

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

In the Matter of the 2022 RES )  
Compliance Report and 2023 RES )  
Compliance Plan of The Empire ) Case No. EO-2023-0358  
District Electric Company d/b/a )  
Liberty )

**OFFICE OF THE PUBLIC COUNSEL’S RESPONSE TO LIBERTY’S THIRD REVISED  
RENEWABLE ENERGY STANDARD COMPLIANCE REPORT AND PLAN**

**COMES NOW** the Office of the Public Counsel (“OPC”) and for its Response to The Empire District Electric Company’s (“Liberty’s” or “Company’s”) Third Revised Renewable Energy Standard (“RES”) Report (“Report”) and Plan (“Plan”),<sup>1</sup> states as follows:

**Background**

On April 14, 2023, Liberty filed the first version of its Filings.<sup>2</sup> After meeting with Staff, but before Staff and the OPC’s comments on the Report and Plan, Liberty filed the first revised version of the Filings. As Liberty filed the first revised<sup>3</sup> version less than one (1) week before Staff and the OPC’s comments were due, the Judge granted an extension to submit those comments. The OPC spoke with Staff and the Company to discuss our expectations for the RES Report and Plan, and requested another extension on June 23, 2023. On August 4, 2023, Liberty filed its second amended Report and Plan for the OPC and Staff to review<sup>4</sup> and requesting another

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<sup>1</sup> Referred to together as “Filings.”

<sup>2</sup> See 2022 Renewable Energy Standard (RES) Compliance Plan, Case No. EA-2023-0358, EFIS Item No. 2; See 2022 Renewable Energy Standard (RES) Compliance Report, Case No. EA-2023-0358, EFIS Item No. 3.

<sup>3</sup> See Revised RES Report and Plan, Case No. EA-2023-0358, EFIS Item No. 9.

<sup>4</sup> See Revised 2022 Renewable Energy Standard (RES) Compliance Plan, Case No. EA-2023-0358, EFIS Item No. 17; See Revised 2022 Renewable Energy Standard (RES) Compliance Report, Case No. EA-2023-0358, EFIS Item No.18.

extension. In reviewing the Company's Filings, both Staff<sup>5</sup> and the OPC<sup>6</sup> noted several concerns with the content of the Filings and how they lacked clarity, specificity, and accuracy for the Missouri public. The Company responded to many of Staff's concerns in its September 7, 2023, response and promised to correct any inaccuracies with another filing. In that same response, Liberty stated that it "does not believe any amendments are needed or would be appropriate in response to OPC's filing."<sup>7</sup> However, the Company stated its plan to submit another amended version of its Filings by September 15, 2023.

On September 14, 2023, the Company filed a third amended Report, without filing an amended Plan. The OPC recognizes that some of Liberty's amendments improve the quality of the Report. However, other concerns pointed out in the memo that Lena Mantle authored, which was attached to the OPC's filing, were overlooked. Further, other changes that the Company made to its Report merely add confusion.

### **RES Report Number Four**

In the fourth iteration of Liberty's Report, there were a few small additions the Company made for the document's benefit. On the sixth and seventh pages of the Report, the disparate numbers between the table <sup>8</sup> displaying Ozark Beach's retired RECs and the report, itself,<sup>9</sup> are now consistent. The second footnote after Table 4,

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<sup>5</sup> See Staff Recommendation, Case No. EA-2023-0358, EFIS Item No. 20.

<sup>6</sup> See Comments and Memo, Case No. EA-2023-0358, EFIS Item No. 21.

<sup>7</sup> Liberty's Response to Staff's and OPC's Recommendations and Comments, pg. 4, Case No. EA-2023-0358, EFIS Item No. 25.

<sup>8</sup> Revised RES Report and Attachment 2, pg. 7, Case No. EA-2023-0358, EFIS Item No. 26.

<sup>9</sup> *Id.* at pg. 5.

referring to the Prosperity Solar retirement is not as clear as it *could* be, but language the Company added<sup>10</sup> does improve its clarity. Finally, Liberty did add a line that specifies that “it does not believe it has compliance cost directly associated with its owned renewable resources,”<sup>11</sup> however, the Report, again, fails to specify that the RECs from North Fork Ridge and Kings Point were not required to meet RES.

The Report still fails to address several concerns Ms. Mantle specified in her memorandum. The Report still fails to distinguish between the generation and the REC proceeds available to shareholders versus those available to customers. Empire has failed to clarify which retail sales and how many of those sales were provided by the Meridian Way wind farm. The values of certain RECs changed without explanation as well. Specifically, the RECs from Ozark Beach, customer generated solar, and Prosperity Solar rose from \$2.25 to \$2.50, without a clear reason as to why.<sup>12</sup> Finally, the first footnote for Table 4, on page 6 of the Report, still states “North Fork Ridge and Neosho Ridge sales include some REC generation from 2021,”<sup>13</sup> which is vague and may cause more confusion. Moreover, the Company is still using the impact RES compliance costs have on the total company and does *not* provide the effect RES compliance has on Missouri *alone*, as required by the rule.<sup>14</sup> The RRI calculation should not include the costs of North Fork Ridge, Kings Point, or

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<sup>10</sup> *Id.* at pg. 7.

<sup>11</sup> *Id.* at pg. 9.

<sup>12</sup> *Id.* at pg. 5.

<sup>13</sup> *Id.* at pg. 7.

<sup>14</sup> *Id.* at pg. 9.

Neosho Ridge until those facilities are needed for compliance. However, the RRI should include the effect of the production tax credits related to these facilities.

The final concern regards the structure of the Report and the Company's failure to include important attachments. Specifically, Liberty states that a breakdown of compliance costs can be found in Attachment 8. However, the Company does not provide a public version of Attachment 8 for the public to refer to.

In the end, the Company has fixed some issues with its Report. However, it has created more questions and confusion with other additions or changes to its Report. To give a clearer view to Missouri customers, Liberty must be required to address these concerns and improve the clarity of its RES Filings now and in the future.

Wherefore, the OPC requests that the Commission acknowledge these stated concerns and address them for this current, and the future, RES Filing(s).

Respectfully submitted,

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