

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

In the Matter of the Tenth Prudence)	
Review of Costs Subject to the)	
Commission-Approved Fuel)	Case No. EO-2023-0087
Adjustment Clause of the Empire)	
District Electric Company d/b/a Liberty)	
)	

**PUBLIC COUNSEL’S REPLY TO STAFF’S RESPONSE
REGARDING THE NEOSHO RIDGE OUTAGE**

COMES NOW the Office of the Public Counsel (“Public Counsel” or “OPC”) and for its response to the Public Service Commission’s Staff’s (“Staff”) June 30, 2023 Response to Order Directing Staff to Reply to Public Counsel’s Response (“Staff Response”), states:

1. On March 20, 2023, OPC requested, “the [Public Service] Commission (“Commission”) direct its Staff to amend its [Tenth Prudence Review] Report and provide the Commission with a thorough prudency review analysis of the Neosho Ridge outage incident and its full impact on customers during the review period.”

2. The basis for the OPC’s request is the fact that the 300-megawatt (“MW”) Neosho Ridge wind facility (“Neosho Ridge” or “Asset”), Liberty’s largest generation resource, had a forced outage (unplanned outage) in March 2022. The outage was caused by transformer failures and reduced the Asset’s generation to zero MW at that time. Neosho was not generating when it was placed into rate base in June 2022, but increased to 135 MW in the last six weeks of the time-period of this prudency audit. At the time of the Staff’s

February 28, 2023 Tenth Prudence Review Report (“Staff Report”), the cause of the extended outage was unknown. Without an understanding of the cause of the outage, it was impossible for the Staff to conclude that the outage and any customer rate impacts were not the result of imprudence.

3. On June 9, 2023, the Commission directed its Staff to update its Staff Report “of costs related to the FAC of Liberty that addresses the March 2022 Neosho Ridge wind farm outage and its impact on Liberty customers,” or alternatively, indicate “that an updated prudence review report is unnecessary, citing the reasons for its position.”

4. In the June 30, 2023 Staff Response, the Staff’s technical expert memorandum explains, “Staff was aware that the root cause analysis was still unknown from the response to Office of the Public Counsel (“OPC”) data request 8500, prior to when Staff’s prudence review was filed in February 2023.”

5. Staff Response states further that on June 20, 2023, four months after Staff filed its Staff Report, Liberty, for the first time, provided Staff with part 1 of its Neosho Ridge root cause analysis. On June 26, 2023, four days before Staff filed the Staff Response, Liberty provided the Staff with parts 2 through 4 of its root cause analysis.

6. The Staff Response states, “Due to the voluminous information, Staff has not been able to review the entire Root Cause Analysis.” After providing a brief summary of the provisions of the Root Cause Analysis that Staff had time to review before filing the Staff Response, the Staff concludes, “Therefore, it is still not very clear to Staff what the exact root cause was.”

7. The Staff Response regarding the Asset’s prudence does not address or identify the root cause of Neosho Ridge’s unplanned outage, nor its impact on customers. Therefore, Staff is effectively unable to determine whether Liberty was imprudent without additional review.

8. Regarding lost revenues due to the outage, Staff states that Liberty “stated that insurance was covering the expected Southwest Power Pool (“SPP”) revenues from this project as well as the cost of the rental transformer through April of 2023.” Determining prudence requires a more thorough review of revenues and impacts with an analysis of actual data, rather than Company statements. Thus, the Commission should expect and order Staff to conduct a complete analysis. This analysis would include an analysis of the prudence of Liberty’s insurance policy impacts on FAC revenues, and the imprudence of any agreements with the developer or other entities that absolves those entities from any liability due to their imprudent actions.

9. The summary provided in the Staff Response highlights that there is a strong potential that imprudent actions lead to the extended outage. The Staff’s summary includes the following statements: **

- [REDACTED]
- [REDACTED]
- [REDACTED]

| [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

10. In addition, Liberty's own consultant, hired to investigate the outage, made the following conclusions: **

- [REDACTED]
[REDACTED]
[REDACTED]

| [REDACTED]
[REDACTED]
[REDACTED]

| [REDACTED]
[REDACTED]
[REDACTED]

| [REDACTED]
[REDACTED]

| [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

| [REDACTED]
[REDACTED]

| [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

| [REDACTED]

| [REDACTED]

| [REDACTED]

| [REDACTED]

11. The above list and quoted excerpts are by far not an exhaustive list of the hundreds of pages of root cause analysis and reasons for the transformer failures. These analyses paint a picture of multiple potential instances of imprudence.

12. The full extent of the imprudence that caused the outages, and customer impacts, will not be known until a thorough prudence review is conducted. This review should look at possible manufacturing imprudence, installation imprudence, and operation imprudence, any of which should not result in Liberty's customers bearing financial impacts due to that imprudence.

13. In addition, a thorough prudence review would include an estimate of the impact on revenues not received and an investigation into whether the insurance payments received by Liberty covered the expected revenues, and if this revenue was passed on to Liberty's customers.

14. The Staff Report concludes, "if there is any further information received or that comes out from the review of the Root Cause Analysis and its attachments, Staff reserves the right to make prudence adjustments in future FAC proceedings and reserves the right to review any and all costs associated with the outage as appropriate in future proceedings." The OPC agrees with Staff's plan of reviewing impacts in future FAC periods; however, this would not appear to allow for customer relief from imprudence in the current review period.

15. For the reasons stated above, the OPC requests the Commission keep this case open to allow the Commission to address imprudence for the tenth review period, and direct its Staff to conduct a full investigation into the transformer failures and to revise the Staff Report to address all instances of imprudence and the impact of that imprudence on customers.

16. In the alternative, the OPC requests an evidentiary hearing and a waiver of the requirement that OPC request a hearing within ten days of the Staff

filing the Staff Report.¹ Rather than request a hearing upon a review of the Staff Report, the OPC has attempted to provide the Commission and the public with a complete prudence analysis by the Commission's expert Staff. Good cause exists to grant this waiver because the Staff's Report does not identify a cause of the transmission outages and additional root cause analyses are still pending.² In addition, the Staff Response is the Staff's first discussion of the Neosho Ridge outage, and therefore, the OPC was not informed of the extent of the Staff prudence review regarding Neosho Ridge until the Staff Response. This request for an evidentiary hearing is requested within 10-days of the Staff Response, which essentially supplements the Staff Report.

17. The OPC is hopeful that a thorough review would conclude that Liberty's customers did not suffer financial harm due to the transformer failures; however, the analysis provided by Staff is not sufficient to reach any conclusions on customer impacts caused by manufacturing, installation, or operational imprudence at Neosho Ridge. Therefore, the Commission is unable to conclusively determine whether there was imprudence, and whether that imprudence resulted in harm to Liberty's customers.

WHEREFORE, the Office of the Public Counsel respectfully offers this reply to the June 30, 2023 Staff Response; requests the Commission direct Staff to update its Staff Report following a full review of all root cause analyses once

¹ See 20 CSR 4240-20.090(22)

² In response to OPC data request 8522, Liberty stated that not all root cause analyses are complete.

those analyses are fully complete; or in the alternative, hold an evidentiary hearing to address the issues raised herein.

Respectfully submitted,

/s/ Marc Poston

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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 10th day of July 2023.

/s/ Marc Poston
