

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service  
Commission held at its office in  
Jefferson City on the 7<sup>th</sup> day of  
December, 2023.

In the Matter of the Application of )  
Heather L. Cline for Change of Electric )  
Supplier from Empire District Electric )  
Company d/b/a Liberty to Southwest )  
Electric Cooperative )

**File No. EO-2024-0098**

**ORDER DISMISSING APPLICATION**

Issue Date: December 7, 2023

Effective Date: January 6, 2024

On September 18, 2023,<sup>1</sup> Heather L. Cline filed an application with the Commission requesting a change of electric supplier from The Empire District Electric Company d/b/a Liberty to Southwest Electric Cooperative (SWEC). In her application, Ms. Cline listed a Bolivar, Missouri address and gave the following for the reason she is requesting a change of electric provider:

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 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. If Liberty Utilities is allowed to charge and set their own unreasonable pricing structure, customers should have a choice in their service provider. We live outside the city limits of Bolivar with most of our neighbors having Southwest Electric.<sup>2</sup>

---

<sup>1</sup> Unless otherwise noted, all dates refer to 2023.

<sup>2</sup> *Application for Change of Electric Service Provider*, p. 1 (filed September 18).

On October 12, Liberty filed its *Response to Application and Motion to Dismiss*. On October 16, SWEC filed its *Response to Application of Heather L. Cline for Change of Electric Supplier from Liberty Utilities to Southwest Electric Cooperative*.

On November 2, the Staff of the Commission (Staff) filed *Staff's Recommendation and Motion to Dismiss*. In the recommendation, Staff stated that when they contacted Ms. Cline she “did not offer any information regarding experiencing abnormal power, voltage, current or other problem with her electric service being provided, nor did she have any safety concerns” and that she mentioned that she wanted to change her supplier to SWEC “because of the charges applied by Liberty on her bills.”<sup>3</sup>

Section 393.106.2, RSMo. 2016, addresses the right of electrical corporations to provide electric service and the procedure to change electric suppliers. It states, in part:

Once an electrical corporation . . . lawfully commences supplying retail electric energy to a structure through permanent service facilities, it shall have the right to continue serving such structure, and other suppliers of electrical energy shall not have the right to provide service to the structure except as might be otherwise permitted in the context of municipal annexation, pursuant to section 386.800 and section 394.080, or pursuant to a territorial agreement approved under section 394.312. The public service commission, upon application made by an affected party, may order a change of suppliers on the basis that it is in the public interest for a reason other than a rate differential. The commission's jurisdiction under this section is limited to public interest determinations and excludes questions as to the lawfulness of the provision of service, such questions being reserved to courts of competent jurisdiction. Except as provided in this section, nothing contained herein shall affect the rights, privileges or duties of existing corporations pursuant to this chapter.

Similarly, Section 394.315.2, RSMo. 2016, addresses the right of rural electric cooperatives to provide electric service and the procedure to change electric suppliers. It states, in part:

---

<sup>3</sup> *Staff's Recommendation and Motion to Dismiss*, Appendix A, p. 4 (filed November 2).

Once a rural electric cooperative . . . lawfully commences supplying retail electric energy to a structure through permanent service facilities, it shall have the right to continue serving such structure, and other suppliers of electrical energy shall not have the right to provide service to the structure except as might be otherwise permitted in the context of municipal annexation, pursuant to section 386.800 and section 394.080, or pursuant to a territorial agreement approved under section 394.312. The public service commission, upon application made by an affected party, may order a change of suppliers on the basis that it is in the public interest for a reason other than a rate differential, and the commission is hereby given jurisdiction over rural electric cooperatives to accomplish the purpose of this section. The commission's jurisdiction under this section is limited to public interest determinations and excludes questions as to the lawfulness of the provision of service, such questions being reserved to courts of competent jurisdiction. Except as provided herein, nothing in this section shall be construed as otherwise conferring upon the commission jurisdiction over the service, rates, financing, accounting or management of any such cooperative, and except as provided in this section, nothing contained herein shall affect the rights, privileges or duties of existing cooperatives pursuant to this chapter.

Sections 393.106 and 394.315, RSMo. 2016, are commonly referred to as the “anti-flip-flop” statutes. The purpose of the statutes is to prevent customers from switching back and forth between two electric suppliers to take advantage of rate differences.<sup>4</sup>

Although the Commission has limited jurisdiction over rural electric cooperatives, Section 394.080.5, RSMo. (Supp. 2022), grants the Commission authority to order a rural electric cooperative to provide service if it is in the public interest for a reason other than a rate differential.

Both Liberty’s *Response to Application and Motion to Dismiss* and *Staff’s Recommendation and Motion to Dismiss* argue that Ms. Cline’s application gives no basis for changing electric suppliers other than a rate differential. When contacted by Staff, Ms. Cline offered no reasons for her request to change electric suppliers other than the rates charged by Liberty.

---

<sup>4</sup> *Empire Dist. Elec. Co. v. Southwest Electric Co-op.*, 863 S.W.2d 892, 896 (Mo. App. S.D. 1993).

Under the state statutes, the Commission does not have authority to grant Ms. Cline's request to change electric suppliers based solely on a rate differential. Therefore, the Commission will dismiss her application.

**THE COMMISSION ORDERS THAT:**

1. The motions to dismiss by The Empire District Electric Company d/b/a Liberty and the Staff of the Commission are granted.
2. The change of electric supplier application of Heather L. Cline is dismissed.
3. This order shall become effective on January 6, 2024.



**BY THE COMMISSION**

A handwritten signature in black ink that reads "Nancy Dippell". The signature is written in a cursive, flowing style.

Nancy Dippell  
Secretary

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

Seyer, 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 7<sup>th</sup> day of December 2023.



*Nancy Dippell*

Nancy Dippell  
Secretary

**MISSOURI PUBLIC SERVICE COMMISSION**

**December 7, 2023**

**File/Case No. EO-2024-0098**

**MO PSC Staff**

Staff Counsel Department  
200 Madison Street, Suite 800  
P.O. Box 360  
Jefferson City, MO 65102  
staffcounsel@psc.mo.gov

**Office of the Public Counsel  
(OPC)**

Marc Poston  
200 Madison Street, Suite 650  
P.O. Box 2230  
Jefferson City, MO 65102  
opc@opc.mo.gov

**Heather L. Cline**

Heather Cline  
1629 Highway 32  
Bolivar, MO 65613

**Liberty (Empire)**

Diana Carter  
428 E. Capitol Avenue, Suite 303  
Jefferson City, MO 65101  
diana.carter@libertyutilities.com

**MO PSC Staff**

Eric Vandergriff  
200 Madison Street  
Jefferson City, MO 65101  
eric.vandergriff@psc.mo.gov

**Southwest Electric Cooperative**

Shawn Battagler  
2805 S. Ingram Mill Rd.  
Springfield, MO 65804-6580  
sbattagler@carnahanevans.com

**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.