

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

In the Matter of The Empire District	)	
Electric Company's Application for	)	<b><u>File No. ET-2020-0259</u></b>
Approval of a Community Solar	)	Tariff No. YE-2022-0261
Program for Electric Customers in the	)	
Missouri Service Area	)	

**STAFF RECOMMENDATION TO REJECT TARIFF SHEET**

**COMES NOW** Staff of the Missouri Public Service Commission, by and through the undersigned counsel, and respectfully states as follows:

1. In its *Order Directing Notice, Setting Intervention Deadline, and Directing Staff Recommendation* issued in File No. ET-2020-0259 on May 25, 2022, the Commission ordered Staff to file a recommendation in that case no later than June 8, 2022.

2. The Empire District Electric Company ("Liberty") filed tariff sheets associated with a contemplated second Community Solar Pilot Program on May 24, 2022, with an effective date of July 1, 2022. To facilitate further discussion with Staff, Liberty voluntarily extended the effective date of the tariffs twice.

3. On June 13, 2022, the Commission ordered Staff to file a recommendation on Tariff No. YE-2022-0261 no later than July 12, 2022.

4. Commission Rule 20 CSR 4240-20.045(2)(A)(2) states that "an electric utility must obtain a certificate of convenience and necessity prior to construction of a asset pursuant to § 393.170.1 RSMo." §393.170.1 RSMo states "No gas corporation, electrical corporation, water corporation or sewer corporation shall begin construction of a gas plant, electric plant, water system or sewer system, other than an energy generation

unit that has a capacity of one megawatt or less, without first having obtained the permission and approval of the commission.”

5. Liberty has not yet filed an application for a Certificate of Convenience and Necessity (“CCN”) for the second facility under the program nor offered justification for expansion of the pilot program.

6. Attached hereto and incorporated herein by reference is Staff’s Recommendation, in which Staff recommends the Commission to reject the following tariff sheets, filed on May 24, 2022, with a proposed effective date of August 1, 2022.

P.S.C. MO. No. 6

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PSC MO No. 6, Section 4, 1st Revised Sheet No. 25  
PSC MO No. 6, Section 4, 2nd Revised Sheet No. 25a  
PSC MO No. 6, Section 4, 3rd Revised Sheet No. 25c  
PSC MO No. 6, Section 4, 3rd Revised Sheet No. 25f  
PSC MO No. 6, Section 4, 2nd Revised Sheet No. 25g  
PSC MO No. 6, Section 4, 3rd Revised Sheet No. 25i  
PSC MO No. 6, Section 4, 3rd Revised Sheet No. 25j  
PSC MO No. 6, Section 4, 1st Revised Sheet No. 25k

7. Liberty is not delinquent on any assessment and has filed its 2021 Annual Report. Staff is not aware of any other matter before the Commission that affects or is affected by this filing.

**WHEREFORE**, Staff respectfully submits its *Staff Recommendation to Reject Tariff Sheets* for the Commission’s information and consideration, and recommends that the Commission issue an order rejecting Liberty’s tariff sheets filed on May 24, 2022.

Respectfully submitted,

**/s/ Eric Vandergriff**

Eric Vandergriff

Legal Counsel

Missouri Bar No. 73984

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Attorney for the Staff of the  
Missouri Public Service Commission

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed or hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record on this 12<sup>th</sup> day of July, 2022.

**/s/ Eric Vandergriff**

## **MEMORANDUM**

**TO:** Missouri Public Service Commission Official Case File Case No. ET-2020-0259 and  
Tariff Tracking YE-2022-0261

**FROM:** Cedric Cunigan, Professional Engineer, Engineering Analysis Department

/s/ Cedric E. Cunigan P.E. / July 12, 2022      /s/ Eric Vandergriff / July 12, 2022  
Engineer, Engineering Analysis/ Date      Staff Counsel's Office / Date

**SUBJECT:** Staff Recommendation to Reject Empire District Electric Company's Tariff  
Filing YE-2022-0261

**Date:** July 12, 2022

### **OVERVIEW**

On September 20, 2020, the Commission approved tariff sheets for the Empire District Electric Company's ("Liberty") Community Solar Pilot Program ("CSPP"). On May 24, 2022 Liberty filed revisions to the tariff sheets (Tariff Tracking No. YE-2022-0261) with an effective date of July 1. The Commission issued its Order Directing Filing on May 25, 2022, which ordered Staff to file a recommendation no later than June 8, 2022. The tariff effective date was extended on June 7, 2022, which moved the effective date to July 11, 2022. The Commission issued its Order Directing Filing on June 7, 2022, which ordered Staff to file a recommendation no later than June 21, 2022. The tariff was extended again on June 13, 2022, moving the effective date to August 1, 2022. The Commission issued its Order Directing Filing on June 13, 2022, which ordered Staff to file a recommendation no later than July 12, 2022. Staff recommends rejection of the proposed tariff sheets.

### **STAFF RECOMMENDATION**

The proposed revisions are intended to expand the CSPP to include a second facility. Section 393.170.1, RSMo (Cum. Supp. 2021) and 20 CSR 4240-20.045(2)<sup>1</sup> require that a utility obtain a CCN prior to construction of an asset. The exclusions in Section 393.170.1 and 20 CSR 4240-20.045(1)(C)<sup>2</sup> would not apply for this facility as it is anticipated to be 5 MW and is not being constructed to under 393.1665 RSMo. Empire District Electric has not yet filed an application for a Certificate of Convenience and Necessity ("CCN") for the second facility under the program nor offered justification for expansion of the pilot program.

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<sup>1</sup> 20 CSR 4240-20.045(2) Certificate of convenience and necessity. (A) An electric utility must obtain a certificate of convenience and necessity prior to— 1. Providing electric service to retail customers in a service area pursuant to section 393.170.2, RSMo; 2. Construction of an asset pursuant to section 393.170.1, RSMo; or 3. Operation of an asset pursuant to section 393.170.2, RSMo.

<sup>2</sup> 20 CSR 4240-20.045(1)(C) Construction does not include: 1. The construction of an energy generation unit that has a capacity of one (1) megawatt or less; or 2. The construction of utility-owned solar facilities as required under section 393.1665, RSMo; 3. Periodic, routine, or preventative maintenance; or 4. Replacement of equipment or devices with the same or substantially similar items due to failure or near term projected failure as long as the replacements are intended to restore the asset to an operational state at or near a recently rated capacity level.

Other revisions to the program include changing the Billing Demand Quantity Credit Percentage of Solar Capacity, reducing the quantity of solar blocks reserved for residential customers, and removing the possibility of a participation fee for the second facility.

Additionally the Billing Demand Quantity Credit Percentage of Solar Capacity included in the tariff sheets is incorrect given the most recent rate case ER-2021-0312. Staff recommends rejection of the current tariff sheets and that Liberty instead file the proposed revisions with a CCN application for the second facility.

**Tariff:**

Due to the reasons stated above Staff recommends rejection of the following tariff sheets submitted by Liberty in Tariff Tracking No. YE-2022-0261 on May 24, 2022, with a proposed effective date of August 1, 2022:

P.S.C. MO. No. 6

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- PSC MO No. 6, Section 4, 1st Revised Sheet No. 25
- PSC MO No. 6, Section 4, 2nd Revised Sheet No. 25a
- PSC MO No. 6, Section 4, 3rd Revised Sheet No. 25c
- PSC MO No. 6, Section 4, 3rd Revised Sheet No. 25f
- PSC MO No. 6, Section 4, 2nd Revised Sheet No. 25g
- PSC MO No. 6, Section 4, 3rd Revised Sheet No. 25i
- PSC MO No. 6, Section 4, 3rd Revised Sheet No. 25j
- PSC MO No. 6, Section 4, 1st Revised Sheet No. 25k

Staff has verified that Liberty is not delinquent on any assessment and has filed its 2021 Annual Report. Staff is not aware of any other matter before the Commission that affects or is affected by this filing.

**BEFORE THE PUBLIC SERVICE COMMISSION**

**OF THE STATE OF MISSOURI**

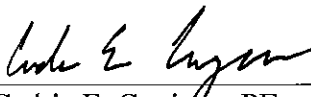
In the Matter of The Empire District Electric )      File No. ET-2020-0259  
Company's Application for Approval of a )      Tariff No. YE-2022-0261  
Community Solar Program for Electric )  
Customers in the Missouri Service Area )

**AFFIDAVIT OF CEDRIC E. CUNIGAN, PE**

STATE OF MISSOURI    )  
                                  )    ss.  
COUNTY OF COLE     )

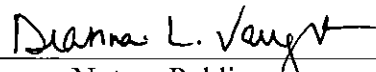
**COMES NOW** Cedric E. Cunigan, PE, and on his oath declares that he is of sound mind and lawful age, that he reviewed the facts contained within the foregoing *Staff Recommendation in Memorandum form*; and that the same is true and correct according to his best knowledge and belief.

Further the Affiant sayeth not.

  
\_\_\_\_\_  
Cedric E. Cunigan, PE

**JURAT**

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 12<sup>th</sup> day of July, 2022.

  
\_\_\_\_\_  
Notary Public

DIANNA L VAUGHT  
Notary Public - Notary Seal  
STATE OF MISSOURI  
Cole County  
My Commission Expires: July 18, 2023  
Commission #: 15207377