

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

In the Matter of the Tariff Filing of The Empire)	
District Electric Company d/b/a Liberty)	<u>Case No. ET-2023-0250</u>
Pursuant to 20 CSR 4240-3.155 and 20 CSR)	Tariff JE-2023-0127 and
4240-20.065)	JE-2023-0128

STAFF RECOMMENDATION

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

1. On April 24, 2023, the Commission issued an *Order Directing Filing and Setting Time for Responses* (“Order”) in this matter, which ordered Staff to file its recommendation or a motion to suspend the tariff sheets filed herein by The Empire District Electric Company d/b/a Liberty (“Liberty”) no later than May 3, 2023. Filed concurrently herewith, in memorandum form, is Staff’s recommendation, which is incorporated herein by reference.

2. As discussed in detail in the accompanying Staff recommendation memorandum, Staff recommends that the Commission approve the tariff sheets that are the subject of this proceeding¹ to go into effect for service on and after May 22, 2023, the requested effective date, subject to the following conditions:

(a) Staff recommends the Commission order Liberty to further justify
** [REDACTED] ** taking
into account the factors affecting rates for purchases contained in 20 CSR 4240-20.060(4)(E)2;

¹ PSC MO No. 6, Section 4, 2nd Revised Sheet No. 6 canceling 1st Revised Sheet No. 6 and 2nd Revised Sheet No. 13 canceling 1st Revised Sheet No. 13.

(b) Staff recommends the Commission order Liberty to file in this case a standard form contract for systems over 100 kW as required by 20 CSR 4240-3.155(2)(B); and

(c) Staff recommends the Commission order Liberty to file in this case a public version of the data required by 20 CSR 4240-3.155(4).

WHEREFORE Staff respectfully submits its Staff Recommendation and prays the Commission issue such orders as it deems just and reasonable under the circumstances.

Respectfully submitted,

/s/ Jeff Keevil

Jeff Keevil
Deputy Counsel
Missouri Bar No. 33825

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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 2nd day of May, 2023.

/s/ Jeffrey A. Keevil

MEMORANDUM

TO: Missouri Public Service Commission
Official Case File, Case No. ET-2023-0250, JE-2023-0127, JE-2023-0128
Cogeneration and Net Metering rate for
The Empire District Electric Company d/b/a Liberty

FROM: Claire M. Eubanks, P.E., Engineering Analysis

/s/ Claire M. Eubanks, P.E. 05/02/2023 /s/ Jeffrey A. Keevil 05/02/2023
Engineering Analysis / Date Staff Counsel's Office / Date

SUBJECT: Staff Report on the Cogeneration and Net Metering rate for
The Empire District Electric Company d/b/a Liberty

DATE: May 2, 2023

SUMMARY

Staff has reviewed The Empire District Electric Company d/b/a Liberty (“Liberty” or “EDE”) rate tariff sheets filed on January 13, 2023 and associated cogeneration filing. Liberty provided supplemental supporting calculations on February 17, 2023 which corrected ** [REDACTED] ** as noted in Staff’s February 3, 2023 pleading.

Staff recommends that the Commission approve the tariff sheets, as filed on January 13, 2023, to go into effect for service on and after May 22, 2023, the requested effective date. However, Staff recommends Liberty further justify ** [REDACTED] ** taking into account the factors affecting rates for purchases contained in 20 CSR 4240-20.060(4)(E)2.

Regarding the cogeneration filing requirements, Staff notes one deficiency and one concern with Liberty’s cogeneration filing. Therefore, Staff recommends the Commission order Liberty to file in this case a standard form contract for systems over 100 kW as required by 20 CSR 4240-3.155(2)(B) and a public version of the data required by 20 CSR 4240-3.155(4).

OVERVIEW

On January 13, 2023, Liberty filed one (1) rate tariff sheet each in JE-2023-0127 and JE-2023-0128 with effective dates of February 12, 2023. Staff filed a motion to suspend the tariff sheets to allow Staff sufficient time to conduct discovery necessary for Staff to make an informed recommendation to the Commission regarding Liberty's proposed cogeneration and net-metering rate for 2023-2024. In response to Staff's motion, Liberty voluntarily extended the tariff effective date twice to May 22, 2023.

The Commission's Cogeneration Rule, 20 CSR 4240-3.155, provides, in part, that "tariffs providing standardized rates for facilities at or under one hundred (100) kilowatts on design capacity (subpart(2)) ... shall be submitted no later than January 15, 2005, and updated and revised on or before January 15 of every odd-numbered year after that, unless otherwise ordered by the Commission (subpart (3))."

The Commission's Net Metering Rule, 20 CSR 4240-20.065, implements §386.890, RSMo., the "Net Metering and Easy Connect Act." The Act makes it easier to obtain net metering service from electric utility service providers in Missouri, including Liberty. As a part of its Net Metering Rule, the Commission requires regulated utilities' net metering rate to be the same as its cogeneration rate. Specifically, the Commission's Net Metering Rule, 20 CSR 4240-20.065(1)(B) states "avoided fuel cost means the incremental costs to the electric utility of electric energy, but for the purchase from the customer generator, the utility would generate itself or purchase from another source. Avoided fuel cost is used to calculate the electric utility's standard rate for purchase from systems less than one hundred (100) kilowatts pursuant to 20 CSR 4240-20.060. "

Through its filings, Liberty is proposing the same rate change for both the rates Liberty will pay its customers under its rate schedule titled, “Cogeneration Purchase Rate, Schedule CP” and the rates Liberty will pay its customers under its “Net Metering Rider, Rider NM.”

DISCUSSION

Biennially, in odd-numbered years, the electric utilities submit and Staff reviews the cogeneration and net metering rate tariff filings. Staff reviews these filings to ensure compliance with the filing requirements and to ensure the proposed rates are reasonable. Typically, Staff completes its review within 30 days (20 CSR 4240-2.065(5)). In the case of January 2023 filings, Staff noticed a divergence in the proposed rates across the four electric utilities.¹ Specific to Liberty, Staff noted a substantial increase in the proposed rate as compared to its previous filings. For these reasons, Staff requested additional time to allow for discovery regarding the proposed rates.

Filing Requirements

Staff reviewed the information submitted by Liberty to determine whether or not it met the cogeneration filing requirements of 20 CSR 4240-3.155. The filing requirements include the following components:

- Standardized rates for facilities 100 kW or less. The standard rates are to take account of the aggregate output of small systems. When the capacity of the dispersed systems, in the aggregate, allows the utility to avoid a capacity cost and can be reasonably estimated, a corresponding credit must be included in the standard rates.²

¹ Liberty and Ameren Missouri’s proposed cogeneration/net-metering rates for purchases for 2023-2024 are substantially higher than its respective 2021-2022 rates. Evergy Missouri West proposed a modest increase to its cogeneration/net-metering rates for purchase while Evergy Missouri Metro proposed a decrease.

² Liberty reports it has a total of 4,071 net metering agreements (50.55 MW) and 26 cogeneration agreements (5.42 MW).

- Submittal of a standard form contract for facilities over 100 kW. Issues such as avoided costs, losses, reliability and ability to schedule are to be considered in the contract.
- Provide and maintain for public inspection:
 - Avoided energy cost stated in blocks of not more than 100 MW for systems with peak demand of 1,000 MW or more. Avoided energy costs shall be stated on a cents/kWh basis, daily and seasonal peak and off-peak periods, by year, for the current calendar year and each of the next 5 years.
 - Plans for capacity additions (by amount and type) during the next ten years.
 - Estimated capacity costs at completion of the planned capacity additions (\$/kW) and associated energy costs (cents/kWh).

Staff identified one deficiency and one concern related to the cogeneration filing requirements. Liberty failed to provide its standard form contract for systems sized over 100 kW (“standard contract form”) as required by 20 CSR 4240-3.155(2)(B). Staff has requested the standard contract form and expects a response from Liberty no later than May 10, 2023. Liberty has previously provided its standard contract form in EW-2021-0077, Joint Comments, Attachment C2. Staff has concerns with the standard contract form as presented in EW-2021-0077 as it appears to be the net metering application revised to encompass systems over 100 kW, however, in EW-2021-0077 Staff requested clarification from Liberty and it represented that net-metering is not being offered to systems over 100 kW.³

Staff is concerned that Liberty has designated its entire workpaper as confidential. The cogeneration filing requirements require certain information be maintained by the electric utilities for public inspection and that information is contained in Liberty’s confidential workpaper. Staff

³ Liberty response to Staff Data Request 8 in EW-2021-0077.

recommends the Commission order Liberty to file in this case a public version of the data required by 20 CSR 4240-3.155(4). This data was provided within Liberty's confidential supplemental workpapers on February 17, 2023.

Cogeneration/Net-Metering Rate

The Cogeneration/net-metering rate is the rate electric utilities pay customer-generators for the output of certain renewable and cogeneration resources. PURPA and Commission rule 20 CSR 4240-20.060(4)(A) require that rates for purchases be just and reasonable to the electric consumer of the electric utility and in the public interest and shall not discriminate against qualifying cogeneration and small power production facilities.

The proposed rate for purchases, as well as the rates from the previous two biennial filings are shown in the table below:

	Proposed 2023-2024	2021-2022	2019-2020
Summer	\$0.0538/kWh	\$0.0250/kWh	\$0.0349/kWh
Winter	\$0.0493/kWh	\$0.0262/kWh	\$0.0312/kWh

Liberty uses its forecast data consistent with its Fuel and Purchased Power budget to develop its ** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] **

As a reasonableness check, Staff compared Liberty's 2023-2024 proposed summer/winter rates for avoided energy to a historical 3-year period of market prices at the EDE SPP load node (2020-2022). Winter Storm Uri occurred during the historical period used. Therefore, for the month of February, Staff excluded the February 2021 market prices from its data set. The resulting avoided energy cost using historical market prices, adjusted for losses, results in \$0.0526/kWh (summer) and \$0.0418/kWh (winter).⁴ Liberty's proposed rates are higher than those calculated by Staff using a 3-year historical period (2% higher summer rate and 15% higher winter rate).

Staff inquired of Liberty on its justification for its forecasted market prices in development of its proposed rates. Liberty explained that it uses forecast data consistent with its most recent Fuel and Purchased Power Budget (in this case for 2023-2028). Liberty further explained in part that "[u]sing a normal weather profile to forecast loads and a longer-term natural gas price forecast to smooth out natural gas and market prices, the Company is able to set a rate that is normal and reasonable given the set of forward looking assumptions that are available when the rate is developed."

While the proposed winter rate is 15% higher than Staff's calculation of historical market prices, Staff is not opposed to the proposed rates for avoided energy costs for the following reasons:

(1) Liberty represents that its methodology in this case is consistent with previous cogeneration/net-metering filings. ** [REDACTED]

[REDACTED] **

⁴ Summer is the months June through September. Winter is the months October through May.

(2) Liberty is utilizing a shorter-term forecast that is consistent with its own Fuel and Purchased Power Budget (as opposed to a long-term forecast such as from its IRP).

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*** the net-metering rule's definition of avoided fuel costs as avoided energy costs.⁵ FERC has established that it is appropriate for the avoided cost rate for capacity to be set at \$0 when a utility demonstrates it does not need capacity.⁶ 20 CSR 4240-3.155(2)(A) requires that "[w]hen that aggregate capacity value which allows the utility to avoid a capacity cost occurs and can be reasonably estimated, a corresponding credit must be included in the standard rates." **

** Liberty reports that it currently has executed 26 cogeneration agreements totaling 5.42 MW.⁷ Staff recommends Liberty further justify **

** taking into account the factors affecting rates for purchases contained in 20 CSR 4240-20.060(4)(E)2:

2. The availability of capacity or energy from a qualifying facility during the system daily and seasonal peak periods, including:
 - A. The ability of the utility to dispatch the qualifying facility;

⁵ 20 CSR 4240-20.065(1)(B) Avoided fuel cost means the incremental costs to the electric utility of electric energy, but for the purchase from the customer-generator, the utility would generate itself or purchase from another source. Avoided fuel cost is used to calculate the electric utility's standard rate for purchase from systems less than one hundred (100) kilowatts pursuant to 20 CSR 4240-20.060. The information used to calculate this rate is provided to the commission biennially and maintained for public inspection.

⁶ City of Ketchikan, 94 FERC ¶ 61,293, at 62,061 (2001) ("[A]voided cost rates need not include the cost for capacity in the event that the utility's demand (or need) for capacity is zero. That is, when the demand for capacity is zero, the cost for capacity may also be zero.")

⁷ **

- B. The expected or demonstrated reliability of the qualifying facility;
- C. The terms of any contract or other legally enforceable obligation, including the duration of the obligation, termination notice requirement and sanctions for noncompliance;
- D. The extent to which scheduled outages of the qualifying facility can be usefully coordinated with scheduled outages of the utility's facilities;
- E. The usefulness of energy and the capacity supplied from a qualifying facility during system emergencies, including its ability to separate its load from its generation;
- F. The individual and aggregate value of energy and capacity from qualifying facilities on the electric utility's system; and
- G. The smaller capacity increments and the shorter lead times available with additions of capacity from qualifying facilities

Staff's recommendation for Liberty to further justify ** [REDACTED]

[REDACTED] ** is not intended to delay the proposed tariffs from going into effect as Staff does not want to delay cogeneration and net-metering customers from receiving the higher rate for purchases. Further, if the Commission determines that ** [REDACTED] ** is reasonable to include at this time, the Commission could order Liberty to revise its rate.

Staff recommends that the Commission approve the following tariff sheets, as filed on January 13, 2023, to go into effect for service on and after May 22, 2023, the currently requested effective date:

P.S.C. Mo. No. 6, Section 4

2nd Revised Sheet No. 6 Canceling 1st Revised Sheet No. 6

P.S.C. Mo. No. 6, Section 4

2nd Revised Sheet No. 13 Canceling 1st Revised Sheet No. 13

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OF THE STATE OF MISSOURI**

In the Matter of the Tariff Filing of The Empire)	<u>File No. ET-2023-0250</u>
District Electric Company d/b/a Liberty)	Tariff Nos. JE-2023-0127
Pursuant to 20 CSR 4240-3.155 and)	and JE-2023-0128
20 CSR 4240-20.065)	

AFFIDAVIT OF CLAIRE M. EUBANKS, PE

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

COMES NOW Claire M. Eubanks, PE, and on her oath states that she is of sound mind and lawful age; that she contributed to the foregoing *Staff Recommendation in Memorandum form*; and that the same is true and correct according to her best knowledge and belief.

Further the Affiant sayeth not.

Claire M Eubanks
Claire M. Eubanks, PE

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 1st day of May, 2023.

Dianna L. Vaught
Notary Public

DIANNA L VAUGHT Notary Public - Notary Seal STATE OF MISSOURI Cole County My Commission Expires: July 18, 2023 Commission #: 15207377
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