

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) **File No. ER-2024-0261**
Authority to File Tariffs Increasing Rates)
for Electric Service Provided to Customers)
In its Missouri Service Area)

ORDER DENYING MOTION TO ORDER LIBERTY TO ISSUE A PRESS RELEASE

Issue Date: April 7, 2025

Effective Date: April 7, 2025

Procedural Background

On November 6, 2024, The Empire District Electric Company d/b/a Liberty filed tariff sheets designed to increase its gross annual electric revenues. Due to an error, several of those tariff sheets were substituted on February 3, 2025.¹

On February 26, Liberty withdrew all of its submitted tariff sheets, and filed a new set of tariff sheets. Also on February 26, Liberty submitted new prefiled direct testimony along with a motion requesting withdrawal of all of its previously filed prefiled direct testimony.

On March 20, the Office of the Public Counsel (OPC) filed *Public Counsel's Motion for an Order Directing Liberty to Issue a New Press Release to Correct its Prior Press Release* (Motion). The Motion requested that the Commission order Liberty to issue a press release to correct the press release that was included in Liberty's February 26 filing.

¹ All dates refer to 2025 unless otherwise indicated.

On March 28, Liberty filed *Liberty's Response to OPC's Motion for an Order Directing Liberty to Issue a New Press Release* (Liberty's Response). No other parties responded to the Motion.

Discussion

A press release (February press release) was included with Liberty's February 26 filing. The Motion stated that the February press release stated in pertinent part as follows, "If approved by regulators, the net bill impact as proposed by Liberty could cost the average Liberty Missouri residential electric customer using 1,000 kilowatt-hours of usage per month between \$33 and \$39 per month."

Liberty's proposed notice for local public hearings was also included with the February 26 filing. The proposed notice stated in pertinent part as follows, "For a residential customer using 1,000 kilowatt-hours of electricity a month, Liberty's proposed increase is approximately \$47.41 each month, or 31.05% percent."

The Motion argued there is an inconsistency between the statement in the February press release stating the impact on residential customers to be "between \$33 and \$39 per month" and the proposed notice for local public hearing stating the impact as "approximately \$47.41 each month." The Motion explained that OPC found the higher approximation to be more accurate. The Motion requested that the Commission order Liberty to issue a new press release that corrects the press release included in its February 26 filing.

Liberty's Response explained that the press release reflects the projected net bill impact and is accompanied by an explanation that the actual bill impact may vary based on fluctuations in fuel prices, with the Fuel Adjustment Clause (FAC) going up or down

depending on actual fuel costs compared to the level included in general base rates. Liberty's Response further explained that the notice for local public hearings reflects the gross amount of the increase, with no reflection of the proposed rebasing of the FAC. Liberty's Response also noted that the press release was not issued, rather was only posted to Liberty's website.

Liberty's Response argued that it is within Liberty's discretion to state the net amount of the increase. Liberty's Response cited *State ex rel. Harline v. Pub. Serv. Comm'n of Mo.*, 343 S.W.2d 177 (Mo. App. 1960).

The Court in *Harline* stated as follows:

The utility's ownership of its business and property includes the right of control and management, subject, necessarily, to state regulation through the Public Service Commission. The powers of regulation delegated to the Commission are comprehensive and extend to every conceivable source of corporate malfeasance. Those powers do not, however, clothe the Commission with the general power of management incident to ownership. The utility retains the lawful right to manage its own affairs and conduct its business as it may choose, as long as it performs its legal duty, complies with lawful regulation and does no harm to public welfare.²

Conclusion

The Motion stated that Liberty's description of its rate request impact in the press release was inconsistent with that stated in the exemplary notice. The Commission accepts Liberty's explanation for what appears to be a discrepancy between the press release and the proposed notice. As the exemplary local public hearing notice is the version favored by OPC and will be issued after the Commission orders local public hearings, the Commission finds the Motion's request for an order to require Liberty to issue a press release unnecessary and will deny it.

² *Harline* at 181-182 (internal citations omitted).

THE COMMISSION ORDERS THAT:

1. *Public Counsel's Motion for an Order Directing Liberty to Issue a New Press Release to Correct its Prior Press Release* is denied.
2. This order shall be effective when issued.



BY THE COMMISSION

Nancy Dippell

Nancy Dippell
Secretary

Charles Hatcher, Senior Regulatory Law Judge,
by delegation of authority pursuant to
Section 386.240, RSMo 2016.

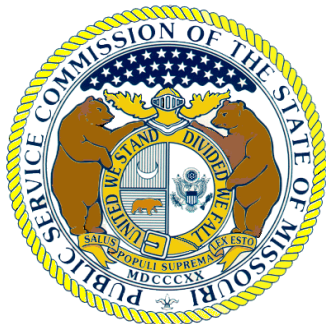
Dated at Jefferson City, Missouri,
on this 7th day of April, 2025.

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 7th day of April 2025.



Nancy Dippell

Nancy Dippell
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

April 7, 2025

File/Case No. ER-2024-0261

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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**