

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

In the Matter of The Empire District Electric Company d/b/a )  
Liberty (Empire) for Authority to Implement Rate Adjustments) **File No. ER-2021-0332**  
Related to the Company’s Fuel and Purchased Power ) Tariff No. JE-2021-0178  
Adjustment (FAC) Required in 20 CSR 4240-020.090 )

In the Matter of The Empire District Electric )  
Company d/b/a Liberty (Empire) True-Up ) **File No. EO-2021-0333**  
Fuel Adjustment Clause (FAC) ) Tariff No. JE-2021-0178

**STAFF RESPONSE TO COMMISSION ORDER DIRECTING RESPONSES**

**COMES NOW** the Staff of the Missouri Public Service Commission, by and through counsel, and for its recommendation states:

1. On April 1, 2021, The Empire District Electric Company d/b/a Liberty (Empire) (hereafter “Company” or “Liberty-Empire”) filed one proposed tariff sheet, bearing a proposed effective date of June 1, 2021, to revise its current period Fuel Adjustment Rates (“FARs”) of its Fuel Adjustment Clause (“FAC”). This proposed tariff sheet is P.S.C. MO. No. 6, Sec 4, 2nd Revised Sheet No. 17q, Canceling P.S.C. Mo. No 6, Sec 4, 1st Revised Sheet No. 17q.<sup>1</sup> Liberty-Empire also filed direct testimony of its witness Charlotte T. Emery on April 1, 2021, and submitted to Commission Staff (“Staff”) work papers in support of the proposed tariff sheet. The Commission assigned it Tariff Tracking No. JE-2021-0178.

2. Concurrently on April 1, 2021, Liberty-Empire submitted a FAC true-up filing in File No. EO-2021-0333 to identify the true-up under-recovery amount of \$1,293,237 for the 23rd Recovery Period (“RP23”) of its FAC.

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<sup>1</sup> The *Staff Recommendation* filed on May 3, 2021, incorrectly identified the tariff sheet as P.S.C. MO. No. 5, Sec 4, 2nd Revised Sheet No. 17q, Canceling P.S.C. Mo. No 5, Sec 4, 1st Revised Sheet No. 17q.

3. On May 3, 2021, Staff filed its *Staff Recommendation*, and for the reasons stated therein, recommended that the Commission issue an order approving Liberty-Empire's tariff sheet filed on April 1, 2021, to become effective on June 1, 2021, subject to true-up and prudence reviews.

4. Following Staff's filing of its recommendation, OPC filed *Public Counsel's Response to Staff's Recommendation* on May 12, 2021, stating it opposed Staff's recommendation for approval of the proposed tariff sheet.

5. On May 13, 2021, the Commission directed Staff and Liberty-Empire to file responses addressing OPC's opposition to approval of the revised tariff sheet by 9am on May 17, 2021. While Staff finds OPC's *Response* confusing and even contradictory, Staff will do its best to respond to what it believes is OPC's opposition.

#### **Response to OPC's Opposition**

6. Staff agrees with OPC that Liberty-Empire's proposed FAR does include the true-up amount of \$1,293,237.

7. OPC does not oppose the Current Period Fuel Adjustment Rate of zero as shown on line 13 of Liberty-Empire's proposed tariff sheet; however, OPC proposes Liberty-Empire file a new tariff sheet. That proposed tariff sheet, while calculated differently, still yields a FAR of zero. Reasonable minds may differ on how a tariff sheet is presented and, in this situation how to reflect removal of the extraordinary costs, but ultimately both approaches result in the same FAR rate. However, Liberty-Empire's approach more appropriately reflects the treatment of the extraordinary costs. Therefore, Staff does not agree with OPC that Liberty-Empire should file a new revised tariff sheet as proposed by OPC.

8. OPC spends many paragraphs discussing what is an “extraordinary cost” and states an amount in Paragraph 9 that it asserts are not extraordinary costs; yet, OPC seems to agree with both Liberty-Empire and Staff that Liberty-Empire incurred extraordinary costs due to Storm Uri. OPC’s discussion of what constitutes an “extraordinary cost” merely adds to the overall confusion reflected in its pleading.

9. OPC states that Staff goes beyond recommending that the Commission approve Liberty-Empire’s proposed tariff sheet by recommending, as requested by Liberty-Empire, certain language to be included in the Commission’s order to the effect that there is a reasonable likelihood that deferred Storm Uri costs will be included in Empire’s rates in future ratemaking proceedings. Staff disagrees with OPC’s characterization in its *Response* that inclusion of the wording suggested by Staff in a Commission order approving the deferral would somehow serve to restrict the ability of parties to argue for certain positions in future cases regarding rate recovery of deferred fuel and purchased power costs, or limit the Commission’s ability to consider such positions in setting Liberty-Empire’s rates. The language proposed by Staff is solely intended to meet the accounting requirement that Liberty-Empire must have a reasonable expectation of recovery of these deferred costs, subject to a full prudence review conducted prior to any rate recovery of the amounts, in order to reflect a deferral of these costs on its public financial statements and to avoid recognizing an immediate financial loss. The Staff’s “reasonable expectations of rate recovery” language is also appropriate because it is an acknowledgement that prudently incurred fuel-purchased power expenses necessary to serve customers have in fact been routinely given rate recovery in past general rate cases and fuel adjustment clause cases. Staff also continues to

recommend that the Commission state in any order approving the deferral of Empire's extraordinary fuel and purchased power costs that all questions regarding the details of the ratemaking parameters to be applied to the deferrals, including but not limited to prudence of the costs, the length of any amortization period, whether rate base treatment should be afforded deferral balances, and inclusion of carrying costs applied to the deferral balance, are reserved to future rate cases.

**WHEREFORE**, Staff submits its *Staff Response to Commission Order Shortening Time for Responses* for the Commission's information and consideration and respectfully requests the Commission issue an order granting the relief as set forth in the *Staff Recommendation* filed May 3, 2021.

Respectfully submitted,

**/s/ Jeffrey A. Keevil**

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Commission

### **CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to counsel of record as reflected on the certified service list maintained by the Commission in its Electronic Filing Information System this 17th day of May, 2021.

**/s/ Jeffrey A. Keevil**