

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

In the Matter of the Request of The)	
Empire District Electric Company d/b/a)	
Liberty for Authority to File Tariffs)	Case No. ER-2021-0312
Increasing Rates for Electric Service)	
Provided to Customers in its Missouri)	
Service Area)	

**PUBLIC COUNSEL’S RESPONSE
TO EMPIRE’S NOTICE OF NEW CHARGE TYPES**

COMES NOW the Office of the Public Counsel (“Public Counsel”) and for its response to The Empire District Electric Company d/b/a Liberty’s (“Liberty”) March 1, 2023 Notice of New Charge Types, states:

1. On March 1, 2023, Liberty filed a Notice of New Charge Types as allowed by Commission rule 20 CSR 4240-20.090(8)(D)1:

If an RTO implements a new market settlement type or schedule covering a cost or revenue that the electric utility or another party believes possesses the characteristics of, and is of the nature of, an RTO revenue or cost approved by the commission for inclusion in the electric utility’s FAC in the previous general rate proceeding...

2. Public Counsel files this response to request that the Company include more detail in such filings to enable Public Counsel, and the Commission, to have a better understanding of the basis for the addition.

3. Liberty did not provide sufficient detail to meet the requirements of 20 CSR 4240-20.090(8)(D)(1)(B)(II), which requires “[a] description of the new market settlement type or schedule demonstrating that the cost or revenue it covers possesses the characteristics of, and is of the nature of, a cost or revenue

allowed in the electric utility's FAC by the commission in the most recent general rate proceeding.”

4. Liberty's filing does not describe the six new charge types in any detail. The Company states, “The Uncertainty Reserve Requirement represents the need for Resources with the ability to adjust their power outputs consistent with the Resource limit and ramping constraints to respond to planned and/or unplanned obligation changes.” From this, Liberty makes the conclusory statement, “Given their characteristics are similar and their inclusion in the Regulation and Ancillary Services sections of the Market Protocols Liberty/Empire believes it is appropriate for the new Uncertainty products to be included in the Fuel Adjustment Clause.” It is impossible from this brief description, and the other information provided, to understand much of anything regarding the new charge types that Liberty is requesting be added to its FAC.

5. When the Commission approves the charges and revenues it allows to flow through the FAC, factors the Commission may consider include “the magnitude of each cost or revenue type, the ability of the utility to manage each cost or revenue type, the volatility of each cost or revenue type and the incentive provided to the utility as a result of the inclusion or exclusion of each cost or revenue type.” 20 CSR 4240-20.090(2)(D)3. These factors should also be relevant to whether the new charge types included between rate cases are similar enough to the charge types the Commission approved in the last general rate case. From its filing, Public Counsel and the Commission have no idea of the magnitude, volatility, or ability of Liberty to manage these new charge types.

6. Public Counsel followed up with Liberty regarding its concerns, and after initial resistance from the Company, Liberty did provide explanation enough to cause Public Counsel not to oppose the inclusion of these charge types at this time. However, Public Counsel may challenge the inclusion of these new charge types in Liberty's FAC in a future rate case.

7. With this response, Public Counsel seeks to avoid future new charge type notices where Public Counsel is compelled to oppose the new charge type. Liberty bears the burden of proof whenever a party challenges a new charge or revenue type. 20 CSR 4240-20.090(8)(D)1(C)(II).

WHEREFORE, the Office of the Public Counsel respectfully offers this response to Liberty's Notice of New Charge Type and requests that Liberty explain each charge type separately and in far greater detail that better enables all parties and the Commission to confirm that the new charge type(s) "possess the characteristics of, and is of the nature of, a cost or revenue allowed in the electric utility's FAC."

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 23rd day of March 2023.

/s/ Marc Poston
