

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

In the Matter of the Application of Trevor)
Frerer for Change of Electric Supplier) Case No. EO-2024-0165

RESPONSE TO APPLICATION AND MOTION TO DISMISS

COMES NOW The Empire District Electric Company d/b/a Liberty, and for its Response to Application and Motion to Dismiss regarding the change of supplier request of Trevor Frerer, Liberty respectfully states as follows to the Missouri Public Service Commission (the “Commission”):

1. On November 9, 2023, Travis Frerer (the “Applicant”) filed an application with the Commission requesting a change of electric supplier from Liberty to New-Mac Electric Cooperative (the “Application”).

2. With its *Order Directing Notice and Directing Responses to Application*, the Commission directed Liberty and New-Mac Electric Cooperative (the “Cooperative”) to respond to the Application and directed the Staff of the Commission to file a recommendation.

3. In paragraph five of the Application, the Applicant states that the request for a change of electric supplier is because it “makes more sense logistically and financially” for the property to be served by the Cooperative instead of Liberty.

4. Liberty is a “public utility” and an “electric corporation” pursuant to RSMo. §393.1700.1(6), with its Missouri operations subject to the jurisdiction of the Commission as provided by law.

5. Liberty has provided safe and reliable electric service to the property in question continuously since 1991, and Liberty serves four other houses in the immediate area. Liberty expended \$17,700 on two work orders to upgrade service to this property this year.

6. RSMo. §393.106 and §394.315, commonly referred to as Missouri’s anti-flip flop laws, govern change of supplier requests. RSMo. §394.315 refers to rural electric cooperatives, while §393.106 refers to electrical corporations (like Liberty) and joint municipal utility commissions. The purpose of the statutes is to “prevent customers from switching back and forth between two available electric suppliers to take advantage of rate differences” – a strong public policy of our state. *Empire Dist. Elec. Co. v. Southwest Elec. Co-op.*, 863 S.W.2d 892, 896 (Mo. App. S.D. 1993).

7. RSMo. §393.106.2 governs the Application here and provides, in part, that “(o)nce an electrical corporation or joint municipal utility commission, or its predecessor in interest, 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 . . .” The statute further provides that the Commission, upon application, may order a change of supplier “on the basis that it is in the public interest for a reason other than a rate differential.” With previous change of supplier requests, the Commission has conducted a fact-specific analysis applying a ten factor balancing test to determine if the requested change is in the public interest.

8. As noted, a change of supplier request may lawfully be granted only on the basis that it is in the public interest for a reason other than a rate differential, while the application alleges only that the change “makes more sense logistically and financially.” There are no allegations of inadequate service. Even if all allegations in the Application are taken as true, the Application fails to satisfy the standard that the requested change of supplier be in the public interest for a reason other than a rate differential.

WHEREFORE, Liberty respectfully requests that the Commission dismiss the Application and grant such additional relief as is just and proper under the circumstances.

Respectfully submitted,

/s/ Diana C. Carter

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Certificate of Service

I hereby certify that the above document was filed in EFIS on this 8th day of December, 2023, with notification of the same sent to all counsel of record. This filing was also sent by electronic transmission and/or ordinary mail to all parties/counsel of record.

/s/ Diana C. Carter