

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

In the Matter of the Request of The Empire     )  
District Electric Company d/b/a Liberty for     )  
Authority to File Tariffs Increasing Rates for     )     **File No. ER-2024-0261**  
Electric Service Provided to Customers In its     )  
Missouri Service Area                                     )

**STAFF RESPONSE**

**COMES NOW** the Staff of the Missouri Public Service Commission (“Staff”), for its *Response*, states to the Missouri Public Service Commission (“Commission”) as follows:

1. On February 5, 2025,<sup>1</sup> Staff filed its *Motion to Dismiss the Application of The Empire District Electric Company for a Rate Increase* (Motion). The next day, on February 6, The Commission directed The Empire District Electric Company d/b/a Liberty (“Empire” or the “Company”) to respond to Staff’s motion no later than February 14.<sup>2</sup>

2. On February 14, the Company responded to the Commission with a consolidated response that included its proposal to address the deficiencies Staff raised in its *Motion*. An issue at controversy here is that the Company included its proposal and stated that a party did not agree to settle in its response to the Commission.

3. 20 CSR 4240-2.090(7) states, “Facts disclosed in the course of a prehearing conference and settlement offers are privileged and, except by agreement, **shall not be used against participating parties** unless fully substantiated by other evidence” (emphasis added).

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<sup>1</sup> All dates refer to 2025 unless otherwise indicated.

<sup>2</sup> The Office the Public Counsel filed its *Public Counsel's Motion to Reject Tariff Sheets and Dismiss Application* on February 5: The Commission directed Empire to respond Staff and OPC because both the motions presented different legal arguments.

4. Staff did not offer a settlement offer to Empire, which the Company later disclosed to the Commission. Instead, the Company provided to the Commission its own settlement offer. Staff acknowledges that the Company explained why the settlement agreement failed. However, Staff takes no position as to whether or not the Company violated 20 CSR 4240-2.090(7) due to its disclosure.<sup>3</sup>

5. For this reason, Staff takes no position as to whether the Company violated the rule by revealing its settlement offer and stating that a party rejected it. Staff further takes no position as to whether the Company should be sanctioned if the Commission finds that the Company violated 20 CSR 4240-2.090(7).

**WHEREFORE**, Staff respectfully responds, taking no position as to whether Empire violated 20 CSR 4240-2.090(7), whether the Company should be sanctioned if it did, and requests for such orders as the Commission deems just and reasonable.

Respectfully submitted,

**/s/ Eric Vandergriff**

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<sup>3</sup> In ER-2021-0240, Staff argued that the Midwest Energy Consumers Group (“MECG”) violated Commission Rule 20 CSR 4240-2.090(7) after MECG claimed settlements failed because Parties didn’t agree to certain issues. Staff filed its motion requesting that the Commission strike MECG’s statements in that case.

The Commission, in its *Report and Order*, stated that “[MECG’s] attempt at finger-pointing is a particularly ineffective argument, but it does not violate the provisions of Commission Rule 20 CSR 4240-2.090(7).” The Commission then denied Staff’s motion to strike.

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed or hand-delivered, transmitted by facsimile or electronically mailed to all parties and/or counsel of record on this 3<sup>rd</sup> day of March 2025.

**/s/ Eric Vandergriff**