

**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) Case No. EO-2022-0040
the Issuance of 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) Case No. EO-2022-0193
the Issuance of Securitized Utility Tariff)
Bonds for Energy Transition Costs Related)
to the Asbury Plant)

PUBLIC COUNSEL’S REPLIES

COMES NOW the Office of Public Counsel (“Public Counsel”) and replies to Staff’s and Liberty’s responses as follows:

1. In response to Liberty’s assertion, “no filing by OPC at this late date was contemplated by the securitization statute,” Public Counsel reminds the Commission, and the parties, that Public Counsel has power to “represent and protect the interests of the public in any proceeding before or appeal from the public service commission.” §386.710.1(2), RSMo.

2. In their responses both Liberty and Staff are correct that Public Counsel has not requested the Commission to do anything. The purpose of Public Counsel’s filing was to raise certain aspects of Liberty’s filings to the Commission’s attention because it appeared to Public Counsel that they may not comport with what the Commission intended in its *Amended Report and Order*, as corrected, or may be erroneous. Public Counsel brought those matters to the Commission’s attention at its earliest opportunity to do so after it became aware of them.

3. Both Liberty (Response ¶ 7) and Staff (Response ¶ 5) acknowledge that Liberty incorrectly used a blended discount rate for its net present value calculations for Storm Uri, and Asbury, rather than the separate rates the Commission ordered for each.

4. In response to Liberty’s complaints about the timing of Public Counsel’s response in the first two paragraphs of its filing, as shown in the first two paragraphs of Public Counsel’s response, Liberty did not file its workpapers associated with its *Issuance Advice Letter* for nearly an hour *after* the Commission’s Monday order setting a deadline for responding to Liberty’s Issuance Advice Letter and Compliance Tariff Revision that Liberty had filed late in the afternoon of the preceding Friday at 4:18 and 4:21 PM, respectively. Under the circumstances, Public Counsel filed its response expeditiously.

5. Liberty states, “It appears OPC is incorrectly conflating certain issues.” Public Counsel is not conflating issues; however, the statutes to which Liberty refers to as “[t]he applicable portions of the securitization statute” relate to what is required to include in petitions to securitize transition costs and extraordinary costs, respectively. Liberty overlooks or ignores §386.710.2(3)(c)b, RSMo, which follows:

(c) A financing order issued by the commission, after a hearing, to an electrical corporation shall include all of the following elements:

* * * *

b. *A finding that the proposed issuance of securitized utility tariff bonds and the imposition and collection of a securitized utility tariff charge are just and reasonable and in the public interest and are expected to provide quantifiable net present value benefits to customers as compared to recovery of the components of securitized utility tariff costs that would have been incurred absent the issuance of securitized utility tariff bonds.* (Emphasis added). Notwithstanding any provisions of this section to the contrary, in considering whether to find the proposed issuance of securitized utility tariff bonds and the imposition and collection of a securitized utility tariff charge are just and reasonable and in the public interest, the commission may consider previous instances where it has issued financing orders to the petitioning electrical corporation and such electrical corporation has previously issued securitized utility tariff bonds.

6. The Commission incorporated that same language on page 124 of its *Amended Report and Order* (highlighted below) as follows:

Issuance Advice Letter. Liberty shall submit a draft issuance advice letter to the Finance Team for review not later than two weeks before the expected date of commencement of

marketing the securitized utility tariff bonds. The Finance Team will review the issuance advice letter and provide timely feedback to Liberty based on the progression of structuring and marketing of the securitized utility tariff bonds. Not later than one day after the pricing of the securitized utility tariff bonds and before issuance of the securitized utility tariff bonds, Liberty shall provide the Commission an issuance advice letter in substantially the form of the issuance advice letter attached as Appendix A to this Financing Order. Liberty and the lead underwriters for the securitized utility tariff bonds shall provide to the Commission a written certificate, setting forth all calculations and assumptions used to support such calculations and certificate, certifying that the issuance of the securitized utility tariff bonds (i) complies with this Financing Order, (ii) complies with all other applicable legal requirements (including all requirements of Section 393.1700), (iii) that the issuance of the securitized utility tariff bonds and the imposition of the securitized utility tariff charges are expected to provide quantifiable net present value benefits to customers as compared to recovery of the components of securitized utility tariff costs that would have been incurred absent the issuance of securitized utility tariff bonds, and (iv) that the structuring, marketing and pricing of the securitized utility tariff bonds will result in the lowest securitized utility tariff charges consistent with market conditions at the time the securitized utility tariff bonds are priced and the terms of this Financing Order.

7. After Liberty filed its *Illustrative Securitization Tariff for Review* on November 17, 2023, Public Counsel reached out to Liberty informally with suggestions to improve those tariff sheets. Staff also participated in the informal process and Liberty ultimately filed its much-improved tariff sheets.

8. Staff correctly states that its consultant modeled carrying costs during recovery for Storm Uri at 6.7666% WACC for two of four scenarios of Exhibit 117C (an exhibit upon which the Commission relied when finding securitization results in quantifiable net present value benefits to customers, and to which it cited in its *Amended Report and Order*¹); however, Staff fails to note that in the other two scenarios the consultant used 4.65% for Storm Uri carrying costs, and that this exhibit was created *before* the Commission made its decisions stated in its *Amended Report and Order*. Further, the consultant assumed a 4.00% securitized bond interest rate in those scenarios in Exhibit 117C. To Public Counsel's knowledge those scenarios were never updated to reflect the Commission's decisions and Liberty's actual securitized bond rate.

¹ Pp. 77-78.

Wherefore, Public Counsel replies to the responses of Liberty and Staff as set forth above.

Respectfully,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 24th day of January 2024.

/s/ Nathan Williams