

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

**POSITION STATEMENTS
OF THE CONSUMERS COUNCIL OF MISSOURI**

COMES NOW the Consumers Council of Missouri (“Consumers Council” or “CCM”), by and through counsel, and hereby submits its Position Statements on certain issues in this matter.

1. What is the appropriate rate of return?

a. Return on Common Equity – what return on common equity should be used for determining rate of return?

Consumers Council Position: The Commission should authorize an allowed return on common equity (“ROE”) of no more than the 9.25%, as recommended by OPC witness David Murray.

In determining the proper ROE in this case, the Commission should take into account Empire’s troubled rollout of Customer First, and the continuing high level of customer dissatisfaction regarding the accuracy of this utility’s billing system.

b. Capital Structure – what is the appropriate capital structure to use for ratemaking in this proceeding?

Consumers Council Position: Consumers Council supports the OPC position of using 45% common equity and 55% long-term debt capital structure for determining Empire’s authorized rate-of-return (“ROR”). As Public Counsel witness David Murray testifies, Empire is financed by debt and equity injections by affiliates who ultimately access the financial markets through their ultimate parent, Algonquin Power & Utilities Corp. (“APUC”), and their immediate parent, Liberty Utilities Co. (“LUCo”). Empire’s per books capital structure is predominately a function of manipulations of affiliate financing transactions.

Rate Base Items

Plant & Accumulated Depreciation

2. What is the appropriate amount of plant in service and depreciation reserve to include in rate base?

d. Should Empire be allowed to earn a return on Empire’s investment in non-AMI meters?

Consumers Council Position: No. Empire’s meters have contributed to Empire’s erratic billing issues.

j. Should Empire be allowed to earn a return on Empire’s investment in new AMI meters?

Consumers Council Position: No. Empire’s customers have not benefitted from Empire’s AMI meters implementation.

22. Should Empire's PISA assets be reduced for deferred costs related to Riverton 10 repairs?

Consumers Council Position: Consumers Council supports the Staff position of removing Riverton 10 repair costs from the PISA deferral balances because it mismanaged the timing of when to retire versus repair that unit.

43. What is the appropriate balance of net fuel and purchased power costs?

Consumers Council Position: Consumers Council supports the position of OPC on these issues.

Moreover, no fuel costs should be considered for ratemaking in this case beyond what is proven in the record as of the March 31, 2025 true-up cut-off date. Missouri law requires electric rate costs to be known and measurable before being considered.

48. If Empire is not allowed to earn a return on retired non-AMI meters that created a negative reserve balance, how should the negative reserve balance be treated?

Consumers Council Position: Consumers Council supports the OPC position.

51. What is the appropriate rate case expense for this case?

a. Should the Commission disallow the rate case expense associated with Empire witness John J. Reed?

Consumers Council Position: Yes.

85. What is the value of the variable fuel and purchase power expense?

Consumers Council Position: Staff's true-up variable fuel and purchased power expense is the appropriate expense to include in Liberty's revenue requirement and the Fuel Adjustment Clause (FAC). Staff estimated its variable fuel and purchased power expense using actual historical Liberty fuel expense and energy market prices through March 31, 2025 and explicitly included hedged natural gas positions of Liberty. However, the utility's recommendation for fuel and purchased power expense because it was estimated using projected natural gas and market prices for 2026 and did not include consideration of its natural gas hedging position.

88. Riverton 10 Repairs

a. Were the Riverton 10 repair costs prudently incurred?

Consumers Council Position: No. As both Staff and Public Counsel witnesses testify, Empire poorly timed when it repaired Riverton unit 10 and its retail customers should not have to pay for Liberty's increased costs due to its mismanagement of when to retire vs. repair that unit.

b. What amount of the Riverton 10 repairs capital cost should be included in rate base?

Consumers Council Position: None.

c. Has Empire violated the Commission-ordered Stipulation and Agreement Paragraph 4(j) in Case No. EA-2023-0131?

Consumers Council Position: Yes.

89. Ozark Beach Crane Extension

a. Were the costs of the crane extension project at Ozark Beach prudently incurred?

Consumers Council Position: No.

91. What should be the FAC base factor for this case?

Consumers Council Position: Consumers Council supports the position of OPC witness Lena Mantle.

93. What is the percentage of SPP and MISO transmission expense that should be recovered through the FAC?

Consumers Council Position: The percentage adopted by the Commission should be 21.33% for SPP and 50% of MISO costs consistent with Staff's fuel model results and base factor. The Commission should reject the utility's attempt to go beyond the intent of the Missouri FAC statute.

94. Should SPP Schedules 1A and 12 for administrative costs be included in the FAC?

Consumers Council Position: No. Schedule 1-A and 12 fees should not be included in Empire's FAC because they are not directly linked to fuel and purchased power costs. These fees are appropriately recovered through base rates.

97. How should the FAC tariff sheets be revised?

Consumers Council Position: Consumers Council supports the position of OPC. Empire's FAC tariff sheets should be updated with the sharing mechanism the

Commission orders, Staff's other revisions and Staff's transmission percentages generated based on Staff's fuel model in this case, but otherwise remain unchanged.

98. What ratio of the difference between Empire's actual and base net fuel costs should the Commission order be shared between Empire and its customers as an incentive mechanism in Empire's FAC, should the Commission authorize continuation of an FAC for Empire?

Consumers Council Position: The Commission should reject Liberty's request to continue its FAC, i.e, the appropriate sharing ratio of the difference is 0/100, meaning that Liberty should absorb any costs above the FAC base and retain all savings below the FAC base. This will place all of the incentive on the utility to management its fuel costs. Consumers have no control over the utility's fuel management practices.

If the Commission does not adopt Public Counsel's recommendation to reject Liberty's request to continue its FAC, then the Commission should modify the current sharing mechanism to a 50/50 sharing that would equally share the risk of fuel cost variations.

99. Should Empire's FAC tariff sheets be revised in this docket to address the fuel and purchased power impacts of large load customers with 25 MW or more of demand?

Consumers Council Position: Empire's costs incurred to serve large load customers should be excluded from Empire's FAC.

Billing Determinants and Rate Design

101. What is the appropriate interclass allocation of revenue responsibility for setting rates in this case?

Consumers Council Position: Consumers Council supports Company's methodology for interclass allocations, as updated by witness Caroline Palmer's COSS recommendations to use the Basic Customer Method for distribution cost classification, and to use customer, energy, and demand allocators for AMI meters.

(Caroline Palmer Direct and Surrebuttal)

102. Which party's Class Cost of Service Study should be used in this case?

a. How should production costs be allocated within the Class Cost of Service study in this case?

b. How should distribution costs be allocated within the Class Cost of Service study in this case?

Consumers Council Position: Consumers Council any approved COSS should use the Basic Customer Method for distribution cost classification, and should use customer, energy, and demand allocators for AMI meters.

(Palmer Direct and Surrebuttal)

103. What is the appropriate design of residential rates in this case?

Consumers Council Position: Consumers Council recommends that the Company maintain its current \$13.00 monthly fixed charge, and instead increase the residential volumetric rate as necessary in order to achieve the required revenue requirement increase.

(Caroline Palmer Direct and Surrebuttal)

All of Liberty's reconnect charges, collection trip charges, and punitive late fees should be eliminated.

(Jim Thomas Direct and Surrebuttal)

Customer Programs

115. Should the Low Income Pilot Program (LIPP) continue? If so, what, if any modifications made and what funding level should be ordered?

Consumers Council Position: Consumers Council supports the Company's proposed LIPP/Fresh Start program proposal, but with an annual funding level of \$900,000. The initial enrollment target for the program should be between 1250 and 1600, with a cap of 2000. Unexpended funding should be rolled over into future years of the program.

(Jim Thomas Direct and Surrebuttal)

116. Should the Low Income Weatherization Assistance Program (“LIWAP”) be continued? If so, what, if any, modification should be made and what funding level should be ordered?

Consumers Council Position: Yes, LIWAP should be continued without modification at the current funding level.

117. Should the Company resume administrative control of the LIWAP?

Consumers Council Position: Yes.

118. Should the customer charge be waived for income-eligible residential customers as proposed by OPC witness Dr. Marke?

Consumers Council Position: Yes.

(Jim Thomas Direct and Surrebuttal)

119. Should the Critical Medical Needs program continue? If so, should any modifications be made and what funding level should be ordered?

Consumers Council Position: Yes.

(Jim Thomas Direct and Surrebuttal)

120. Should the Commission order the structure and meeting requirements for the Low Income Programs Collaborative, as recommended by CCM witness Jim Thomas?

Consumers Council Position: Yes.

121. Should the Company adopt low income marketing strategies as

recommended by CCM witness Jim Thomas?

Consumers Council Position: Yes.

122. Should the Company adopt the best practices for identifying the needs of high energy burden and low-income communities, targeting resources to those communities, and setting customer targets for achievement, as recommended by CCM witness Jim Thomas?

Consumers Council Position: Yes.

125. Has Liberty fulfilled its requirements pertaining to the cost/benefit analysis of PISA projects greater than \$1 million?

Consumers Council Position: No.

Customer Experience

142. How should the Company's investment in Customer First be treated for ratemaking purposes in this case?

Consumers Council Position: No. Consumers Council agrees with the OPC that "Customer First" costs should be excluded from Empire's revenue requirement upon which the Commission designs Empire's rates. The Company's billing system is not currently "used and useful", and Empire's efforts to implement it have degraded Empire's customer service and damaged customer trust.

A. What is the appropriate amount of Customer First Operations and Maintenance (O&M) expense to include in rates?

Consumers Council Position: None.

B. Should the Commission reduce the Company's revenue requirement based on Empire's service related to its investment in Customer First?

Consumers Council Position: Yes.

C. If the Company's revenue requirement is reduced by the Customer First investment, should it be authorized to establish a regulatory asset to record monthly its earning when respective metrics have been met as proposed by Company witnesses Reed and Walt?

Consumers Council Position: No. Only after Company can prove that Customer First has become "used and useful" should it be allowed to seek to include its investment in and costs to operate and maintain "Customer First".

Consumers Council Position: Due to the inadequate level of customer service being provided regarding the Company's billing failures, the Commission should authorize an allowed ROE on the lower end of the range of reasonableness.

147. Should the Commission order Empire to work to reduce the number of estimated bills and rebills to pre-Customer First transition levels with a timeframe of completion 60 days after new rates take effect in this case?

Consumers Council Position: Yes.

148. Should the Commission order Empire to permanently cease estimating on-peak and off-peak interval reads for TOU billing purposes in favor of using actual reads when available?

Consumers Council Position: Yes.

149. Should the Commission order Empire to review its processes for the storage, retrieval, and presentation of customer account information to ensure Customer Service Representatives are automatically presented with past, present and scheduled account activity and information relayed to customers in prior communications, in order to provide Customer Service Representatives with such account activity or communications? This would include the incorporation of service tickets into customer account notes.

Consumers Council Position: Yes.

A. If so ordered, should Empire be required to inform Staff of its plan to comply with the order within 60 days of the effective dates of rates, and file notice in this docket upon successful implementation?

Consumers Council Position: Yes.

150. Should the Commission order Empire to develop consistent messaging for Customer Service Representatives to convey to customers experiencing common billing issues, and to train Customer Service Representatives to use that messaging and document all information relayed to customers in customer account notes?

Consumers Council Position: Yes.

A. If so ordered, should Empire be required to provide Staff with training materials and scripts used to comply with this order within 60 days of the effective date of rates in this case, along with any updates for a period of one year after the effective date of rates?

Consumers Council Position: Yes.

151. Should the Commission order Empire to put in place a process to ascertain that Customer Service Representatives are advising customers of their right to file an informal complaint as prescribed by Commission Rule 20 CSR 4240-13.045(9)?

Consumers Council Position: Yes.

A. If so ordered, should Empire be required to inform Staff of its plan to comply with the order within 60 days of the effective dates of rates, and file notice in this docket upon successful implementation?

Consumers Council Position: Yes.

152. Should the Commission order Empire to put a process in place to ensure that each CSR is trained to note account activities comprehensively, including the development of a quality assurance process to verify that CSRs are adhering to account notation guidelines?

Consumers Council Position: Yes.

A. If so ordered, should Empire be required to inform Staff of its plan to comply with the order within 60 days of the effective dates of rates, and file notice in this docket upon successful implementation?

Consumers Council Position: Yes.

153. Should the Commission order Empire to establish a process for customer callbacks that effectively records the need for a callback, tracks the status of that callback, and verifies the execution of the callback within a reasonable period of time following the request?

Consumers Council Position: Yes.

A. If so ordered, should Empire be required to inform Staff of its plan to comply with the order within 60 days of the effective dates of rates, and file notice in this docket upon successful implementation?

Consumers Council Position: Yes.

154. Should the Commission order Empire to provide an additional phone

call notification for Autopay customers who have their accounts locked because of delayed billing notifying them of the situation and the need to speak with Empire's call center to remove the lock?

Consumers Council Position: Yes.

155. Should the Commission order Empire to investigate customer claims that My Account is not accurately displaying balances owed? Should Empire be required to report the results of its investigation to Staff, along with next steps as necessary?

Consumers Council Position: Yes.

157. Should the Commission suspend imposition and collection of customer late payment fees until after Empire demonstrates that its customer usage collection and billing systems are working correctly?

Consumers Council Position: Yes.

(Jim Thomas Direct and Surrebuttal)

158. Should the Commission order Empire to notify customers that it will not be disconnecting customers for nonpayment until after the Company can demonstrate that its customer usage collection and billing systems are working correctly?

Consumers Council Position: Yes. The utility should be ordered to forego any residential customer disconnections of service until it can demonstrate that its customer usage collection and billing systems are working correctly.

(Jim Thomas Direct and Surrebuttal)

159. Should Empire be required to file an affordability plan with the Commission that provides a clear roadmap with deliverable actions with the expressed goal of lowering rates to be aligned with other electric utilities in Missouri? If yes, what parameters should be ordered?

Consumers Council Position: Yes.

160. Should Empire's ROE be reduced 25 basis points for poor customer service reflected by its bottom 5% position across U.S. utilities per J.D. Power?

Consumers Council Position: Yes.

161. Should the Commission exclude from Empire's revenue requirement all of Empire's costs for contractual call center representatives Empire utilized due to issues with Empire's implementation of Customer First, including the costs of its ContactPoint360 ("CP360") contract?

Consumers Council Position: Yes.

162. Should the Commission exclude from Empire's revenue requirement all of Empire's excessive postage and billing costs related to its continued roll-

out of Customer First?

Consumers Council Position: Yes.

163. Should the Commission leave Empire's current rates in place until the Company can demonstrate that it is timely and accurately billing its customers for service?

Consumers Council Position: Yes.

164. Should the Commission order Empire to change the name of its billing platform?

Consumers Council Position: Yes.

165. Should the Commission order Empire to utilize an agreed-to, independent 3rd party auditor of its Customer First program and practices? If yes, what parameters should be followed?

Consumers Council Position: Yes.

Additional Issues

169. Should Empire's tariffs be modified to allow a self-read option for customers who opt out of AMI meters as a result of this case?

Consumers Council Position: Yes.

Respectfully submitted,

/s/ John B. Coffman

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all parties listed on the official service list on this 1st day of October 2025.

/s/ John B. Coffman
