

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

In the Matter of the Tariff Filing of The Empire)	
District Electric Company d/b/a Liberty)	<u>Case No. ET-2023-XXXX</u>
Pursuant to 20 CSR 4240-3.155 and 20 CSR)	Tariff JE-2023-0127
4240-20.065)	and JE-2023-0128

MOTION TO SUSPEND TARIFF AND MOTION FOR EXPEDITED TREATMENT

COMES NOW Staff of the Missouri Public Service Commission and for its Motion to Suspend Tariff and Motion for Expedited Treatment (“Motion”) states as follows:

1. On January 13, 2023, The Empire District Electric Company d/b/a Liberty (“Liberty”) filed one (1) tariff sheet¹ in each tariff file number shown above (pursuant to 20 CSR 4240-3.155 and 20 CSR 4240-20.065), each with a proposed effective date of February 12, 2023. These tariff sheets were assigned Tariff Tracking Nos. JE-2023-0127 and JE-2023-0128. A copy of the tariff sheets are attached hereto.

2. 20 CSR 4240-2.065 provides in part as follows:

(3) **When a pleading, which objects to a tariff or requests the suspension of a tariff, is filed, the commission shall establish a case file for the tariff and shall file the tariff and pleading in that case file.** All subsequent pleadings, orders, briefs, and correspondence concerning the tariff shall be filed in the case file established for the tariff. Any pleading to suspend a tariff shall attach a copy of the tariff and include a certificate of service to confirm that the party who submitted the tariff has been served with the pleading.

(5) . . . a case file shall be established when tariff sheets are suspended by the commission on its own motion **or when suspended upon the recommendation of staff.** (Emphasis added)

¹ PSC MO No. 6, Section 4, 2nd Revised Sheet No. 6 canceling 1st Revised Sheet No. 6 and 2nd Revised Sheet No. 13 canceling 1st Revised Sheet No. 13.

3. 20 CSR 4240-3.155 provides in part as follows:

(2) All regulated electric utilities shall—

(A) File tariffs providing standardized rates for facilities at or under one hundred (100) kilowatts on design capacity. . . .

(3) All tariffs and other data required to be prepared and filed by electric utilities under the provisions of section (2) shall be submitted no later than January 15, 2005, and updated and revised on or before January 15 of every odd-numbered year after that, unless otherwise ordered by the commission.

4. The Commission's Net Metering Rule, 20 CSR 4240-20.065, implements §386.890, RSMo, the "Net Metering and Easy Connect Act." The Act makes it easier to obtain net metering service from electric utility service providers in Missouri, including Liberty.

5. As a part of its Net Metering Rule, the Commission requires regulated utilities' net metering rate to be the same as its cogeneration rate. Specifically, the Commission's Net Metering Rule, 20 CSR 4240-20.065(1)(B) states "avoided fuel cost means the incremental costs to the electric utility of electric energy, but for the purchase from the customer generator, the utility would generate itself or purchase from another source. Avoided fuel cost is used to calculate the electric utility's standard rate for purchase from systems less than one hundred (100) kilowatts pursuant to 20 CSR 4240-20.060. "

6. Through these filings, Liberty is proposing the same rate change for both the rates Liberty will pay its customers under its rate schedule titled

“Cogeneration Purchase Rate, Schedule CP” and the rates Liberty will pay its customers under its “Net Metering Rider, Rider NM.”

7. The Missouri Public Service Commission Engineering Analysis Staff has reviewed this filing and the avoided cost data Liberty provided. Liberty developed the estimates of avoided costs of energy through the use of a production cost modeling program and then adjusted the estimated costs for transmission losses from Liberty’s 2021 Loss study which was performed pursuant to 20 CSR4240-20.090(13).

8. Staff compared the proposed rates to the average monthly market prices and found the monthly summer on peak rate for 2022 was over double the proposed summer on-peak rate.

9. 20 CSR 4240-3.155(4) states in part that, “In order to make available data from which avoided costs may be derived... each regulated electric utility shall provide to the commission and shall maintain for public inspection the following data: [subparts (A), (B), and (C)].” Liberty did not file all of the information required by 20 CSR 4240-3.155(4) along with the revised tariff sheets.

10. 20 CSR 4240-3.155(4)(B) requires the utility to provide:

The electric utility’s plans for the addition of capacity by amount and type, for purchases of firm energy and capacity and for capacity retirements for each year during the succeeding ten (10) years;

** [REDACTED] . **

11. Staff recommends that the Commission open a docket to allow Staff sufficient time to conduct the detailed discovery necessary for Staff to make an informed recommendation to the Commission on whether Liberty’s cogeneration tariff change filing should be accepted, modified, or denied and suspend Tariff Tracking Nos.

Tariff JE-2023-0127 and JE-2023-0128 (PSC MO No. 6, Section 4, 2nd Revised Sheet No. 6 canceling 1st Revised Sheet No. 6 and 2nd Revised Sheet No. 13 canceling 1st Revised Sheet No. 13).

Expedited Treatment

12. As stated above, the tariff sheets which are the subject of this Motion contain a proposed effective date of February 12, 2023. Therefore, Staff requests the Commission act to suspend the tariff sheets **prior to** February 12, 2023 (no later than February 11, 2023). Staff is not aware of any negative effect on Liberty's customers or the general public which will be caused if the Commission acts by such date, and acting by such date will avoid the potentially negative effect of the tariffs going into effect. This Motion was filed as soon as it could have been.

WHEREFORE, Staff requests that the Commission issue an order suspending Tariff Tracking Nos. JE-2023-0127 and JE-2023-0128 (PSC MO No. 6, Section 4, 2nd Revised Sheet No. 6 canceling 1st Revised Sheet No. 6 and 2nd Revised Sheet No. 13 canceling 1st Revised Sheet No. 13), with such suspension to be effective prior to February 12, 2023, and that the Commission establish a case file for the tariffs, and for such further orders as the Commission deems just and reasonable.

Respectfully submitted,

/s/ Jeff Keevil

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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 counsel for Liberty and the Office of the Public Counsel this 3rd day of February 2023.

/s/ Jeff Keevil

THE EMPIRE DISTRICT ELECTRIC COMPANY d.b.a. LIBERTY

P.S.C. Mo. No. 6 Sec. 4 2nd Revised Sheet No. 6

Canceling P.S.C. Mo. No. 6 Sec. 4 1st Revised Sheet No. 6

For ALL TERRITORY

COGENERATION PURCHASE RATE
SCHEDULE CP

AVAILABILITY:

This schedule is available to cogenerators who have a maximum rated capacity of 100 kW or less and have signed a Purchase Agreement with the Company.

PURCHASE RATE:

Summer Season, per kWh.....	\$ 0.0538
Winter Season, per kWh.....	0.0493

The Summer Season will be the four months of June through September, and the Winter Season will be the eight months of October through May.

CONDITIONS OF SERVICE:

1. The Cogenerator must have signed a Purchase Agreement with the Company.
2. The Company Rules and Regulations and Missouri Public Service Commission Rules on Cogenerators are a part of this schedule.

For ALL TERRITORY

NET METERING RIDER
RIDER NM

BILLING AND PAYMENT (continued):

To the extent the net consumption is positive (i.e. Customer-Generator took more kWh from the Company during the month than Customer-Generator produced), the eligible Customer-Generator will be billed in accordance with the Customer-Generator's otherwise applicable standard rate for Customer Charges, Demand Charges, and Energy Charges (for the net consumption).

To the extent the net consumption is negative (i.e. Customer-Generator produced more kWh during the month than the Company supplied), the Customer-Generator will be credited in accordance with the Company's bi-annually calculated avoided fuel cost of the net energy (kWh) delivered to the Company. With the exception of the Energy Charge, all other applicable standard rate charges shall apply.

PURCHASED RATE:

Summer Season, per kWh.....	\$	0.0538
Winter Season, per kWh.....	\$	0.0493

The Summer Season will be the four months of June through September, and the Winter Season will be the eight months of October through May.

To the extent the net consumption is zero (i.e. Customer-Generator produced the same kWh during the month as supplied by the Company), the Customer-Generator will be Minimum billed in accordance with the eligible Customer-Generator's otherwise applicable standard rate.

TERMS AND CONDITIONS:

1. The Company will supply, own and maintain all necessary meters and associated equipment utilized for billing. If the Company's metering equipment at the Customer Generator's premise does not have the capability of measuring both the net energy produced and the net energy consumed, the Customer shall reimburse the Company for the cost to purchase and install sufficient metering. In addition, and for purposes of monitoring Customer generation and load, the Company may install at its expense, load research metering. The Customer shall supply, at no expense to the Company, a suitable location for meters and associated equipment used for billing and for load research. Such equipment shall be accessible at all times to Company personnel.
2. The Company shall have the right to require the Customer, at certain times and as electric operating conditions warrant, to limit the production of electrical energy from the generating facility to an amount no greater than the load at the Customer's facility of which the generating facility is a part.
3. The Customer shall furnish, install, operate and maintain in good order and repair without cost to the Company such relays, locks and seals, breakers, automatic synchronizers, disconnecting devices, and other control and protective devices as required by the NEC, NESC, IEEE or UL as being required as suitable for the operation of the generator in parallel with the Company's system.
4. The disconnect switch shall be under the exclusive control of the Company. The manual switch must have the capability to be locked out by Company personnel to isolate the Company's facilities in the event of an electrical outage on the Company's transmission and distribution facilities serving the Customer. This isolating devise shall also serve as a means of isolation for the Customer's equipment during any customer maintenance activities, routine outages or emergencies. The Company shall give notice to the Customer before a manual switch is locked or an isolating device is used, if possible; and otherwise shall give notice as soon as practicable after locking or isolating the Customer's facilities.
5. The Customer may be required to reimburse the Company for any equipment or facilities required solely as a result of the installation by the Customer of generation in parallel with the Company's Service. This requirement is limited to equipment or facilities installed by the Company in excess of those required of the Company by the NEC, NESC, IEEE or UL.
6. The Customer shall notify the Company prior to the initial energizing and start-up testing of the Customer-owned generator, and the Company shall have the right to have a representative present at said test.