

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

In the Matter of the Application of Larry Duggar     )  
For Change of Electric Supplier from The Empire    ) Case No. EO-2021-0389  
District Electric Company d/b/a Liberty to         )  
New-Mac Electric Cooperative, Inc.                 )

**RESPONSE TO APPLICATION**

COMES NOW The Empire District Electric Company d/b/a Liberty, and for its response to the Application of Larry Duggar for Change of Electric Supplier, respectfully states as follows to the Missouri Public Service Commission (the “Commission”):

1. Liberty admits the factual allegations of Application Paragraphs 1 and 2. Application Paragraphs 3 and 4 do not require a response from Liberty. Liberty admits that Mr. Duggar has contacted the Company regarding his bills for electric service and that he now seeks the Commission’s permission to change his electric supplier from Liberty to New-Mac Electric Cooperative, and Liberty denies the remaining factual allegations of Application Paragraphs 5 and 6. Liberty denies all factual allegations not admitted herein.

2. RSMo. §393.106, commonly referred to as Missouri’s anti-flip flop law, governs the Application. This statute provides, in part, that “(o)nce an electrical corporation or joint municipal utility commission, or its predecessor in interest, lawfully commences supplying retail electric energy to a structure through permanent service facilities, it shall have the right to continue serving such structure, and other suppliers of electrical energy shall not have the right to provide service to the structure . . .” The statute then provides a limited exception: the Commission “upon application made by an affected party, may order a change of suppliers on the basis that it is in the public interest for a reason other than a rate differential.”

3. Regarding the application of this exception to the flip flop prohibition, the basis for the change in supplier must be one other than a rate differential (what a customer pays for service),

and the Commission has held that customer preference will not suffice. With previous change of supplier requests, the Commission has conducted a fact-specific analysis applying a ten factor balancing test. In this case, none of these factors support Mr. Duggar's application.

4. When Liberty loses a customer, its remaining customers are negatively impacted, because Liberty's total cost to provide electric service to the public is shared by all customers. As noted by the Commission, a primary policy reason for the anti-flip flop law is to provide assurance to electric utilities like Liberty that if they spend money to build facilities to provide service to a customer, they will be able to keep that customer absent a compelling reason to allow a change.

5. Pursuant to the Certificate of Convenience and Necessity granted to Liberty by the Commission, Liberty continues to provide safe and reliable service to Mr. Duggar at the just and reasonable rates approved by this Commission. No lawful and compelling reason is set forth in the Application to justify the requested change in supplier.

WHEREFORE, Liberty requests an order of the Commission denying Mr. Duggar's Application and seeks 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 9<sup>th</sup> day of June, 2021, with notification of the same being sent to all counsel of record. This Notice was also sent by electronic transmission to all parties/counsel of record.

/s/ Diana C. Carter