Efficiency Investment Act (“MEEIA”) (“MEEIA Cycle 1 Application”).

2. The Signatories agree and intend this Agreement to settle all issues with regard to Liberty’s MEEIA Cycle 1 Application. The Signatories request that all pre-filed testimony be admitted into the record and that the Commission approve this Agreement as a just and a fair compromise of their respective positions.

3. Midwest Energy Consumers Group (“MECG”) and the Missouri Department of Natural Resources – Division of Energy (“DE”) are also parties to this proceeding. Although not Signatories to this Agreement, neither object to this Agreement being approved as a complete resolution of this docket.

4. The Signatories request approval of Liberty’s MEEIA Cycle 1 Plan for the period

January 1, 2022 - December 31, 2022. The agreed-upon MEEIA Cycle 1 Plan is attached hereto as Exhibit A.

5. In conjunction with approval of Liberty's MEEIA Cycle 1 Plan, the Signatories agree there is good cause to grant the waivers/variances requested by the Company in paragraphs 4-6 and 11-13 of the Application and request that the Commission grant the same. Further, 20 CSR 4240-20.092(1)(C) states in part that, "The utility shall use the integrated resource plan and risk analysis used in its most recently adopted preferred resource plan to calculate its avoided costs." As further discussed below in paragraph 9, as a constraint in determining the cost effectiveness of this proposed Cycle 1 MEEIA portfolio, Liberty used zero avoided capacity costs until such time that Liberty needed capacity to meet SPP resource adequacy requirements. This differs from the avoided capacity costs used in Liberty's most recent IRP and risk analysis. Therefore, the Signatories further agree that a variance is needed for 20 CSR 4240-20.092(1)(C).

6. The Signatories further agree that the program tariff sheets attached hereto as Exhibit B and filed in EFIS on this date under Tracking No. YE-2022-0161 should be approved by the Commission or allowed to take effect by operation of law, effective January 1, 2022.

7. The Signatories further agree that the DSIM tariff sheets filed under Tracking No. YE-2022-0057, as substituted on this date, should be approved by the Commission or allowed to take effect by operation of law, effective January 1, 2022. The DSIM tariff sheets are currently suspended until January 1, 2022.

8. The Signatories stipulate and agree with the DSIM mechanism attached hereto. Liberty shall file a new DSIM mechanism as part of MEEIA Cycle 2. Liberty agrees to work with Staff and other stakeholders, including the Signatories, on the development of the mechanism considering Staff's proposed SRLE mechanism in Case No. ER-2019-0374, with modifications to

exclude kWh changes for weather and customer growth, as a potential replacement.

9. The Signatories acknowledge that, as a commitment with stakeholders, Liberty agreed to run an avoided capacity cost analysis specifically to look at the cost effectiveness of energy efficiency programs only and that this revised set of avoided capacity costs used zero avoided capacity costs until such time that Liberty needed capacity to meet SPP resource adequacy requirements, at which time the avoided capacity costs would be assumed to be equal to the ABB projected capacity cost for SPP-KSMO region for years in which Liberty can defer supply-side resources. The Signatories stipulate and agree that these avoided capacity costs are being used as a constraint in determining the cost effectiveness of this proposed Cycle 1 MEEIA portfolio only and do not represent or replace official avoided capacity costs presented in the Company's most recent or future IRP proceedings.

10. 20 CSR 4240-20.093(11) states, "A prudence review of the costs subject to the DSIM shall be conducted no less frequently than at twenty-four- (24-) month intervals. 20 CSR 4240-20.093(11)(B) further states in part that, "The timing and frequency of prudence audits for DSIM shall be established in the utility's filing for demand-side program approval in which the DSIM is established." In accordance with 20 CSR 4240-20.093(11), Staff will conduct a prudence review no less frequently than at 24-month intervals.

11. In presenting this Agreement, none of the Signatories shall be deemed to have approved, accepted, agreed, consented or acquiesced to any procedural principle, and none of the Signatories shall be prejudiced or bound in any manner by the terms of this Agreement, whether approved or not, in this or any other proceeding, other than a proceeding limited to the enforcement of the terms of this Agreement, except as otherwise expressly specified herein. The Signatories further understand and agree that the provisions of this Agreement relate only to the specific

matters referred to herein, and no Signatory waives any claim or right which it otherwise may have with respect to any matter not expressly provided for in this Agreement.

12. The terms of this Agreement are interdependent. If the Commission does not approve this Agreement in total, or approves it with modifications or conditions to which a signatory objects, then this Agreement shall be void and no Signatory shall be bound by any of its provisions. The agreements herein are specific to this proceeding and are made without prejudice to the rights of the Signatories to take other positions in other proceedings except as otherwise noted herein.

13. If the Commission does not unconditionally approve this Agreement without modification, and notwithstanding its provision that it shall become void, neither this Agreement, nor any matters associated with its consideration by the Commission, shall be considered or argued to be a waiver of the rights that any Signatory has for a decision in accordance with Section 536.080, RSMo, or Article V, Section 18, of the Missouri Constitution, and the Signatories shall retain all procedural and due process rights as fully as though this Agreement had not been presented for approval, and any suggestions or memoranda, testimony or exhibits that have been offered or received in support of this Agreement shall become privileged as reflecting the substantive content of settlement discussions and shall be stricken from and not be considered as part of the administrative or evidentiary record before the Commission for any further purpose whatsoever.

14. If the Commission unconditionally accepts the specific terms of this Agreement without modification, the Signatories waive, with respect to the issues resolved herein: their respective rights (1) to call, examine and cross examine witnesses pursuant to Section 536.070(2), RSMo; (2) their respective rights to present oral argument and/or written briefs pursuant to Section

536.080.1, RSMo; (3) their respective rights to the reading of the transcript by the Commission pursuant to Section 536.800.2, RSMo; (4) their respective rights to seek rehearing pursuant to Section 386.500, RSMo; and (5) their respective rights to judicial review pursuant to Section 386.510, RSMo. These waivers apply only to a Commission order respecting this Agreement issued in this above-captioned proceedings, and do not apply to any matters raised in any prior or subsequent Commission proceeding, or any matters not explicitly addressed by this Agreement.

15. This Agreement contains the entire agreement of the Signatories concerning the issues addressed herein.

WHEREFORE, the Signatories hereby respectfully submit this Global Stipulation and Agreement and request the Commission issue an Order approving the same and granting any further relief as is just and reasonable under the circumstances.

Respectfully submitted,

Counsel for Liberty:

/s/ Diana C. Carter

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CERTIFICATE OF SERVICE

I hereby certify that the above document was filed in EFIS on this 23rd day of November, 2021, and sent by electronic transmission to all counsel of record.

/s/ Diana C. Carter


STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 15th day of December, 2021.




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

December 15, 2021

File/Case No. EO-2022-0078

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Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,



**Morris L. Woodruff
Secretary**

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.