

**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

**THE OFFICE OF THE PUBLIC COUNSEL’S OBJECTION TO THE NON-
UNANIMOUS STIPULATION AND AGREEMENT FILED OCTOBER 6, 2025**

COMES NOW the Office of Public Counsel (“Public Counsel”) and, within the seven days allotted by rule 4 CSR 4240-2.115(2)(B), hereby objects to the Non-Unanimous Stipulation and Agreement of the Staff of the Commission, Midwest Energy Consumers Group (“MECG”), the International Brotherhood of Electrical Workers Local Union No. 1474, Renew Missouri Advocates d/b/a Renew Missouri, and The Empire District Electric Company d/b/a Liberty (“Liberty,” “Empire,” or the “Company”) filed on October 6, 2025. The Office of the Public Counsel objects to and opposes the Non-Unanimous Stipulation and Agreement on the following grounds:

1. While the settlement agreement does not purport to resolve listed Issue 128 and its subparts regarding the Market Price Protection Mechanism (MPPM), the signatories urge the Commission to defer addressing those issues—see paragraph 3 of the agreement. Public Counsel objects to further delay in addressing those issues. Since they require the Commission clarify and/or modify the MPPM, the passage of time will only make that task more difficult and having the data required to correctly calculate the PPA Replacement Value available less likely should the Commission decide Liberty is not correctly calculating it, and the Commission needs to decide the Wind Revenue Requirement amount. The Commission already deferred deciding these issues to this rate case; it should decide them.

2. Included in the evidence in this case from the Commission’s local public hearings at Joplin, Nixa, Bolivar, and Branson, Aurora, and virtually during the week of July 21-25, 2025, are testimonies and exhibits which show that since April 2024 Liberty has subjected its customers inadequate service, not only by billing issues, but also by its customer service representatives’ responses to customer inquiries and requests.

3. Among the billing issues are multiple bills for different amounts for the same billing period, failure to bill new accounts for multiple billing months, applying incorrect tax to bills, failure to bill usage, sending bills by mail that customers receive past their due date, billed usage information not matching online MyAccount usage information for the same time period, billing for usage during a customer outage, billing outside the 29-35 day period required by Commission rule, failure to include a contact phone number for bill questions, and overbilling for usage.

4. Among the customer service issues are unfulfilled commitments to issue bills, inability to tell customers what they owe, telling the two-time former mayor of Branson and the seller who were trying to transfer a condominium account to a new owner “to go and to climb down a gully to go verify that [the meter number provided to the customer service representative] was the correct meter number.”

5. The foregoing is the quality of customer service that the customers of Algonquin Power & Utilities Corp.’s electric operations in Missouri—Liberty—are getting, but it is not the quality of customer service to which they are entitled. Because of Liberty’s inadequate customer service Public Counsel opposes the settlement agreement. Not until after Liberty demonstrates that it is providing the quality of customer service to which its customers are entitled should the Commission entertain a request to increase Liberty’s rates.

6. Additionally, many testified at the local public hearings about the unaffordability of Liberty's rates and the impacts on their standards of living, businesses, and the local economy of raising those rates. Among those impacts were having to choose whether to eat, buy medicine, or pay their electric bill; the ripple effect of businesses passing their increase on, and causing people and businesses to leave Liberty's service area.

7. Because the settlement agreement would make Liberty's rates less affordable to more of Liberty's residential and business customers, and adversely impact local economies in Liberty's service area, both directly and by the ripple effect of businesses passing their costs to their customers, Public Counsel opposes the agreement.

8. Further, because the settlement agreement would resolve all of the listed revenue requirement issues for an overall annual revenue requirement increase and that amount exceeds the total annual revenue requirement increase in Public Counsel's case, and because it cannot discern the revenue requirement impact of particular issues in the settlement, Public Counsel also objects to settlement of each and every one of those issues on that basis.

9. Public Counsel has identified the following paragraphs of the agreement to fall within the scope of its objections based on increasing Liberty's revenues (annual revenue requirement): paragraphs 4-8 (**Total Revenue Requirement, Rate of Return to be Used for Applicable Mechanisms, Customer First Performance Metrics, Customer First Regulatory Asset, Deferred Revenue Regulatory Asset**).

10. Public Counsel additionally objects to paragraph 5 (**Rate of Return to be Used for Applicable Mechanisms**) because, consistent with Public Counsel's witness David Murray the appropriate rate of return is $9.25\% \times 45\% + 4.30\% \times 55\% = 6.523\%$, and because the settled 7.01% is

a component of the **Customer First Regulatory Asset** of paragraph 7—
 $\$1,145,863/\text{mo.} \times 7.01\% = \$80,325/\text{mo.}$

11. Public Counsel additionally objects to paragraph 7 (**Customer First Regulatory Asset**) because the Customer First Performance Metrics are undefined.

12. If the Commission approves a rate increase, Public Counsel does not oppose phasing-in any rate increase or not including carrying costs for deferred revenue regulatory asset amounts as contemplated by paragraph 8 (**Deferred Revenue Regulatory Asset**) *per se*; however, Public Counsel opposes including any deferred revenue regulatory asset amounts in Liberty's rate base.

13. Public Counsel does not oppose continuing Liberty's FAC; however, Public Counsel opposes the agreed upon 95/5 sharing mechanism in paragraph 9 (**FAC Mechanism**) because it is Public Counsel's position that mechanism should be 50/50 sharing, and that the Commission could find a sharing anywhere between 50/50 and 90/10. Although not specifically addressed in the settlement agreement, from Public Counsel's perspective listed Issue 99 is a contested issue before the Commission for resolution: "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?" Public Counsel's position is that Liberty's costs incurred to serve large load customers should be excluded from its FAC, but since those costs are unknown, it would be sufficient to add a line in the FAC tariff sheet that states that the energy, capacity, and transmission costs incurred due to each large load customer are excluded from the costs that flow through Liberty's FAC. Further, to the extent the agreed upon FAC base of \$13.97 implies a balance of net fuel and purchased power expense in Liberty's revenue requirement, Public Counsel opposes that implied expense as it is Public Counsel's position that Staff's true-up variable fuel

and purchased power expense is the appropriate expense to include in Liberty's revenue requirement. Moreover, the settlement agreement is vague in that it does not specify the subaccounts that are to be included in Liberty's FAC and does not include proposed FAC tariff sheets to implement the signatories' agreements for Liberty's FAC. (Listed Issue 43).

14. Regarding paragraph 10 (**Depreciation Rates**) Public Counsel objects to the Steam, Hydro, Wind, Solar, and Other production depreciation rates (311-346, plus Wind production and Solar production) in Exhibit A attached to the settlement agreement because the rates Public Counsel witness John Robinett supports are more appropriate depreciation rates for that production plant. Public Counsel does not object to the Transmission, Distribution and General plant depreciation rates in Exhibit A (351.03-398).

15. Public Counsel took no position on the pensions/OPEB issues; therefore, except to the extent they would increase Liberty's annual revenue requirement for setting rates in this case, Public Counsel does not object to paragraph 11 (**Pension/OPEB**, annual pensions and OPEBs expenses of \$1,411,647 and \$1,851,248, respectively).

16. Except to the extent that SERP payments to retirees would increase Liberty's annual revenue requirement for setting rates in this case, Public Counsel does not object to paragraph 12 (**SERP**).

17. Public Counsel does not object to tracking regulatory assets and liabilities for consolidation in rate cases per paragraph 13 (**Creation of Regulatory Asset/Liability Tracker as proposed by Staff**).

18. Public Counsel does not object to paragraphs 14-23 (**SB-EDR Regulatory Asset, Continuation of PAYGO Tracker, Tax Equity Distribution, Utilization of Reverse South**

Georgia Method for Excess ADIT, Rate Design and Billing Determinants,¹ External Audits, Internal Audits, Withdraw AAO for New Natural Gas Generation,² Withdraw Wind Environmental Cost Recovery Rider,³ Discontinue Excess ADIT Tracker).

19. Except to the extent that the respective non-wind and wind property tax base amounts of \$25,850,330 and \$4,261,941, respectively, imply an annual Liberty revenue requirement impact, Public Counsel does not object to paragraph 24 (**Property Tax Tracker Base**).

20. Public Counsel does not object to paragraphs 25-37 and 39-40. (**FAC Reporting, Tariff Changes, Normalized Weather Time Period, Arrearage Forgiveness, Low-Income Weatherization Assistance Program, Low-Income Pilot Program, Critical Medical Needs Program, Quarterly Low-Income Stakeholder Meetings, Pension Plan Funding, Health Benefit Equal Treatment, Green Button Connect, Reliability, Variance Requests, Customer First Name Change, Emergency Curtailment Docket**).⁴ If Public Counsel also receives the 38.b. monthly reports to Staff and participates in the agreement of 38.c., and work on tariff revisions and process improvements of 38.d., then Public Counsel does not object to paragraph 38 (**Estimated Bills**).

21. Public Counsel objects to paragraph 41 (**Customer Notification**) because it does not include any time frames for when the targeted customer messaging regarding the disconnection moratorium is to be completed or when a communication plan and approach for when disconnections for nonpayment resume.

¹ OPC considers the income-eligible customer charge waiver as articulated in the testimony of OPC witness Geoff Marke a live issue for hearing.

² Liberty already withdrew this request in prefiled testimony.

³ Liberty already withdrew this request in prefiled testimony.

⁴ OPC considers the income-eligible customer charge waiver as articulated in the testimony of OPC witness Geoff Marke a live issue for hearing.

22. Public Counsel objects to paragraph 42 (**Heat Rate Testing Results and Procedures**). Commission rule 20 CSR 4240-20.090(2)15.B requires a utility that is requesting to continue its FAC to provide this information when it files its general rate case application. Liberty still has not provided all of the required information. As Public Counsel recommends, Liberty should produce to Public Counsel by December 31, 2025, or tell Public Counsel where it can find in the Commission’s electronic filing and information system (EFIS), the underlying data or reports generated that were used to arrive at the single net heat rate it reported for each generating unit, with the date the test was performed as Schedule LP-8-Final HC attached to Liberty witness Ms. Leigha Palumbo’s direct testimony.

23. If the Commission authorizes any of Liberty’s rates to change, or its FAC to continue, Public Counsel does not object to the tariff sheets to implement them becoming effective on February 1, 2026, as set out in paragraph 43 (**Effective Date of Rates**).

Wherefore, the Office of Public Counsel objects to and opposes the Non-Unanimous Stipulation and Agreement on the grounds stated above.

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 8th day of October 2025.

/s/ Nathan Williams