

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

In the Matter of the Application of)
Heather L. Cline for Change of Electric) **File No. EO-2024-0098**
Supplier from Liberty Utilities to)
Southwest Electric Cooperative)

STAFF’S RECOMMENDATION AND MOTION TO DISMISS

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”), through its undersigned counsel, and for its *Recommendation and Motion to Dismiss*, respectfully states the following:

1. On September 18, 2023, Heather L. Cline ("Applicant") filed an application to the Missouri Public Service Commission ("Commission") requesting approval for a change of supplier (Application). On October 12 and October 16, The Empire District Electric Company ("Liberty") and the Southwest Electric Cooperative ("Southwest") respectively filed their responses to the Applicant's request.

2. Staff requests the Commission dismiss the Application on the basis that the Applicant is not statutorily entitled to change suppliers when its request is solely based on a rate differential. Staff recommends that the Commission deny the Application for the same reason.

3. The Applicant is requesting a change of suppliers because, as stated in its Application, “Liberty Utilities charges both kilowatt per hour and service fees beyond what is considered reasonable. We currently get charged a customer charge, usage charge (kilowatts used), energy efficiency program cost, energy efficiency invest cost, fuel charge and taxes. When comparing rates with our neighbors Southwest Electric statement

at .100/kwh and calculating our rates with Liberty at .154/kwh would have been approximately \$130 less for one month.”

4. Southwest is a rural electric cooperative based in Bolivar, Missouri. It is a Chapter 394 rural electric cooperative corporation that distributes electric energy and service to its members in certain Missouri Counties. Southwest is not rate-regulated by this Commission. However, according to §394.080.5, the Commission may order Southwest to provide service if it is in the public interest for a reason other than a rate differential.

5. Liberty is an electric corporation subject to Commission jurisdiction, as specified, in part, by Chapter 393, RSMo. Liberty is authorized to provide electricity at the area that is the subject of this application.

6. The "anti-flip-flop" statutes authorize the Commission to grant a request for a change in electric suppliers if the change is determined to be in the public interest **for reasons other than a rate differential.**¹

7. The Applicant who submitted the Application for a change of supplier bears the burden of proof. The Applicant must prove that the requested supplier change is in the best interests of the public and not solely driven by a rate differential. In their Application, the Applicant failed to meet the burdens of proof.²

8. Even assuming Applicant's rate allegations are true, the question at hand pertains to whether the Commission has the authority to mandate a change of suppliers

¹ Sections 393.106 and 394.315, RSMo

² The Applicant is required by 20 CSR 4240-3.140(1)(G) to include reasons why a change in electrical suppliers is in the public interest.

solely based on a rate differential, a purely legal question. The requested relief is, however, prohibited by the "anti-flip-flop" statutes.

Staff's Recommendation

9. Attached hereto and incorporated herein by reference is *Staff's Recommendation*, in which Staff recommends the Commission deny the *Application*. Staff recommends that the Commission deny the *Application*, determining that the request for a change in electric service providers from Liberty to Southwest is not in the public interest for reasons other than a rate differential, as required by Sections 393.106.2 and 394.315.2, as well as 20 CSR 4240-3.140³.

WHEREFORE, for the reasons stated above and in the attached and incorporated *Staff's Memorandum*, Staff recommends the Commission issue an order that grants *Staff's Motion* and denies the Applicant's application.

Respectfully submitted,

/s/ Eric Vandergriff

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³ 20 CSR 4240-3.140 — Applications for approval of a change in electrical suppliers must include information such as the type and address of the structure, the current and requested electrical suppliers, the reasons for seeking a change, a description of service problems and contacts with the current supplier, reasons for public interest, and, if applicable, a verified statement of agreement from both suppliers.

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 parties and/or counsel of record on this 2nd day of November, 2023.

/s/ Eric Vandergriff