

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 25th day of October, 2023.

In the Matter of the 2022 RES Compliance)
Report and 2023 RES Compliance Plan of)
The Empire District Electric Company d/b/a)
Liberty)

File No. EO-2023-0358

**NOTICE REGARDING 2022 RES COMPLIANCE
REPORT AND 2023 COMPLIANCE PLAN**

Issue Date: October 25, 2022

On April 14, 2023,¹ The Empire District Electric Company d/b/a Liberty filed its 2022 Renewable Energy Standard (RES) Compliance Report (Report) and its 2023 Annual RES Standard Compliance Plan (Plan). Commission Rule 20 CSR 4240-20.100(8) requires the Staff of the Commission (Staff) to review RES compliance reports and plans and file a report of its review with the Commission within 45 days of the date of filing. The rule also provides that the Office of the Public Counsel (OPC) and any other interested persons or entities may file comments based on their review of the company's RES compliance report and compliance plan within 45 days of filing with the Commission. That date was May 30.

An application to intervene by the Missouri Department of Natural Resources Division of Energy (Division of Energy) was granted.

On May 24, Liberty filed a Revised RES Report and Plan (Second Report and Plan). On May 26, Staff requested an extension of time to file its report, which was

¹ All dates refer to 2023 unless otherwise indicated.

granted. On May 30, OPC requested an extension of time to respond, which was granted. On June 23, OPC and Staff jointly requested a further extension of time to file a report and comments, respectively, which was granted. The extension requested on June 23 was due to Liberty further amending its Second Report and Plan.

On August 4, Liberty filed a Revised RES Report and Plan (Third Report and Third Plan). It also requested a further extension for Staff and OPC to file comments, which was granted. On August 17, Staff filed its Recommendation, which identified several deficiencies in the Third Report, and recommended revising the Third Report. Staff did not identify any deficiencies with the Third Plan.

On August 17, OPC filed its Comments and Memo, which expressed several concerns about the clarity and precision of the Third Report and Third Plan. Specifically, OPC acknowledged that Liberty met the RES requirement, but argued that Liberty's Third Report did not contain the information necessary to show that it met the RES requirement.

Generation and RECs

OPC argued that Liberty should state, plainly, how much of total retail sales were met by its three owned wind facilities in 2022. OPC argued for the inclusion in the Third Report of the vintage of the wind facility Renewable Energy Credits (RECs) that were sold in 2022 and whether shareholders or ratepayers received the benefits from the sale of these RECs. OPC also argued that Liberty should distinguish between the generation and RECs assigned to its shareholders and those available to its retail customers. OPC also cited an apparent discrepancy in a REC transaction with another regulated utility. OPC argued that the confidentiality designation on certain REC value information and not other REC information was confusing. OPC also argued that the Third Report uses imprecise language making it confusing.

Calculation of the Actual Calendar Year Impact

OPC argues that Liberty's Third Report does not calculate the actual calendar year retail rate impact as required by rule. While Liberty provides a compliance cost divided by its Missouri retail rate revenue, OPC seeks details on the make-up of the cost, which is currently addressed at a high level in a highly confidential document, without a public version available.

Incomplete RES Plan

OPC comments that Liberty's Third Plan was not clear enough that certain facilities were not included in retail rates until June 2022.

Facilities Not Necessary to Meet the RES in 2022

OPC stated that two facilities, North Fork Ridge and Kings Point, were not required to meet RES; however, they were utilized. OPC alleges improper management led to these two facilities being required to meet RES. Because Liberty stated that North Fork Ridge and Kings Point were not required to meet 2022 RES compliance, then they should be removed from the Third Plan. Further, OPC recommended a revision to the Third Report that clarifies that Liberty could have met the 2022 RES without the RECs from North Fork Ridge and Kings Point, even though some of their RECs were used.

Retail Rate Impact Calculation

OPC alleges that Liberty's Retail Rate Impact (RRI) calculation was based on information for the total company, not just the Missouri portion. OPC also argued that Liberty should provide details regarding the inclusion of production tax credits in its calculation of the RRI. On September 7, Liberty filed a response indicating it had no objection to scheduling a meeting with Staff and OPC to discuss possible changes in the RRI calculation for future years.

Fourth Report

On September 14, Liberty filed a revised Report (Fourth Report). The Third Plan was not updated – leaving the Fourth Report and Third Plan as the documents under final consideration. The Fourth Report followed a response by Liberty to Staff's and OPC's concerns over the Third Report and Third Plan. Liberty stated it does not believe any amendments were needed in response to OPC's comments.

Comments on the Fourth Report

On September 26, OPC filed a response reiterating its prior concerns (above). OPC also alleged that new language added was confusing in that it altered the values of certain RECs without explanation. OPC requested the Commission address its concerns for the current and future RES filings.

Staff filed no further comments. No other responses were received.

Discussion

The Commission's rule requires the utility to post a redacted copy of its Compliance Report on its website and to provide electronic copies to the Commission, which the Commission is to place on its own website. It also requires the utility to provide the RES Compliance Plan to the Commission, which is to open a docket to receive the Report and Plan and to provide notice. Beyond that, the rule does not identify a required action the Commission is to take regarding Liberty's Fourth Report and Third Plan and any alleged deficiencies in that Fourth Report or Third Plan, except to allow the Commission to direct the utility to provide additional information or to address any concerns or deficiencies identified in the comments.² Consequently, no further action by the Commission is required, and this file shall be closed.

² 20 CSR 4240-20.100(8)(F).



BY THE COMMISSION

Nancy Dippell

Nancy Dippell
Secretary

Rupp, Chm., Coleman, Holsman, Kolkmeier
and Hahn CC., concur.

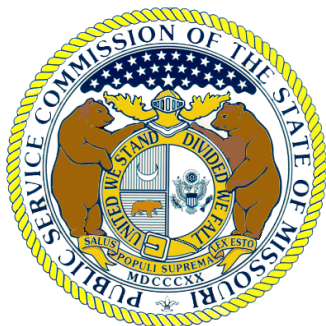
Hatcher, Senior Regulatory Law Judge

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 25th day of October, 2023.



Nancy Dippell

Nancy Dippell
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

October 25, 2023

File/Case No. EO-2023-0358

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Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,



**Nancy Dippell
Secretary**

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.