

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

In the Matter of the Application of The Empire)
District Electric Company d/b/a Liberty to)
Obtain a Certificate of Convenience and Necessity) Case No. EA-2023-0131
to Enhance System Resiliency)

LIBERTY’S RESPONSE TO OPC’S RATEMAKING SUGGESTION

COMES NOW The Empire District Electric Company d/b/a Liberty (“Liberty” or the “Company”), and, for its Response to the Ratemaking Suggestion of the Office of the Public Counsel (“OPC”) filed herein on March 18, 2024, respectfully states as follows to the Missouri Public Service Commission (“Commission”):

1. On February 14, 2023, Liberty filed its Application for a Certificate of Convenience and Necessity (“CCN”) to Enhance System Resiliency, noting that the Riverton project to enhance the resiliency of the Company’s electric system may require a CCN pursuant to Commission Rules 20 CSR 4240-20.045(1) and 20.045(2)(A). Amended CCN Applications were thereafter filed by Liberty.

2. The Staff of the Commission filed a Recommendation requesting that the Commission “grant Liberty a CCN for the two combustion turbine generators subject to Staff’s recommended conditions.” In Liberty’s filing made March 18, 2024, Liberty consented to Staff Conditions 1-3 and 6-9, requested that Condition 4 be stricken in its entirety, requested that Condition 5 be modified with regard to the type of fuel to be used for testing, and noted a slight clarification on Condition 10.

3. OPC filed a response to Staff’s Recommendation, requesting that the Commission make a ratemaking determination in this CCN docket and order “that Liberty, not its retail customers, bear all of the costs that Liberty has incurred in repairing its 16.3 MW dual fuel

Riverton Unit 10 combustion turbine to make it operational after it went offline February 8, 2021.”

4. Liberty opposes OPC’s request that the Commission make a ratemaking decision in this CCN docket with regard to certain costs incurred by Liberty.

5. **OPC’s request should be denied based on the applicable law.** RSMo. §393.170 provides that a CCN may be granted when it is found to be “necessary or convenient for the public service.” Commission Rule 20 CSR 4240-20.045 provides the requirements for applications filed under RSMo. §393.170. Among other things, this Rule provides that “(i)n determining whether to grant a certificate of convenience and necessity, the commission may, by its order, make a determination on the prudence of the decision to operate or construct an asset subject to the commission’s subsequent review of costs and applicable timelines.” 20 CSR 4240-20.045(2)(C). Liberty is not aware of any statute or rule which would authorize the Commission to make a specific cost/ratemaking determination as requested by OPC.

6. **OPC’s request should be denied based on the applicable facts.** First, Liberty did not repair Riverton Unit 10 so it could utilize the Generator Facility Replacement process. The Company only chose to repair Riverton Unit 10 after Riverton Unit 11 demonstrated significant blade migration following two separate borescopes of the unit. The Company conducted a borescope of Riverton Unit 11 on April 5, 2023; and, following a short market run on August 1, 2023, the Company conducted a second borescope to provide a comparative analysis of the risk of continuing to run the unit. The results of the borescopes presented the Company with significant safety and reliability concerns. Further, the Company had a borescope of Riverton 10 performed to provide an assessment of the most cost-efficient unit to repair, with the cost to repair Unit 10 being significantly less than the cost to repair Unit 11. The Company then made a prudent decision to repair Riverton Unit 10 based on the appropriate balance between cost, safety, and reliability.

7. Second, Liberty was not required to use the Generator Facility Replacement process for Riverton Unit 10. The Company was in conversations with the Southwest Power Pool (“SPP”) regarding avenues for replacement. The Company had discussions regarding the “material modification” provision within Attachment V of the SPP Open Access Transmission Tariff (“OATT”), given the replacement units were going to be of similar size, at the same point of interconnection, and may use some of the same common facilities as the original units. Following the aforementioned borescopes of the Riverton units, however, the Company made the decision to pause these discussions and proceed to repairing Unit 10.

8. Third, Liberty’s customers have benefited from the repairs of Riverton Unit 10. Given the recent planning reserve margin increase and the Company’s accredited capacity addition, Liberty would have had to purchase additional replacement capacity or be in violation of Attachment AA of the SPP OATT. Further, the Company has an obligation to provide a restoration plan to SPP, and Riverton Unit 10 ** [REDACTED]

[REDACTED] **

9. Lastly, denial of traditional cost recovery for Liberty’s repair of Riverton Unit 10, as suggested by OPC, would punish Liberty for making a well-reasoned, prudent decision. A request for Generating Facility Replacement must be submitted at least one year prior to the date that the Existing Generating Facility will cease operation or up to one year after a unit is determined to be in forced outage, and the process requires submission of an initial study deposit and a host of materials, including highly technical data that is only available after the replacement technology has been selected and procured. As stated in the Company’s CCN application, although the Company’s 2022 IRP identified 30 MW of reciprocating internal combustion engine (RICE) generation using existing interconnection, the Company engaged Black and Veatch to perform a

technology study to fine tune the IRP results by examining three models of RICE, six simple-cycle combustion turbine models, and batteries. The results were then compared using a net present value of the revenue requirement, which ultimately led to the Company's proposed selection as presented in this docket.

10. It appears that OPC has a disregard for the amount of analytical work that the Company performed to demonstrate that the units selected were the correct units to best serve Liberty's customers. Based on OPC's suggested ratemaking condition in this CCN docket, OPC would have preferred the Company to ignore the IRP process and hastily propose a replacement technology to try and beat the one-year forced outage window in the Generator Facility Replacement process.

WHEREFORE, Liberty requests an order granting the Company a certificate of convenience and necessity to enhance the resiliency of its electric system by replacing Riverton Units 10 and 11, subject only to Staff's proposed conditions as modified by Liberty's filing of March 18, 2024.

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 28th day of March, 2024, and sent by electronic transmission to the Staff of the Commission and the Office of the Public Counsel.

/s/ Diana C. Carter