

**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 for an)
Order Granting a One-Time Variance from a) Case No. _____
Portion of 20 CSR 4240-20.094(7)(K))

APPLICATION FOR VARIANCE AND REQUEST FOR WAIVER

COMES NOW The Empire District Electric Company d/b/a Liberty, and pursuant to 20 CSR 4240-2.060 and 20 CSR 4240-20.094(7)(K), submits this Application for Variance and Request for Waiver regarding RSMo. §393.1075 (the Missouri Energy Efficiency Investment Act (“MEEIA”)). In support of this Application, Liberty respectfully states as follows to the Missouri Public Service Commission (“Commission”):

1. The Empire District Electric Company (“Liberty” or the “Company”) is a corporation organized and existing under the laws of the state of Kansas with its principal office and place of business at 602 Joplin Street, Joplin, Missouri. Liberty is qualified to conduct business and is conducting business in Missouri, as well as in the states of Arkansas, Kansas, and Oklahoma. Liberty is engaged, generally, in the business of generating, purchasing, transmitting, distributing, and selling electricity.

2. The Company 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.

3. A certified copy of Liberty’s Restated Articles of Incorporation, as amended, was filed in Case No. EF-94-39, and a certificate from the Missouri Secretary of State that Liberty, a foreign corporation, is authorized to do business in Missouri was filed with the Commission in

Case No. EM-2000-369. This information is current and correct, and the referenced documents are incorporated herein by reference.

4. Liberty has no pending or final unsatisfied judgements or decisions against it from any state or federal agency or court that involve customer service or rates and that have occurred within the three years immediately preceding this filing. Liberty has no annual report or assessment fees overdue to this Commission.

5. RSMo. §393.1075 authorizes the Commission to permit electric corporations, like Liberty, to implement Commission-approved demand-side programs pursuant to MEEIA. On September 15, 2021, Liberty filed its Application seeking approval of demand-side programs and a Demand-Side Programs Investment Mechanism as prescribed by MEEIA (“MEEIA Cycle 1 Application”).

6. With its *Order Approving Agreement and Tariffs* issued December 15, 2021, effective January 1, 2022, the Commission approved a Global Stipulation and Agreement which settled all issues with regard to Liberty’s MEEIA Cycle 1 Application; and implementing tariff sheets for Liberty’s MEEIA Cycle 1 took effect January 1, 2022. Those tariff sheets, with certain modifications, remain in effect.

7. Pursuant to Liberty’s approved MEEIA tariff sheets and applicable law, certain industrial electric customers have “opted out” of Liberty’s MEEIA programs. One of these customers, ** [REDACTED] **, desires to revoke its opt-out and participate in Liberty’s MEEIA programs for its ** [REDACTED] ** location. This Application for Variance and Request for Waiver is being filed with the consent of and at the request of that customer.

8. RSMo. §393.1075.8 provides that “(c)ustomers that have notified the electrical corporation that they do not wish to participate in demand-side programs [under MEEIA] shall

not subsequently be eligible to participate in demand-side programs except under guidelines established by the commission in rulemaking.” Commission Rule 20 CSR 4240-20.094(7)(K) then provides, in part, that a “customer may revoke an opt-out by providing written notice to the utility and commission two to four (2–4) months in advance of the calendar year for which it will become eligible for the utility’s demandside programs’ costs and benefits.”

9. The referenced customer has provided notice to Liberty, and this application seeks a one-time variance from the above-referenced portion of Commission Rule 20 CSR 4240-20.094(7)(K) to allow the customer to immediately be eligible for the costs and benefits of Liberty’s MEEIA programs.

10. The referenced industrial customer is planning a \$40 million new build to an existing plant in Liberty’s service territory, with construction anticipated in 2024 and 2025. MEEIA plan incentives associated with this project would likely reach the program incentive max during any one calendar year. Allowing the customer to participate during both construction years (2024 and 2025), will allow the customer to fully utilize the Commission-approved incentive provisions.

11. Approval of the requested one-time variance benefits the referenced industrial customer by allowing that customer to potentially be able to use incentive funds for other, future projects and benefits Liberty’s other customers by allowing Liberty to collect MEEIA costs from the referenced customer in 2024. Liberty is not seeking a variance from the portion of Commission Rule 20 CSR 4240-20.094(7)(K) that requires a “customer revoking an opt-out to participate in demand-side programs . . . to remain in the demand-side program(s) for the number of years over which the cost of that demand-side program(s) is being recovered, or until the cost of their participation in the demand-side program(s) has been recovered.”

12. Liberty requests an order granting the requested on-time variance to allow the referenced customer to participate in Liberty's MEEIA programs for the current calendar year (2024). Liberty does not anticipate that this matter will be a contested case. A hearing is not required in order to grant a variance from a portion of the Commission's regulations.

13. Liberty has not filed a 60-day notice pursuant to 20 CSR 4240-4.017(1) and requests a waiver of this requirement. Rule 20 CSR 4240-4.017(1)(D) provides that a waiver may be granted for good cause. Good cause exists in this case. Liberty declares (as verified below) that it has had no communication with the office of the Commission (as defined by Commission Rule 20 CSR 4240-4.017(1)(D)) within the prior 150 days regarding any substantive issue likely to be in this case. Accordingly, to the extent that the Commission may find it to be applicable, and for good cause shown, Liberty moves for a waiver of the 60-day notice requirement of Rule 20 CSR 4240-4.017(1) and acceptance of this Application at this time.

WHEREFORE, Liberty respectfully requests, for good cause shown, that the Commission waive the notice requirement of 20 CSR 4240-4.017(1) and grant the requested one-time variance from a portion of 20 CSR 4240-20.094(7)(K) to allow a specific industrial customer to participate in Liberty's MEEIA programs in 2024.

Respectfully submitted,

/s/ Diana C. Carter

Diana C. Carter MBE #50527

The Empire District Gas 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 30th day of July, 2024, and sent by electronic transmission to the Staff of the Commission and the Office of the Public Counsel.

/s/ Diana C. Carter

VERIFICATION

On behalf of The Empire District Electric Company d/b/a Liberty, and pursuant to Commission Rules, the undersigned, upon his oath and under penalty of perjury, hereby states that the above filing is true and correct to the best of his information, knowledge, and belief.

/s/ Tim Wilson _____
Liberty Central Region President – Electric Operations