

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

In the Matter of the Petition of The Empire District )  
Electric Company d/b/a Liberty to Obtain a )  
Financing Order that Authorizes the Issuance of ) Case No. EO-2022-0040  
Securitized Utility Tariff Bonds for )  
Qualified Extraordinary Costs )

In the Matter of the Petition of The Empire District )  
Electric Company d/b/a Liberty to Obtain a )  
Financing Order that Authorizes the Issuance of ) Case No. EO-2022-0193  
Securitized Utility Tariff Bonds for Energy )  
Transition Costs Related to the Asbury Plant )

**LIBERTY’S RESPONSE TO ORDER DIRECTING FILING**

COMES NOW The Empire District Electric Company (“Liberty” or “Company”) and in response to the *Order Directing Filing* issued herein on January 24, 2024, respectfully states as follows to the Missouri Public Service Commission (“Commission”).

1. As noted in the Commission’s *Order Directing Filing*, on January 23, 2024, the Office of the Public Counsel (“OPC”) filed a response disagreeing with some of Liberty’s workpaper calculations. OPC was not required to make a filing; no filing by OPC at this late date was contemplated by the securitization statute; OPC’s response was filed after the Commission’s deadline for voluntary responses; and OPC’s filing contains no request for relief, nor any request for action to be taken by the Commission. To the extent OPC’s filing does request relief or action by the Commission, it is an impermissible collateral attack on the financing order, which is final and no longer subject to appeal. Given the foregoing, **Liberty urges the Commission to take no affirmative action at this time, allowing the Issuance Advice Letter (“IAL”) to become final and the Rider SUTC tariff sheets to take effect by operation of law.** There is no basis to issue a ‘disapproval letter’ and, therefore, the Commission should refrain from issuing such, or any order related to this matter.

2. As noted, to the extent OPC's filing requests relief or action by the Commission, it is an impermissible collateral attack on the financing order. As such, Liberty believes OPC's filing warrants no further discussion. As directed by the Commission, however, Liberty submits this response regarding the two issues raised by OPC.

3. Paragraph 4 of OPC's filing points to Liberty's workpaper titled "Verified Copy of Issuance Advice Table Inputs.xlsx," and in particular the fifth line labeled "Carrying cost (Bond Rate vs. Company WACC)." For the benefits calculations, throughout the securitization proceedings and then also for these final determinations, Liberty and Ducera/Staff properly used the Company's weighted average cost of capital ("WACC") of 6.77% as the input for the cost of traditional or customary *financing*.

4. It appears OPC is incorrectly conflating certain issues. There are the various rates and charges that were applied to historical balances to determine the amount to be securitized, there are the ordered discount rates for the net present value calculation, and there is the input for traditional or customary financing to be used in the benefit comparisons. The Company's correct use of its WACC in the benefit comparisons is confirmed by Staff and Ducera. Although the benefit calculation input is about traditional or customary financing, Paragraphs 5-6 of OPC's filing discuss "traditional ratemaking" and what the Commission may or may not have found regarding carrying costs. This discussion by OPC is unrelated to the required calculation input for traditional or customary *financing* on line five of the referenced worksheet. The applicable portions of the securitization statute are below:

For energy transition costs, RSMo. 393.1700.2(1)(f) (emphasis added):

A comparison between the net present value of the costs to customers that are estimated to result from the issuance of securitized utility tariff bonds and the costs that would result from the application of the **traditional method of financing** and recovering the undepreciated investment of facilities that may become securitized

utility tariff costs from customers. The comparison should demonstrate that the issuance of securitized utility tariff bonds and the imposition of securitized utility tariff charges are expected to provide quantifiable net present value benefits to customers.

For qualified extraordinary costs, RSMo. 393.1700.2(2)(e) (emphasis added):

A comparison between the net present value of the costs to customers that are estimated to result from the issuance of securitized utility tariff bonds and the costs that would result from the application of the **customary method of financing** and reflecting the qualified extraordinary costs in retail customer rates. The comparison should demonstrate that the issuance of securitized utility tariff bonds and the imposition of securitized utility tariff charges are expected to provide quantifiable net present value benefits to retail customers.

5. The issues of the traditional method of financing for energy transition costs and the customary method of financing for qualified extraordinary costs were put before the Commission in the securitization dockets (Issues 2C and 3C). Although the financing order does not contain a decision with the specific input to be used in the benefit calculations, Finding of Fact 5 under “Description of Securitization” provides (emphasis added):

The goal of securitization is to structure the securities in a way that will allow them to achieve the highest bond rating possible. That will allow the issuer to set the price for those bonds at the lowest interest rate possible, **thus saving ratepayers money compared to the amount they would have to pay if a traditional method of financing, at a higher interest rate,** were used.

The Commission cites to the direct testimony of Liberty witness Matthew DeCoursey, Ex. 5, page 6, lines 7-13, to support this finding. That testimony explains that the costs of securitization are lower “in large part because the rate that will be paid on the bonds that will be issued will be much lower than Liberty’s WACC.”

6. No party sought rehearing on this issue; no party appealed this issue; and no party sought clarification. Liberty and Ducera/Staff continued to use the traditional or customary financing cost of Liberty’s WACC in all benefit calculations. OPC on the other hand, sat by and

waited and then made its eleventh hour filing, potentially derailing the entire securitization bond issuance process – and potentially increasing costs for Liberty’s customers.

7. The second issue raised by OPC (paragraph 7 of OPC’s filing) is regarding the discount rates used by Liberty in the net present value calculations. Initially, for the calculations behind the IAL, Liberty used the blended discount rate as specified in the financing order prior to issuance of the first nunc pro tunc order. This was brought to Liberty’s attention, and Liberty promptly corrected the workpaper and IAL attachment utilizing the separate discount rates as specified in the first nunc pro tunc order. This had no impact on the IAL or accompanying certifications.

**WHEREFORE,** The Empire District Electric Company d/b/a Liberty respectfully requests that the Commission take no affirmative action at this time, allowing the Issuance Advice Letter to become final and the Rider SUTC tariff sheets to take effect by operation of law. No order is required, and the issuance of an order at this time would be inappropriate and contrary to the terms of the securitization statute.

Respectfully submitted,

**ATTORNEYS FOR THE EMPIRE DISTRICT  
ELECTRIC COMPANY D/B/A LIBERTY**

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**CERTIFICATE OF SERVICE**

I hereby certify that the above document was filed in EFIS on this 24<sup>th</sup> day of January, 2024, and sent by electronic transmission to all counsel of record.

/s/ Diana C. Carter