

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

In the Matter of the Tenth Prudence	)	
Review of Costs Subject to the	)	
Commission-Approved Fuel	)	Case No. EO-2023-0087
Adjustment Clause of the Empire	)	
District Electric Company d/b/a Liberty	)	
	)	

**PUBLIC COUNSEL’S REPLY TO  
LIBERTY’S RESPONSE TO MOTION  
FOR REHEARING AND CLARIFICATION**

**COMES NOW** the Office of the Public Counsel (“OPC”), pursuant to § 386.710 RSMo and 20 CSR 4240-2.080(13), and offers this reply to Empire District Electric Company d/b/a Liberty’s (“Liberty”) Response to OPC’s Motion for Rehearing and Reconsideration (“Response”).

1. Liberty’s October 23, 2023 Response to OPC’s Motion for Rehearing and Reconsideration is the first Company filing to address in any way the Neosho Ridge Wind Farm outage.

2. The Company suggests the Staff’s review of the Neosho Ridge outage was thorough due to the number of data requests issued by Staff. However, Liberty fails to mention that of the 92 data requests issued by Staff to Liberty, *none* of those requests were specific to the Neosho Ridge outage.

3. With the Staff admitting it has not had time to conduct a thorough review of the cause of the outage (by reviewing the large third-party root cause analysis), it is impossible for the Staff to offer an informed opinion on the prudence of Liberty’s decisions that resulted in the outage. In fact, the Staff did

not conclude that Liberty was prudent in its decisions regarding Neosho Ridge, which is no surprise given the lack of review.

4. If one reason for the Staff not thoroughly reviewing the root cause analysis is a lack of available Staff auditors to conduct an analysis, the OPC urges the Staff to consider retaining outside auditors to fill the gaps.

5. Liberty cites to a Staff statement that it is “untenable” for Staff to “address certain issues of OPC’s choosing, and presumably reach an outcome to OPC’s liking.” The only outcome OPC seeks is a thorough review of all costs and revenues that flow through the fuel adjustment clause (FAC). A thorough review should be the Commission’s expectations for its auditors, and an entirely tenable practice given that FAC reviews are required by statute.<sup>1</sup>

6. In this case, Liberty has provided no explanation to the Commission of the transformer failures and has not provided any information to show the customer impact. The Company’s first action in this case regarding the Neosho Ridge outage is to attempt to prevent a thorough review of the outage and its impacts.<sup>2</sup> If Liberty acted prudently and harmed no customers, Liberty should welcome a more thorough review to prove those points. Liberty’s actions to silence further review of this issue should raise serious red flags with the Commission, and provide sufficient reason to order for more review of this issue.

7. As a part of its duties to represent the public, the OPC often requests the Commission and its Staff take particular actions that the OPC

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<sup>1</sup> § 386.266.5(4) RSMo.

<sup>2</sup> Liberty did submit in EFIS on March 30, 2022 an incident report regarding the outage (I202200111). It submitted part 1 of its root cause analysis almost 15 months later on June 20, 2023. Staff did not mention in its prudence report that it reviewed this incident report.

believes would benefit the public. In this case, the action the OPC believes would benefit the public is for the State of Missouri employees tasked with auditing the FAC to conduct thorough reviews of all aspects of FAC costs where acts of imprudence could result in harmful impacts to the public.

WHEREFORE, the Office of the Public Counsel respectfully offers this reply to Liberty's Response and continues to request the Commission rehear and reconsider this matter.

Respectfully submitted,

**/s/ Marc Poston**

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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all counsel of record this 27th day of October 2023.

**/s/ Marc Poston**

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