

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

In the Matter of the Application of )  
Southway Storage for Change of Electric )  
Supplier From the Empire District Electric ) **FILE NO. EO-2024-0194**  
Company d/b/a Liberty to White River Valley )  
Electric Cooperative, Inc. )

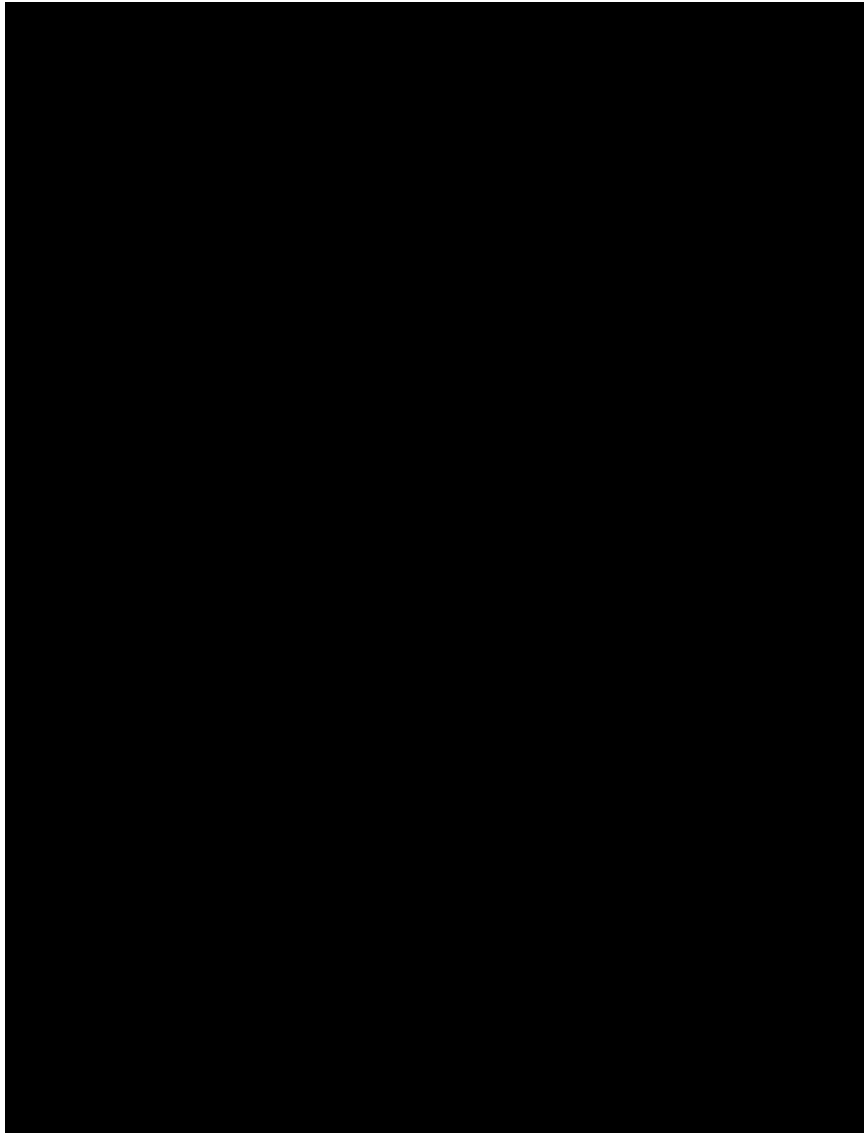
**STAFF'S MOTION TO PRODUCE WITNESS(S)  
AT THE HEARING**

**COMES NOW** the Staff of the Missouri Public Service Commission, by and through counsel, and asks the Commission to require the Empire District Electric Company d/b/a Liberty (Liberty) to produce at the hearing in this matter witnesses with knowledge and authority to testify concerning the matters set out in this pleading. Staff states, further:

On December 12, 2023, Garret Stancer filed an Application for Change of Electric Service Provider, asking to change his service for property located at the southwest corner of F Highway and Highway 65 in Ozark Missouri, from Liberty to White River Valley Electric Cooperative (White River). Subsequently, Southway Storage replaced Mr. Stancer as the Applicant. The service was for a proposed storage facility to be located on property which had been recently annexed into Ozark, Missouri. At this time, it still has not been built because the Applicant is still waiting to see if he can use the property economically. Previously to annexation, the property had been "rural" and within the jurisdiction of White River.

As the Commission may readily ascertain from the subsequent filings culminating in the parties' Position Statements, among others the following issues have emerged as salient in this case:

- May White River, as a rural electric cooperative, provide service to a customer within the boundaries of a municipality?
- Is a charge to the customer of \$88,000 (and perhaps substantially more) for Liberty to extend its electrical distribution facilities to the applicant unjust and unreasonable?
- Does the Commission have the authority to grant the application?



Above in Figure 1 is a picture of the Property that depicts White River's existing overhead facilities routed along state Highway F (a three-phase line depicted in brown)

and a tapped single-phase line routed through the Property, used in providing service to an existing structure on the parcel to the immediate South (also shown in brown). Also illustrated on this parcel to the immediate South of the Property is White River's existing underground line (shown in green). Also illustrated in this picture is the structure White River previously served on the Property between 1983 and 1994. Structures illustrated on the west side of US Highway 65 are served by White River, and those shown on the east side of US Highway 65 receive electric service from Liberty.

Based on the data available to Staff when it filed its report and recommendation in this case, Staff concluded and reported to the Commission:

Liberty will need to cross US Highway 65 overhead and then go underground to the center of the property at an estimated cost of \$88,629.38 according to its Response to Staff Data Request No. 0003 attached to this Staff Recommendation as Schedule AJB-1. Although Southway Storage states in the Application that Liberty will need to bore under US Highway 65, which would add additional costs to the extension, Liberty maintains that boring will not be necessary, nor would this be preferred.

In the course of further investigations in this case, Staff has learned that the applicant attended an Ozark planning meeting at some point early in this case and perhaps prior to the filing of the application. The Applicant's issues were there discussed. At least one Liberty personnel was present, one Eric Ponder, and he participated in discussions. Eric Ponder is an employee of Liberty, and he led applicant to understand that he was speaking for Liberty. At this meeting, Mr. Ponder substantively made the following statements:

- To extend the service, Liberty would have to bore under U.S. Highway 65
- The estimated cost would be "in the six figures."

- The Applicant would be required to pay the entire cost of the service extension up front.

In its investigation in this case, staff reviewed Liberty's tariff. P.S.C. Mo. No. 6, Sec. 5, Original Sheet No. 17c. It states, inter alia: "If the Company is unable to project estimated revenues, the customer shall be required to pay the entire cost of construction. All contributions in aid of construction may be required before construction is commenced."

Staff contends that in order to decide this case, the Commission will need evidence as follows:

- Has Liberty prudently exercised due diligence to ascertain whether it will actually be "permitted" to extend the service across Highway 65 with an overhead distribution facility rather than with an underground distribution facility? What procedures has it followed? Has it actually applied for and been "permitted" to use an overhead distribution facility?
- Has Liberty projected the estimated costs for an underground distribution facility? If so, as an "estimate," in what amount?
- Has Liberty projected estimated revenues from the extension of the distribution facility? If so, as an "estimate," in what amount?
- Did Liberty represent at an Ozark planning meeting or other directly to the applicant that the extension would have to be implemented by boring under Highway 65 and at a cost in the "six figure" range? And that the Applicant would have to pay all those amounts before construction would commence?

- Is it Liberty's position that the applicant must pay all charges upfront? That the applicant must pay all charges?

Answers to these questions from Liberty should be available to the Commission at the conclusion of the hearing.

After formal discovery, filed pleadings, and informal discovery, Staff has concluded that better evidence on these matters than is available to all parties at this time must exist somewhere, and that the Commission should have this evidence before it. To illustrate the point: What if, in fact, Liberty will have to bore under Highway 65 to extend the distribution facilities and the "required contribution in aid of construction" from the customer will be \$150,000, as opposed to no charge from White River? What if the projected revenues from the facility will not, within a reasonable amount of time, cover either \$150,000 or \$88,000?

Staff submits that the Commission should have this evidence available at the hearing. Staff asks for an expedited ruling.

**WHEREFORE**, Staff prays that the Commission will order Liberty to produce a witness or witnesses at the hearing with authority and knowledge to provide evidence addressing the issues identified in the body of this pleading. Staff prays for an expedited ruling.

Respectively Submitted,

/s/ Paul T. Graham

Paul T. Graham #30416  
Senior Staff Counsel  
P.O. Box 360  
Jefferson City, Mo 65102-0360  
(573) 522-8459  
[Paul.graham@psc.mo.gov](mailto:Paul.graham@psc.mo.gov)

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 30<sup>th</sup> day of August, 2024.

/s/ Paul T. Graham