

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

In the Matter of Empire District Electric)
Company, Empire District Gas Company,)
Liberty Utilities (Missouri Water), LLC d/b/a)
Liberty Utilities, Liberty Utilities (Midstates)
Natural Gas) Corp. d/b/a Liberty Utilities)
(MNG) Motion for Temporary Variances)
Regarding Electric, Gas, Water, and Sewer)
Tariffs and the Impact of COVID-19 on)
Missouri Customers)

File No. AO-2020-0335

STAFF RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”), by and through the undersigned counsel, and for its *Staff Recommendation* respectfully states as follows:

1. On April 23, 2020, The Empire District Electric Company, The Empire District Gas Company, Liberty Utilities (Missouri Water), LLC d/b/a Liberty Utilities, and Liberty Utilities (Midstates Natural Gas) Corp. d/b/a Liberty Utilities (MNG), all Liberty Companies (collectively, the “Movants”) filed a motion for temporary variance, a request for approval of temporary tariffs, and a motion for waiver amidst the impact of COVID-19 on Missouri Customers.

2. As further discussed below and in Staff’s Memorandum, attached hereto as Appendix A, Staff recommends that the Commission 1) approve the Movants’ request for temporary variances, as modified by Staff; 2) reject the five (5) filed temporary tariff sheets; and 3) grant the motion for waiver

1. TEMPORARY VARIANCES

3. The Movants request a temporary variance from each of its Rules and Regulations tariffs regarding the late payment fee or charge on outstanding balances (for any reason) and discontinuing of service (except for tampering, unauthorized interference, or health and safety at risk). The Empire District Electric Company also requests a temporary variance related to its Low-Income Pilot Program, which would allow a customer to remain in the program even if past due more than sixty (60) days.

4. Staff has no objection to the request for any of the temporary variances. However, it appears that that the variance regarding disconnects applies only to particular sheets within the Movants' tariffs. It is Staff's recommendation that instead of just a variance from particular sheets, the variance should be from the entire rule regarding disconnects, with the exceptions of tampering, unauthorized interference, or if health or safety is at risk. Staff's modifications to the variances for each individual company is further outlined in Staff's Memorandum.

5. Staff recommends that the Commission grant the Movants' request for a temporary variance, as modified in Staff's Memorandum.

2. TEMPORARY TARIFF SHEETS

6. The Movants request approval of five (5) original, temporary tariff sheets which would allow a bill credit to any customer that uses a credit card or debit card to pay the bills online.

7. Staff has found that the Movants' currently effective tariffs for its electric, gas, and Empire water operations do not include language or the rate to pay the bill via credit or debit card. It is also Staff's understanding that the fee is paid by the customer

directly to the third party vendor, and not handled by the Movants. Further, the issue of including credit card fees in the cost of service versus customers paying this fee directly is to be decided by the Commission in The Empire District Electric Company's active rate case.¹

8. Staff recommends that the five (5) tariff sheets filed in this case to credit certain customers for the third party convenience charge be rejected because:

- a. The third party charge for paying by credit or debit card is not currently recovered through a line-item charge in the Movants currently effective tariffs for most customers;
- b. The credit card fees are not currently included in the Movants' Commission approved revenue requirements for most customers; and
- c. Customer payment of credit card fees are paid by the customer directly to the third party vendor.

9. However, if the Commission were to approve the proposed tariffs, Staff recommends that no ratemaking treatment be determined regarding the cost of the credit at this time, and the Commission should make this clear if it determines the tariffs should be approved.

3. MOTION FOR WAIVER

10. Staff recommends that the Commission grant the Movants' request for a waiver from Commission Rule 20 CSR 4240-4.017(1).

WHEREFORE, Staff respectfully submits this *Staff Recommendation* for the Commission's information and consideration, in which Staff recommends that the Commission 1) grant the Movants' requested temporary variances, as modified by Staff;

¹ ER-2019-0374.

2) reject the five (5) filed temporary tariff sheets; and 3) grant the motion for waiver from Commission Rule 20 CSR 4240-4.017(1).

Respectfully Submitted,

/s/ Travis J. Pringle

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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 6th day of May, 2020.

/s/ Travis J. Pringle

MEMORANDUM

TO: Missouri Public Service Commission Official Case File,
Case No. AO-2020-0335 Liberty Utilities

FROM: Kim Cox, Utility Policy Analyst, Tariff/Rate Design Department,
Industry Analysis Division
Kimberly K. Bolin, Manager, Auditing Department,
Financial and Business Analysis Division
James A. Busch, Manager, Water and Sewer Department,
Industry Analysis Division

/s/ Robin Kliethermes / May 6, 2020 /s/ Travis Pringle / May 6, 2020
Rate & Tariff Examination Manger/Date Staff Counsel's Office/Date

SUBJECT: Staff Recommendation for Approval of Temporary Variance and Waiver and
Rejection of Temporary Tariffs in response to COVID-19

DATE: May 6, 2020

Overview

On April 23, 2020, The Empire District Electric Company (“EDE”), The Empire District Gas Company (“EDG”), Liberty Utilities (“Missouri Water”) LLC (“Liberty Water”) and Liberty Utilities (“Midstates Natural Gas”) Corp. (“Midstates”), all Liberty Companies (collectively the “Movants”) filed a motion for temporary variances, request for approval of temporary tariffs, and motion for waiver amidst the impact of COVID-19 on Missouri Customers (“Motion”).

On April 24, 2020, the Commission filed an Order Establishing Time to Respond by May 6, 2020. The Commission’s order states that Staff and the Office of the Public Counsel shall respond to the Movants’ application.

Discussion

The Motion states as of March 16, 2020, the Movants have been foregoing the collection of fees related to late payments, have not been disconnecting customers due to nonpayment, have not been sending collection or disconnection notices, and have been working to bring recently disconnected customers back onto the system. The Movants seek temporary variances from their tariffs and the Commission Rules to continue through the end of the declared emergency. The Movants also request approval of temporary tariffs to allow credit to customers that use a credit/debit card for electronically submitted payments that are charged a fee for said use.

The Movants request a temporary variance in each of its Rules and Regulation tariffs regarding the late payment fee or charge on outstanding balances (for any reason) and discontinuing of service (except for tampering, unauthorized interference, or health and safety at risk). EDE also requests a

temporary variance related to its Low-Income Pilot Program (“LIPP”). The variance would allow a customer to remain in the LIPP even if past due more than 60 days.

The Movants request a waiver be granted from Commission Rule 20 CSR 4240-4.017(1). A sixty (60) day notice was not filed.

The Movants request approval of five (5) original temporary tariffs which would allow a bill credit to any customer that uses a credit card or debit card to pay the bill online. The credit would be \$2.25 for residential customers and \$13.00 for commercial customers which is equal to the amount charged by the third party vendor directly to the customer.

Staff has reviewed the Movants’ filing. Staff finds that the Movants’ currently effective tariffs for its electric, gas and Empire water operations do not include any language regarding payment of customer bills via credit or debit card and, as such, does not specify any rate to be paid by the customer if this payment method was to be used. Staff understands that the fee currently paid by customers as a convenience fee when paying by credit or debit card online is a fee that is paid by the customer directly to the third party vendor. For its water and sewer operations, the currently effective tariffs for Liberty Water states that the charge to pay by credit or debit card is “not to exceed \$3 per transaction”, but does not indicate whether Liberty Water or the third party vendor collects the fee. The Movants’ request states that it would apply the credit to those customers who are being charged the fee by the third party. The credit is to be available for 60 days following the effective date of the tariff. The tariffs were also separately submitted in an EFIS filing with a proposed effective date thirty (30) days from the date of filing.

In Case No. ER-2019-0374, the issue of including credit card fees in the cost of service versus customers paying this fee directly is still an issue that will be decided by the Commission. Staff and Empire support inclusion of credit card fees in the cost of service, while the Office of the Public Counsel opposes such ratemaking treatment. Staff and Empire have both included amounts in their revenue requirement for credit card fees.

It is Staff’s recommendation that the tariffs filed in this case to credit certain customers for the third party convenience charge be rejected because the Movant currently does not have tariffs that allow the Movants to charge credit card fees for most of its customers, except for its Liberty Water customers. Also, the Company only filed one tariff sheet for Liberty Water, when Liberty Water has several rate jurisdictions with different tariff books. If the Commission would approve the proposed tariffs, Staff recommends that this approval be conditioned upon no ratemaking treatment being determined regarding the cost of the credit at this time, and that the Commission make this condition clear in its order approving tariffs.

In the Movant’s request for a variance from its rules regarding disconnects, Movant appears to ask for the variance from particular sheets within its tariffs. It is Staff’s recommendation that instead of a variance from those particular sheets, a variance, if needed, should be from the entire rule regarding disconnects, with the exceptions of tampering, unauthorized interference, or if health or safety is at risk. For instance, within Movant’s water and sewer tariffs for its Liberty systems, the rule for

Discontinuance of Service begins on Original Sheet No. 17, but continues on Sheet Nos. 18 – 21. Staff’s recommendation that the variance be granted for the entire Rule, which is Rule 7 in the tariffs. For the Movant’s EDE Water discontinuance tariff, this would be within Section 2 of its tariffs, Chapter IV – Billing Practices, Section D, Discontinuance of Service.

Staff Recommendation

Based on the information provided above, Staff does not oppose the Movants’ request for temporary variances, as modified above to incorporate all applicable language related to disconnects, and motion for waiver.

Specifically, the temporary variance from the following tariff provisions, with the exceptions of tampering, unauthorized interference, or if health or safety is at risk:

Utility	PSC Mo. Tariff No(s).	Disconnection Sheet No.	Late Payment Sheet No.
EDE – Electric	5	Rule F, Section 5, Sheet Nos. 34 - 37	Section 5, 7 th Revised Sheet No. 3
EDE – Water	4	Section 2, Chapter IV – Billing Practices, Paragraph D – Discontinuance of Service	Section 1, Original Sheet No. 3
EDG	2	Section 2.05, 1 st Revised Sheet Nos. R-9 – R-13 and Section 2.07 (F), 1 st Revised Sheet No. R-20	1 st Revised Sheet No. R-41
Liberty Water – Water and Sewer	7-15	Original Sheet Nos. 5 and Rule 7, Discontinuance of Service by Company	Original Sheet Nos. 5 and 25
Midstates Gas	2	Original Sheet No. 88-96	Original Sheet No. 78

However, Staff recommends the Commission reject the five (5) filed temporary tariffs for the following reasons:

- The third party charge for paying by credit or debit card is not currently recovered through a line-item charge in the Movants’ currently effective tariffs for most customers;
- The credit card fees are not currently included in the Movants’ Commission approved revenue requirements for most customers;¹ and
- Customer payments of credit card fees are paid by the customer directly to the third party vendor.

Staff has verified that the Company has filed its annual report and is not delinquent on any assessment.

¹ The treatment of credit cards fees is an issue to be determined in EDE’s current rate case ER-2019-0374.

