

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

In the Matter of The Empire District)
Electric Company’s d/b/a Liberty (Empire))
Fuel Costs Related to the Extraordinary)
Weather Event of February 2021)
Case No. EU-2021-0274

**PUBLIC COUNSEL’S RESPONSES THE COMMISSION
DIRECTED IN ITS OCTOBER 22, 2021, ORDER**

COMES NOW the Office of the Public Counsel and responds to the Commission’s direction that it “file a pleading clarifying its position on dismissal and stating its objections or responses to the application or Staff’s recommendations” as follows:

1. Public Counsel is aware of only two alternative recourses by which Liberty may seek for this Commission to allow it to recover from its retail customers for the extraordinary costs it incurred due to Storm Uri—by rate relief, or by issuing bonds its customers finance (generally referred to as “securitization”).¹ In this case Liberty is seeking to be permitted to use extraordinary accounting so that its extraordinary Storm Uri costs are recorded on its regulatory books and records as if they were in the nature of a capital investment—a regulatory asset—carried on its balance sheet, instead of being recorded as expenses recorded on its income and expense statement.

2. On November 5, 2021, Staff clarified that “[it] is opposed to including the carrying costs in the deferral.” Public Counsel not only opposes ordering carrying costs on amounts deferred on Liberty’s books by any Storm Uri cost accounting authority order (“AAO”), but because Liberty’s requested AAO would serve no regulatory purpose, Public Counsel continues to move the Commission to dismiss Liberty’s application for authority to employ exceptional accounting to defer on its books costs it incurred due to Storm Uri.

¹ § 393.1700 et seq. (L. 2021 H.B. 734).

3. As Public Counsel previously pointed out, Liberty incurred its Storm Uri costs during the test year update period of October 1, 2020 through June 30, 2021, that the Commission ordered in Liberty’s pending electric rate case, Case No. ER-2021-0312. There is no reason to capture those costs in a regulatory asset for consideration in that rate case—they are already on the books and records of the test year as updated—and, if Liberty does not go forward with securitizing its Storm Uri costs, then the Commission can decide what accounting treatment to give Liberty’s extraordinary Storm Uri costs in that rate case.

4. Should Liberty file an application to securitize its Storm Uri costs as permitted by § 393.1700 et seq. (L. 2021 H.B. 734), and for which it gave notice of its intent to do docketed as Case No. EO-2022-0040, the Storm Uri costs that may be securitized are “**Qualified extraordinary costs**’, costs incurred prudently before, on, or after August 28, 2021, of an extraordinary nature which would cause extreme customer rate impacts if reflected in retail customer rates recovered through customary ratemaking, such as but not limited to those related to purchases of fuel or power, inclusive of carrying charges, during anomalous weather events.” As Public Counsel previously pointed out, Liberty does not require a Commission order to identify and track which costs it incurs that it attributes to Storm Uri—it can do, and undoubtedly has done, that in accounts and subaccounts, and moving Storm Uri costs into a regulatory asset serves no purpose for securitization.

5. As a matter of disclosure, Public Counsel also opposes Evergy Missouri Metro and Evergy Missouri West’s (collectively “Evergy”) application for Storm Uri accounting authority orders (“AAO”) in Case No. EU-2021-0283, requests similar to Liberty’s AAO request in this case. Public Counsel filed a motion to dismiss Evergy’s application, and a reply to Evergy’s

response to that motion. The Commission denied Public Counsel’s motion to dismiss Evergy’s application on August 4, 2021. That case remains pending.

WHEREFORE, there being no regulatory purpose served by the Commission issuing Liberty the accounting authority order it seeks in this case, “good cause” for rule 20 CSR 4240-2.116(4), the Office of the Public Counsel continues to move the Commission to dismiss Liberty’s *Verified Winter Storm Uri AAO Application*.

Respectfully,

/s/ Nathan Williams

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 12th day of November 2021.

/s/ Nathan Williams