

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

**JOINT RESPONSE TO LIBERTY RESPONSE TO
INTERVENTION APPLICATIONS AND MOTION FOR EXPEDITED TREATMENT**

COME NOW Union Electric Company d/b/a Ameren Missouri (“Ameren Missouri), and Evergy Metro, Inc. d/b/a Evergy Missouri Metro (“EMM”) and Evergy Missouri West, Inc. d/b/a Evergy Missouri West (“EMW”) (collectively “Evergy”) (Ameren Missouri and Evergy sometimes referred to herein as the “Utilities”), and for the Utilities’ Response to The Empire District Electric Company d/b/a Liberty’s August 5, 2025 Response to Intervention Applications and Motion for Expedited Treatment (“Liberty’s Motion”), states as follows:¹

BACKGROUND

1. On February 26, 2025, The Empire District Electric Company d/b/a Liberty (“Liberty”) filed tariffs seeking to increase its Missouri jurisdictional retail electric rates, together with direct testimony from 21 witnesses. On March 5, 2025, the Commission issued its *Order Suspending Tariff* suspending the February 26 tariffs until January 2, 2026.² The current procedural schedule in this case was set by the Commission’s *Order Setting Updated Procedural Schedule and Assignment of Exhibit Numbers* issued April 14, 2025.

¹ The Utilities, who are not at this time parties to this case, file this Joint Response as authorized by the Commission’s August 5, 2025, *Order Shortening Time For Responses*.

² The Commission elected not to suspend the tariffs for the maximum suspension period allowed by Section 393.150, RSMo. due to the unique circumstances of this case, whereby Liberty had filed tariff sheets 89 days earlier which were substituted for by the February 26, 2025, tariff filing.

2. Liberty's direct case proposed an increased revenue requirement, a proposed allocation of the revenue requirement to each of Liberty's existing rate classes, and Liberty's proposed rate design. Liberty provided no testimony on, nor did any part of its filing raise, directly or indirectly, any issue relating to existing or possible future service to a "Large Load Customer."³ Nor did Liberty provide testimony on, or raise, directly or indirectly, any issue relating to existing or potential future service to a customer with a peak demand of 25 MW or more.

3. The Procedural Schedule established by the above-referenced order, as is typical and customary in general rate cases, set deadlines for non-Liberty parties to file direct testimony responsive to Liberty's proposed revenue requirement and for non-Liberty parties to file direct testimony responsive to Liberty's proposed rate design.⁴

4. Having filed its revenue requirement direct testimony on the due date for the same (July 2, 2025), on the due date for rate design direct (July 21, 2025), the Staff filed rate design direct testimony from three witnesses by which Staff presents tariff sheets ("Staff's Tariff") that it claims should be imposed on Liberty for any customer with a peak demand of 25 MW or more. See Schedule SLKL-d2 to the Rate Design Direct Testimony of Staff witness Sarah L.K. Lange. The basis and rationale for Staff's Tariff relies heavily on the General Assembly's enactment of Section 393.170.7, which was included in Senate Bill 4 ("SB 4") passed earlier this year, the provisions of which become law on August 28, 2025.

5. While the exact rates proposed in Staff's Tariff are proposed for application to Liberty customers only, there is no mistaking that the overall structure and key non-rate terms of

³ For Ameren Missouri and Evergy, a "Large Load Customer" is a customer reasonably expected to have a peak demand of 100 megawatts ("MW) or more; for Liberty, the threshold is 50 MW. By separate order, the Commission could set the thresholds at a lower level. See Section 393.130.7

⁴ "Rate Design" has routinely, for purposes of the dozens if not hundreds of similar procedural schedules adopted by the Commission in general rate cases, included class cost of service allocations.

Staff's Tariff are based on Staff's ratemaking and regulatory viewpoints – and on Staff's viewpoint of what Section 393.130.7 requires – and that it is Staff's point of view that the substance of Staff's Tariff (with some tailoring that naturally would occur from utility to utility) would, should and apparently must be applied to all Missouri electric utilities. And if there were any doubt about this based solely on reading Staff's above-referenced Rate Design testimony in this case, those doubts were completely dispelled by Staff's Report filed July 25, 2025 in Evergy's Large Load Tariff docket, where Staff filed nearly 300 pages of testimony and schedules reflecting, in substance, the same proposal for Evergy as reflected in Staff's Tariff proposed for Liberty in this docket.

6. Given the foregoing circumstances, on July 31, 2025, Ameren Missouri and Evergy sought to intervene in this case to address the Large Load Tariff issue.

7. For reasons discussed in greater detail below, Ameren Missouri and Evergy agree:
- a. that the Commission should grant the relief sought by Liberty's Motion, that is, remove the Large Load Tariff issues from this case and take them up in a dedicated Liberty docket;
 - b. that by granting the relief Liberty seeks, the Utilities' intervention motions would become moot; and
 - c. that given the timing of and manner in which Staff's Tariff arose in this case, it is inappropriate and unreasonable to in effect force Liberty to address this new, out-of-the-blue Large Load Tariff proposal in this rate case – and presumably force other parties and the Utilities, if their intervention requests were granted to do so as well – less than two weeks from now.

ARGUMENT IN SUPPORT OF RELIEF SOUGHT BY LIBERTY

A. There is No Compelling Need for the Commission to Take Up Large Load Issues in this Case.

7. By its express terms, Section 393.170.7 (effective August 28, 2025) requires the *electrical corporation* to develop and submit a Large Load Tariff. The statute imposes no deadline by which the utility must file such a tariff. A plain reading of the statute indicates that its purpose is to outline for the Commission the standard to be applied when the Commission considers the *utility's* Large Load Tariff proposal.⁵ And while not expressly stated, a fair reading of the statute is that an electrical corporation that has not developed, submitted, and obtained approval of a Large Load Tariff *cannot* commence service to a Large Load customer post August 28, 2025.⁶ Consequently, when Liberty does what it indicated in its Motion it would do – develop and submit a proposed large load tariff in a dedicated Large Load Tariff docket for Liberty – the Commission can and will consider and make a decision on such a tariff prior to the time when any Large Load Customer would actually take service under it.

B. Forcing Consideration of Such a Complex and Important Issue into the Latter Part of This Rate Case Is Unreasonable, Impractical, and Inappropriate.

8. Ameren Missouri and Evergy, after many months of stakeholder and prospective customer interaction, have developed and submitted such a tariff and have pending cases under consideration at the Commission through which the Commission will apply the statutory standard. In Evergy's case, Staff and other intervenors were afforded approximately five and one-half months to conduct discovery on and otherwise consider and develop a position via their rebuttal

⁵ The Commission must determine that such tariffs are expected to “reasonably ensure such customers’ [large load customers’] rates will reflect the customers’ representative share of the costs incurred to serve such customers and prevent other customer classes’ rates from reflecting any unjust or unreasonable costs arising from service to such customers.”

testimony on Evergy's proposed tariff. In Ameren Missouri's case, Staff and other intervenors were afforded more than three and one-half months to conduct discovery on and otherwise consider and develop a position via their rebuttal testimony on Evergy's proposed tariff. To put a finer point on it, Staff has had many months in both cases to conduct discovery and evaluate the Utilities' proposals. The Commission has also scheduled a full week of evidentiary hearings in each case to consider those tariffs. While these appropriate processes are continuing, neither Ameren Missouri nor Evergy are proceeding to commence service to the customers who would be subject to them until the Commission decides those cases and the required tariff is in place. While the Commission is not bound by a specific deadline, from tariff development to approval will take well over a year and as much as two years for Ameren Missouri and Evergy.

9. There is a reason the Ameren Missouri and Evergy tariff proposals are being examined in separate cases taking place over many months: Large Load Customers have unique needs and create unique and for Missouri, novel tariff and service issues, for which thoughtful and tailored tariff terms for each utility must be developed. The Commission recognizes that different utilities will have different Large Load Tariff terms.⁷ Both cases involve multiple and diverse intervenors, including potential Large Load Customers and industry groups who represent them, along with other customer and stakeholder groups.⁸ Certainly it does not appear that any Large Load Customers are a party to this case, nor would there have been any reason for them to have sought to become a party: nothing in Liberty's direct case suggested that a Large Load Tariff would be at issue in this case. And there is no indication – from Staff's testimony or any other source – that Liberty is at a stage in any meaningful discussions (if they exist at all)

⁷ *Order Granting Evergy Application to Intervene*, File No. ET-2025-0184, p. 4.

⁸ Amazon Data Services, Inc., Google LLC, Missouri Industrial Energy Consumers, Data Center Coalition, Nucor Steel Sedalia, LLC, and Velvet Tech Services, LLC.

with prospective Large Load Customers, let alone being at a stage where meaningful Large Load Tariff development could occur.

10. The foregoing are among the reasons why it is patently unreasonable for Staff to have done what it apparently seeks to do: force consideration of, and presumably resolution of, a detailed and complex “tariff” proposal developed by Staff over the roughly five months since Liberty filed the tariffs that initiated this case. Given Staff’s approach, Liberty will be afforded only about a month to consider and attempt to respond, and other important stakeholders are absent from the case entirely and cannot respond at all. With respect to Ameren Missouri and Evergy, neither of whom were aware of the details of Staff’s proposed tariff, Staff’s late injection of this issue into this case is even more unreasonable and creates an impractical and inappropriate situation where the Utilities, who as a practical matter could be affected by this issue in this case, are not even yet parties to the case and thus can conduct no discovery on the issue. Yet, the Utilities would be forced to somehow attempt to address Staff’s proposal in rebuttal less than two weeks from now.

11. Another impracticality arising from Staff’s late injection of the issue appears when one considers that the Commission has set aside a total of 10 days to handle every single issue in this rate case yet, presumably, it would be reasonable to expect that the Large Load Tariff issue Staff is attempting to inject into this case – if given the consideration it deserves, which surely the Commission must do -- could by itself consume fully one-half of those days, given the parties’ agreement in Ameren Missouri’s and Evergy’s Large Load Tariff cases to set aside five full hearing days in both cases.

C. Conclusion

12. Staff has filed, in form and substance, substantially the same proposal in Evergy's Large Load Tariff case (with different values given different costs and other differences between Liberty and Evergy). Given the conceptual underpinnings of Staff's proposed tariff, there is every reason to believe Staff will, in substance, file substantially the same proposal in Ameren Missouri's Large Load Tariff case. The Commission is slated to hold hearings in Evergy's case before this case goes to hearing and in Ameren Missouri's case before this case would be expected to be decided. Staff will receive its "day in court" respecting the substance of Staff's proposal twice over the next three months, but in those cases, it will be properly considered against Large Load Tariffs developed and submitted by Ameren Missouri and by Evergy, as the statute contemplates. All parties – the utility and the appropriate intervenors in those cases – will have a fair opportunity to conduct discovery and to respond, which simply cannot happen in this case if the Large Load Issue is taken up in this case. And in those cases, the Commission's consideration will occur over a timeline that allows the Commission to give these issues the attention and consideration they deserve, which would be challenging at best if the issue were taken up in this case. Finally, it is important that the Commission not take Liberty's Motion with the case but rather, it should grant the motion promptly so that parties and the Commission do not devote significant time and resources to an issue that is not ripe for consideration in this case.

WHEREFORE, the Utilities respectfully pray that the relief Liberty seeks in its Motion be granted promptly, state that if such relief is granted, they agree that their Motions to Intervene would be rendered moot and there would be no need to grant them and pray for such other and further relief as the Commission deems appropriate under the circumstances.

Respectfully submitted,

/s/ James B. Lowery

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CERTIFICATE OF SERVICE

The undersigned by his signature below certifies that the foregoing pleading was served upon all persons who have entered an appearance of record in this matter on this 7th day of August, 2025 by electronic filing in EFIS.

/s/ James B. Lowery