

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Joint Application of)
The Empire District Electric Company)
d/b/a Liberty and Southwest Electric)
Cooperative for Approval of Second)
Territorial Agreement Designating)
Boundaries of Exclusive Service Areas for)
Each Near the City of Bolivar, Missouri)

File No. EO-2025-0223

ORDER DIRECTING NOTICE, SETTING INTERVENTION DEADLINE, AND DIRECTING STAFF RECOMMENDATION

Issue Date: February 14, 2025

Effective Date: February 14, 2025

On February 14, 2025, The Empire District Electric Company d/b/a Liberty and Southwest Electric Cooperative, (collectively, "Joint Applicants"), jointly filed an application seeking Commission approval of a second territorial agreement. Section 394.312.4, RSMo (2016) generally requires that the Commission act on the application no later than 120 days after the application was filed, which will be June 14, 2025. The territory concerned is an exclusive electric service area near the City of Bolivar, Missouri, wholly located within Polk County, Missouri. Joint Applicants also requested a waiver of the Commission's 60-day notice of case filing rule.

The Commission will give notice of this application to other electric service providers, if any, and to the County Commission of Polk County, Missouri. The Staff of the Commission (Staff) will be directed to file a recommendation regarding the application to amend the territorial agreement.

THE COMMISSION ORDERS THAT:

1. The Commission's Data Center shall mail a copy of this notice and the Joint Application to other electric service providers in Polk County, if any, and to the County Commission of Polk County.
2. Any entity wishing to intervene in this matter shall file an application to do so no later than March 7, 2025.
3. No later than March 14, 2025, Staff shall file its recommendation in this matter, or a status report.
4. This order shall be effective when issued.



BY THE COMMISSION

Nancy Dippell

Nancy Dippell
Secretary

Riley G. Fewell, Regulatory Law Judge,
by delegation of authority pursuant to
Section 386.240, RSMo (2016).

Dated at Jefferson City, Missouri,
on this 14th day of February, 2025.

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

In the Matter of the Joint Application of The)	
Empire District Electric Company d/b/a Liberty)	
and Southwest Electric Cooperative for)	Case No. EO-2025-_____
Approval of Second Territorial Agreement)	
Designating the Boundaries of Exclusive Service)	
Areas for Each Near the City of Bolivar,)	
Missouri.)	

**JOINT APPLICATION FOR APPROVAL OF SECOND TERRITORIAL AGREEMENT
AND REQUEST FOR WAIVER OF 60-DAY NOTICE AND EXPEDITED TREATMENT**

COME NOW The Empire District Electric Company d/b/ Liberty (“Liberty”) and Southwest Electric Cooperative (“Southwest”), hereinafter referred to collectively as “Applicants,” by and through their respective counsel, and for their Joint Application to the Missouri Public Service Commission (the “Commission”), pursuant to 20 CSR 4240-2.060, 20 CSR 4240-3.130, and Section 394.312, RSMo., for an order approving Applicants’ Second Territorial Agreement. To facilitate an expedient implementation of the Second Territorial Agreement, Joint Applicants also request a Waiver of the 60-day notice requirement of 20 CSR 4240- 4.017, and further request expedited treatment of this Joint Application so that the customer subject to this *Joint Application* can receive permanent service¹ in a timely manner. In support of their positions, the Joint Applicants state as follows:

Applicants

1. Liberty is a Kansas corporation with its principal office and place of business at 602 Joplin Street, Joplin, Missouri, 64801. Liberty is engaged in the business of providing electrical services in Missouri to customers in its service areas. Liberty is an “electrical corporation” and a

¹ While the Joint Applicants have agreed that the Southwest may begin providing temporary service to the customers upon the filing of this Joint Application, they agree that expedient approval of this Joint Application will provide greater surety to all parties that the temporary service can remain permanent.

“public utility,” all as defined in Section 386.020, RSMo., and Liberty is subject to the jurisdiction and supervision of the Commission as provided by law.

2. 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 that have occurred within the three years immediately preceding the filing of this Application. Liberty has no overdue Commission annual reports or assessment fees. Liberty’s documents of incorporation have been previously filed with the Commission in Case No. EF-94-39 and said documents are incorporated herein by reference in accordance with 20 CSR 4240-2.060(1)(G). A Certificate of Authority from the Missouri Secretary of State to the effect that Liberty, a foreign corporation, is duly authorized to do business in the State of Missouri was filed with the Commission in Case No. EM-2000-369 and is incorporated herein by reference.

3. Southwest is a rural electric cooperative organized and existing under the laws of Missouri and has its principal office at 1023 S. Springfield, Bolivar, Missouri. It is a Chapter 394 rural electric cooperative corporation engaged in the distribution of electric energy and service to its members within certain Missouri Counties. Southwest has no pending or final judgments or decisions against it from any state or federal agency or court which involve its customer service or rates within the three years immediately preceding the filing of this Joint Application. A copy of a Certificate of Good Standing from the Office of the Missouri Secretary of State for Southwest is attached hereto as Appendix A.

4. Correspondence, communications, orders, and decisions in regard to this Application should be directed to the undersigned counsel.

5. Applicants previously entered into a First Territorial Agreement, which was approved by the Commission in Case No. EO-2002-1119. A copy of the First Territorial Agreement is attached hereto as Appendix B for convenience.

Territorial Agreement

6. **The Service Areas.** Subject to the terms and conditions of the Second Territorial Agreement between Liberty and Southwest (“Agreement”), Applicants have specifically designated the boundaries of an exclusive electric service area near the City of Bolivar, Missouri, which are more particularly described in the Agreement. Applicants have attached a copy of the Agreement to this Application as Appendix C, which is incorporated by reference into this Application and made a part hereof for all purposes. A general description of the exclusive service areas and maps depicting the service areas are a part of the Agreement and are incorporated by reference into this Application and made part hereof for all purposes. The Second Territorial Agreement establishes an exclusive service territory for Southwest near the City of Bolivar.

7. **No Change of Suppliers.** The Agreement does not require transfer of any facilities or customers between the Applicants, so no list of persons whose utility service would be changed by the Agreement, as required by 20 CSR 4240-3.130(1)(E), is included.

8. **Illustrative Tariff.** Liberty already has a certificate of public convenience and necessity to provide utility service in all of Polk County, Missouri. Therefore, Liberty has included with this application an “illustrative tariff” as Appendix D reflecting proposed changes to its service territory, as required by 20 CSR 4240-3.130(1)(C).

9. **Other Electric Suppliers.** To Applicants’ knowledge and belief there are no other electric suppliers serving in the areas covered by the Agreement.

10. **Public Interest.** The Agreement is in the public interest because it establishes exclusive service obligations for new structures as between the Joint Applicants in the described area. The establishment of exclusive service territories will prevent future duplication of electric service facilities and will also allow electric service customers within the area to know with certainty the

supplier of their electric service. The customer's affidavit in support is also attached hereto as Appendix E.

11. Each Applicant will continue to have service responsibilities beyond the boundaries of the Agreement unaffected by the terms of the Agreement.

Application Fee

12. The Commission's filing fee required by 20 CSR 4240-3.130(3) is submitted via mail in the check from Applicant Liberty in the amount of \$500.00.

WHEREFORE, Applicants respectfully request that the Commission issue its order:

(a) Finding that the designation of electric service area is not detrimental to the public interest and approving the Applicants' Second Territorial Agreement; and

(b) Authorizing Applicants to perform in accordance with the terms and conditions of the Agreement.

Request for Waiver of 60-day Notice Requirement & Motion for Expedited Treatment

13. To facilitate an expedient implementation of the Second Territorial Agreement, Joint Applicants also request a Waiver of the 60-day notice requirement of 20 CSR 4240-4.017, and further request expedited treatment of this *Joint Application* so that the customer subject to this application can receive permanent service in a timely manner. Section 394.312 RSMo. requires submission to, and approval by, the Commission of territorial agreements and their addendums.

14. Joint Applicants request a variance from the 60-day notice requirement of 20 CSR 4240-4.017, which states, in relevant part:

Any person that intends to file a case shall file a notice with the secretary of the commission a minimum of sixty (60) days prior to filing such case...

Pursuant to 20 CSR 4240-4.017(1)(D), waivers of the 60-day notice requirement may be granted for good cause shown. The rule further provides that good cause includes "a verified declaration from the

filing party that it has had no communication with the office of the commission within the prior one hundred fifty (150) days regarding any substantive issue likely to be in the case..." As indicated in the Affidavits executed by Liberty and Southwest attached as Appendix F and Appendix G and incorporated into this *Joint Application*, respectively, neither Liberty nor Southwest has had any communications with the office of the Commission (as defined by 20 CSR 4240-4.015(10)) regarding any substantive issue likely to be in this case during the preceding 150 days. Accordingly, Liberty and Southwest have established good cause for a waiver from the 60-day notice requirement of 20 CSR 4240-4.017(1). No other public utility will be affected by granting the Liberty a waiver from this requirement.

15. Pursuant to 20 CSR 4240-2.080(14), Joint Applicants request expedited treatment of this *Joint Application*. Southwest requests approval within 120 days of this *Joint Application*, so that the customer can be provided permanent service as soon as practical.

WHEREFORE, Joint Applicants respectfully request that the Commission issue its order:

- (a) Granting waiver of the 60-day notice requirement;
- (b) Granting the Joint Applicants' motion for expedited treatment;
- (c) Finding that the designation of electric service area is not detrimental to the public interest and approving the Joint Applicants' Addendum; and
- (b) Authorizing Applicants to perform in accordance with the terms and conditions of the Agreement.

Respectfully submitted,

On behalf of Southwest: <u>/s/ Shawn Battagler</u> Shawn Battagler Carnahan Evans 1023 S. Springfield Bolivar, Missouri 65613 Email: sbattagler@carnahanevans.com	On behalf of Liberty: <u>/s/ Jermaine Grubbs</u> Jermaine Grubbs MBE #68970 The Empire District Electric Company d/b/a Liberty 602 S. Joplin Ave. Joplin, Missouri 64801 Cell Phone: (417) 317-9024 E-Mail: Jermaine.Grubbs@LibertyUtilities.com
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CERTIFICATE OF SERVICE

I hereby certify that the above document was filed in EFIS on this 14th day of February, 2025, with notification of the same being sent to all counsel of record and was also sent by electronic transmission to the Staff of the Commission and the Office of the Public Counsel.

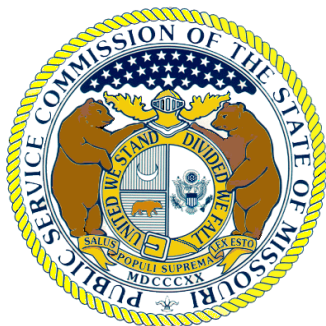
/s/ Jermaine Grubbs

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 14th day of February 2025.



Nancy Dippell

Nancy Dippell
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

February 14, 2025

File/Case No. EO-2025-0223

MO PSC Staff

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**Southwest Electric
Cooperative**

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Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,



**Nancy Dippell
Secretary**

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.