

**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 Portion of 20 CSR 4240-)
20.094(7)(K))

File No. EE-2025-0037

STAFF RECOMMENDATION

COMES NOW Staff of the Missouri Public Service Commission and for its Staff Recommendation in this matter respectfully states as follows:

1. As described in the Commission’s *Order Setting Deadlines for Intervention Applications and Staff Recommendation* (“Order”) issued herein on August 1, 2024:

On July 30, 2024, The Empire District Electric Company d/b/a Liberty filed an application requesting a one-time variance to allow an industrial customer to participate in Liberty’s MEEIA programs for the current calendar year, 2024. That industrial customer previously opted out of MEEIA participation, and now seeks to revoke its opt-out. Liberty also requested a waiver of the 60-day notice requirement.

The variance requested is from Commission Rule 20 CSR 4240-20.094(7)(K), which requires the customer to give notice two to four months in advance of the calendar year for which it will become eligible for the utility’s demand-side program. The variance would allow immediate eligibility for the industrial customer.

2. The Order also ordered that “No later than August 30, 2024, the Commission’s Staff shall file either a recommendation regarding Liberty’s application or a status report indicating when it expects to file a recommendation.” Staff is filing this recommendation in compliance with said Order.

3. As stated in Liberty’s application herein, one of its customers which has previously opted-out of Liberty’s MEEIA programs now desires to revoke its opt-out and “to immediately be eligible for the costs and benefits of Liberty’s MEEIA programs”

because the customer “is planning a \$40 million new build to an existing plant in Liberty’s service territory, with construction anticipated in 2024 and 2025.”

4. Rule 20 CSR 4240-20.094(7)(K) 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 demand-side programs’ costs and benefits.” Therefore, in order for the subject customer to immediately be eligible for the costs and benefits of Liberty’s MEEIA programs, Liberty has, with the consent of and at the request of that customer, filed this application for a one-time variance for that customer from that portion of Rule 20 CSR 4240-20.094(7)(K) previously quoted.

5. It is important to note that Liberty is *not* requesting a variance from that portion of Rule 20 CSR 4240-20.094(7)(K) which 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.” Therefore, any variance granted herein should not apply to the entirety of 20 CSR 4240-20.094(7)(K), but only to that portion referenced in paragraph 4 above.

6. Under the specific circumstances of this case, Staff does not oppose the requested one-time variance *so long as* the opt-out revocation (i.e., “opt-in”) applies to *all* of the customer’s accounts in Liberty’s territory. In other words, the customer should not be allowed to “opt-in” one account and leave all remaining accounts opted-out. Applying the “opt-in” to all accounts is consistent with the manner in which the more

common “opt-out” is handled. Staff has spoken with counsel for Liberty, and has been informed that Liberty and the customer understand that the “opt-in” will be for all accounts of the customer. Staff also reiterates that the variance should not be from the entirety of 20 CSR 4240-20.094(7)(K), but only to the portion specifically requested.

7. Liberty’s application also requested a waiver of the 60-day notice requirement of 20 CSR 4240-4.017(1). Staff does not oppose such request.

WHEREFORE Staff submits this Staff Recommendation pursuant to the Commission’s *Order Setting Deadlines for Intervention Applications and Staff Recommendation* issued herein on August 1, 2024, and prays the Commission enter an order in accordance with the above.

Respectfully submitted,

/s/ Jeffrey A. Keevil

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Attorney for the Staff of the
Missouri Public Service Commission

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to counsel of record as reflected on the certified service list maintained by the Commission in its Electronic Filing Information System this 29th day of August 2024.

/s/ Jeffrey A. Keevil

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)
Portion of 20 CSR 4240-20.094(7)(K)) **Case No. EE-2025-0037**

AFFIDAVIT OF MARK KIESLING

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

COMES NOW MARK KIESLING, and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing *Staff Recommendation*; and that the same is true and correct according to his best knowledge and belief, under penalty of perjury.

Further the Affiant sayeth not.

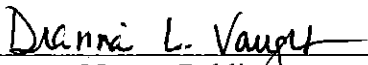


MARK KIESLING

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 29th day of August 2024.

DIANNA L. VAUGHT
Notary Public - Notary Seal
State of Missouri
Commissioned for Cole County
My Commission Expires: July 18, 2027
Commission Number: 15207377



Notary Public