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 Electric Service Provided to Customers In its Missouri Service Area	)))))	Case No. ER-2024-0261

PUBLIC COUNSEL'S MOTION TO CORRECT NOTICE

COMES NOW the Office of Public Counsel ("Public Counsel") and moves the Commission to correct its notice of this case issued February 27, 2025, on the grounds that follow:

1. In its February 27, 2025, *Order Giving Notice and Setting a Deadline to Interven*e the Commission said:

> On February 26, 2025, The Empire District Electric Company d/b/a Liberty filed tariff sheets designed to increase its gross annual electric revenues by a total of approximately $152 million, with the net increase being approximately $92 million as approximately $60 million is already being recovered on customer bills through Liberty's Fuel Adjustment Clause and its Energy Efficiency Cost Recovery.

2. The last clause of that sentence—with the net increase being approximately $92 million as approximately $60 million is already being recovered on customer bills through Liberty's Fuel Adjustment Clause (FAC) and its Energy Efficiency Cost Recovery—is incorrect as explained following.

3. In 2023, Liberty *fully recovered* the $60 million that the above quote asserts "is already being recovered." The FAC is not like an Infrastructure System Replacement Surcharge (ISRS), which resets when capital projects and associated revenues are moved for recovery through base rates. Instead, the FAC recovers the over- or under-collection of an expense (fuel) solely through the FAC mechanism. In fact, Liberty has already fully recovered two additional

accumulation period amounts since 2023, and Liberty's FAC is currently recovering $7.5 million, which it will fully recover by May 2025. The following table demonstrates this:

Liberty FAC Recovery/Accumulation Periods/Amounts		
Accumulation Period	**Recovery Period**	**Recovery Amount**
Sept 2021 to Feb 2022	June 2022 to Nov 2022	$22,770,677
March 2022 to Aug 2022	Dec 2022 to May 2023	$42,815,494
Sept 2022 to Feb 2023	June 2023 to Nov 2023	$21,701,887
March 2023 to Aug 2023	Dec 2023 to May 2024	$14,572,923
Sept 2023 to Feb 2024	June 2024 to Nov 2024	$22,825,198
March 2024 to Aug 2024	Dec 2024 to May 2025	$7,589,571
Sept 2024 to Feb 2024	June 2025 to Nov 2025	TBD

In June 2025, Liberty's FAC rate will reset to recover or flow back the September 2024 to February 2025 accumulation period over- or under-recoveries.

4. When base rates reset following a rate case, the FAC rates do not change; the FAC base factor changes. The FAC rate will remain the same; continuing to recover the under-collection or returning the over-collection of the prior accumulation period until the 6-month recovery period ends. It is therefore inaccurate to assert that customers are currently paying $60 million through the FAC, because they are not. Instead, customers are currently paying an amount through the FAC that changes every six months. Currently this amount $7.5 million, much less than $60 million in the test year ending September 2023. For these reasons, it is incorrect and misleading to characterize Liberty's proposed $153 million annual increase in general (base) rate revenues as a "net increase" of $92 million.

5. Liberty's general (base) rates are designed to collect a certain amount of revenues from its customers through a mix of fixed charges and quantity of usage charges. In contrast, Liberty's FAC is designed to pass through to Liberty's customers the differences between Liberty's actual fuel and purchased power costs, and the fuel and purchased powered costs (net

base energy costs or NBEC) used to develop Liberty's general (base) rates and FAC base factor. To do that, comparisons are made in six-month blocks (accumulation periods) and, starting four months later, the difference flowed to customers over the next six months.

6. The lag from when the difference in actual and assumed costs occurs and when the difference begins to flow to customers ranges from four (end of accumulation period) to ten months (beginning of accumulation period). What this means is that, unless the effective date of new general (base) rates coincides with the effective date of when Liberty's FAC rates change, customers will be getting bills based on increased general (base) rates when Liberty's FAC rates are unchanged. Further, if the accumulation and recovery periods of Liberty's FAC are unchanged, then the Commission rebasing Liberty's FAC cannot affect Liberty's customers' bills for at least four months (lag between accumulation and recovery periods) after Liberty's new general rates take effect, and they could not fully affect them any earlier than ten months after Liberty's new rates take effect (new FAC rates in effect for full accumulation period plus lag between that accumulation period and the recovery period for it). Attached is an example to visually show this FAC lag.

7. Liberty's Energy Efficiency Cost Recovery (EECR) rider is nothing more than Liberty's recovery of costs it incurred for an energy efficiency program that it had before it implemented Missouri Energy Efficiency Investment Act (MEEIA) programs. The costs of that ended program were amortized over time and a separately stated rate created to recover them. Liberty's filing indicates that it has, or will have, fully recovered those costs before the Commission orders new rates.[1] In other words, Liberty is not proposing to shift recovery of any

[1] See proposed tariff sheets (redline version) P.S.C. Mo. No. 6, Sec. 1, 2nd Revised Sheet No. 1; P.S.C. Mo. No. 6 Sec. 1, 2nd Revised Sheet No. 2; P.S.C. Mo. No. 6 Sec. 1, 2nd Revised Sheet No. 3; P.S.C. Mo. No. 6 Sec. 2, 2nd Revised Sheet No. 1; P.S.C. Mo. No. 6 Sec. 2, 2nd Revised Sheet No. 2; P.S.C. Mo. No. 6 Sec. 2, 2nd Revised Sheet No. 3; P.S.C. Mo. No. 6 Sec. 2, 2nd Revised Sheet No. 4; P.S.C. Mo. No. 6 Sec. 2, 2nd Revised Sheet No. 5; P.S.C.

of its pre-MEEIA energy efficiency program costs from its EECR rider into its general (base) rates, it is proposing to end its EECR rider because it will have fully recovered those program costs before the Commission orders new rates.

8. Public Counsel raises these concerns now to help prevent the Commission from issuing press releases or other notices that mischaracterize Liberty's proposed full $153 million rate increase. Regarding those notifications, Public Counsel highlights below the statutory and rule obligations regarding notice.

9. Section 393.140(11), RSMo, in part, provides:

> Unless the commission otherwise orders, no change shall be made in any rate or charge, or in any form of contract or agreement, or any rule or regulation relating to any rate, charge or service, or in any general privilege or facility, which shall have been filed and published by a gas corporation, electrical corporation, water corporation, or sewer corporation in compliance with an order or decision of the commission, except after thirty days' notice to the commission ***and publication for thirty days as required by order of the commission, which shall plainly state the changes proposed to be made in the schedule then in force and the time when the change will go into effect.*** (Emphasis added).

10. Rule 20 CSR 4240-3.030(3)(B) requires a utility who files a general rate increase request to provide the following information to the Commission:

> (B) General information concerning the filing which will be of interest to the public and suitable for publication, including:
> 1. The amount of dollars of the aggregate annual increase and the percentage of increase over current revenues which the tariff(s) proposes;
> 2. Names of the counties and communities affected;
> 3. The number of the customers to be affected in each general category of service and in all rate classifications within each general category of service;
> 4. The average change requested in dollars and percentage change from current rates for each general category of service and for all rate classifications within each general category of service;

Mo. No. 6 Sec. 2, 2nd Revised Sheet No. 6; P.S.C. Mo. No. 6 Sec. 2, 2nd Revised Sheet No. 7; P.S.C. Mo. No. 6 Sec. 2, 2nd Revised Sheet No. 8; P.S.C. Mo. No. 6 Sec. 2, 2nd Revised Sheet No. 9; P.S.C. Mo. No. 6 Sec. 3, 2nd Revised Sheet No. 10; P.S.C. Mo. No. 6 Sec. 3, 2nd Revised Sheet No. 11b; P.S.C. Mo. No. 6 Sec. 3, 2nd Revised Sheet No. 12c; and P.S.C. Mo. No. 6 Sec. 3, 2nd Revised Sheet No. 13b.

5. The proposed annual aggregate change by general categories of service and by rate classification within each general category of service including dollar amounts and percentage of change in revenues from current rates;
6. Copies of any press releases relative to the filing issued by the company or utility prior to or at the time of the filing; and
7. A summary of the reasons for the proposed changes or a summary explanation of the reasons the additional rate is needed.

11. The tariff sheets Liberty filed February 26, 2025, bear an effective date of March 28, 2025, and the Commission has not suspended them.

Wherefore, the Office of Public Counsel moves the Commission to issue an order that corrects its notice by removing the last clause of the first paragraph of that notice and which either includes not only the amount of dollars of the aggregate annual increase (According to Liberty $153 million) and the percentage of increase over current revenues (According to Liberty 29.64%), but also the average change requested in dollars and percentage change from current rates for each general category of service and for all rate classifications within each general category of service, and the proposed annual aggregate change by general categories of service and by rate classification within each general category of service including dollar amounts and percentage of change in revenues from current rates or information informing members of the public where they may obtain that information.

Respectfully,

/s/ Nathan Williams

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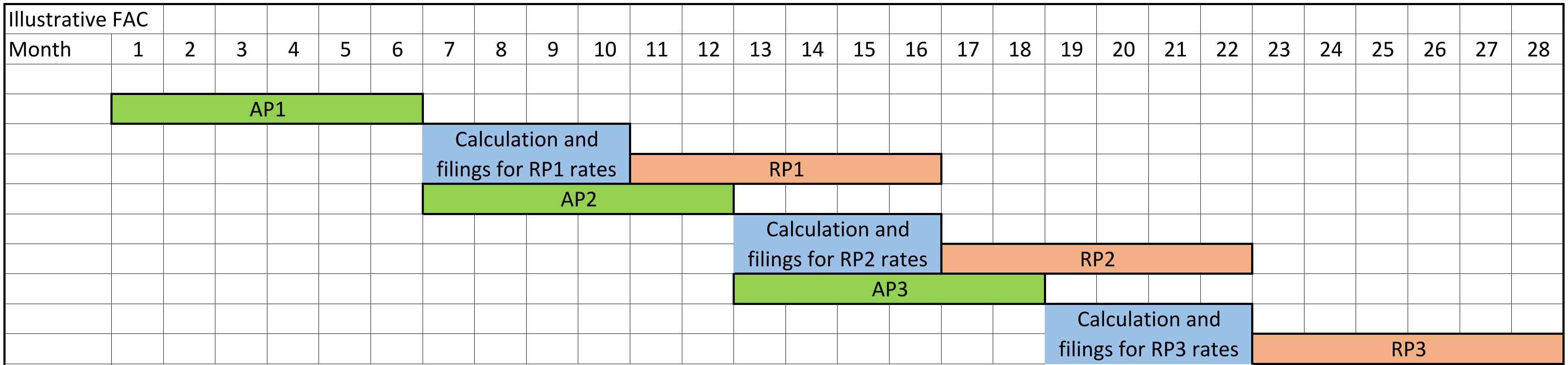
CERTIFICATE OF SERVICE

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

/s/ Nathan Williams



If General (Base) and FAC rates change at the start of month 15, then consumption in AP3 will be prorated between the old and new FAC rates, or old FAC rates applied in months 13 & 14 and new FAC rates in months 15-18, but no amounts will be recovered using the new FAC rates before month 23. In this example customers first would see the bill impact of the general rate increase in their first billing cycles that include month 15, but they would not see bill impact of the FAC base factor change until their first billing cycles that include month 23--a difference of eight months.