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 Application for Rehearing and Request for Reconciliation

COMES NOW the Office of the Public Counsel and for its Application for Rehearing and Request for Reconciliation states:

1. In its *Report and Order* the Commission correctly states that Public Counsel and Consumers Council of Missouri included the following as one of their objections to paragraph seven of the Global Stipulation:[1] "Public Counsel and CCM additionally objected to the Customer First Regulatory Asset resolution because the Customer First Performance Metrics are not yet defined."[2]

2. As to Customer First Performance Metrics, the Global Stipulation, as modified, states:

> The Parties will confer on the appropriate and reasonably achievable monthly normalized performance metrics and targets in the separate investigation and reach agreement by May 31, 2026**.** The performance metrics should be related to billing accuracy, billing timeliness, number of estimated bills, call center responsiveness, and customer experience index. The term "normalized" shall mean the exclusion of certain extraordinary events that occur from time to time, which (1) are beyond the control of the utility such as an act of nature, and (2) may affect the utility's ability to meet the performance metrics. Upon the occurrence of an extraordinary event, Empire shall document the event and its impact on the performance metrics.

3. In ordered paragraph four of its *Report and Order* the Commission orders, "Except as modified by the Supplemental Stipulation, the Global Stipulation filed on October 6, 2025, is

[1] *Non-Unanimous Global Stipulation and Agreement* filed October 6, 2025.
[2] *Report and Order* issued January 14, 2026, p. 37, ¶ 122.

approved in its entirety. The signatories of the Global Stipulation shall comply with its terms. A copy of the Global Stipulation is attached to this order."

4. It is both unlawful and unreasonable to the Commission to issue an order that is vague. The order is vague because it directs parties to agree in the future to Customer First Performance Metrics which are then to be used as *criteria* for including amounts in a regulatory asset account "subject to review and recovery in a future rate case."

5. On page 23 in paragraph 51 of its *Report and Order* the Commission states:

> Some of the adjustments Public Counsel proposes to reach the $53.6 million revenue requirement include:
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> a. Administrative & General (A&G) Account adjustment, issue 74($17,159,938)
> b. Isolated Adjustments Depreciation Accrual, issue 2.f-($7,498,883)
> c. Customer First, issue 142-($23,729,203)

6. On pages 49-50 of its *Report and Order* the Commission engages in the following analysis (Footnotes in original omitted.) regarding Public Counsel's revenue requirement adjustments for A&G expense and depreciation accrual beyond the true-up cutoff date:

> The Commission has before it five proposed revenue requirement increases: Empire's requested amount of $190 million;[3] Staff's recommended $128.8 million; the Global Stipulation's $97 million; and Public Counsel's recommendation of no increase or, if an increase has to be granted, $53.6 million.
>
> The Commission finds that Public Counsel has not demonstrated that a zero increase would result in just and reasonable rates. Public Counsel's position, if granted, would not yield any return on the value of the investments Empire has made subsequent to its last rate case which no party has alleged to be imprudent and which investments are now being used by Empire to serve its customers. For this reason, the Commission will not order a zero rate increase in this case.

[3] The Commission does not cite its source the $190 million amount, but on page 19 in paragraph 37 of its *Report and Order* the Commission says, "Prior to the filing of the Global Stipulation, Empire had requested an increase in revenues of $168.9 million."

Public Counsel's alternative recommendation of a $53.6 million revenue requirement increase is also flawed. As set out in more detail below, the Commission does not find the evidence presented to be supportive of at least three of the disallowances used in Public Counsel's calculations.

The Commission finds that Public Counsel's suggested disallowances are internally inconsistent. Public Counsel's brief sets forth that those three adjustments taken together add up to at least $48.6 million. However, according to Public Counsel's pre-filed testimony, those three adjustments add up to over $55 million. The Commission, in reviewing Public Counsel's suppositions here duly notes that adding the value of either of those suggested rejected disallowances from either Public Counsel's Issues Values Table or testimony to the Public Counsel's $53.6 revenue increase recommendation would result in a revenue increase greater than $97 million.

Those three adjustments are related to issue 74-What is the appropriate level of A&G expense?; issue 2.f-Should the Commission include depreciation reserve accumulated beyond the March 31, 2025, true-up date?; and issue 142-How should Empire's investment in Customer First be treated for ratemaking purposes in this rate case? The Commission rejects these three specific adjustments for the following reasons:

1. Public Counsel's analysis of Empire's A&G average costs in 2013-2016 prior to Liberty's merger with Empire is flawed because it does not consider inflationary cost increases that have occurred through 2024; therefore, it is not a valid comparison to Empire's 2024 A&G costs.

2. The analysis of Empire's A&G costs is flawed because the amounts that Public Counsel represents to be Empire's Missouri jurisdictional A&G costs for 2024, $66.1 million, far exceed the $41.8 million total Missouri jurisdictional A&G expense amount in Staff's update period Accounting Schedule 9 and $41.2 million at the end of the true-up period. When these total amounts are divided by the number of Empire customers (164,320) which was used by Public Counsel in its analysis, the average cost per customer is $255 and $251, respectively.

3. Empire's service territory is more rural and dispersed than the service territory of Ameren Missouri, Evergy Missouri Metro, or Evergy Missouri West. Hence Empire's service territory leads to increased costs per customer when compared to these other Missouri electric utilities.

The challenges identified by Empire in support of its increased A&G expenses appear reasonable.

4. The Commission has authorized isolated adjustments on a limited basis in recent rate cases. One of the concerns with the isolated adjustments proposed by Public Counsel is that it does not give consideration to the matching principle. To adjust depreciation reserve by depreciation expense out to the operation of law date in this rate case and not consider retirement and plant additions to that same date does not comply with the matching principle requirement. In addition, having an isolated adjustment to any component of the revenue requirement requires review to verify known and measurable amounts that cannot reasonably be completed up to the effective date of new rates.

5. Public Counsel and CCM both support further Customer First adjustments of over $23.7 million in addition to those already included as part of Staff's $128.8 million revenue increase. Removing all costs associated with Customer First disregards the fact that absent Customer First, the prior customer billing software, call center support, and related operations and maintenance expenses would need to be included back into Empire's revenue requirement. There is no testimony to support what these costs would be if the Customer First costs were removed. Public Counsel's Customer First adjustment in the amount of $23.7 million is duplicative in some instances to Staff's adjustments. Empire provided testimony that Customer First is utilized by its company in many business functions on a daily basis and is used and useful.

7. As to the Commission's first stated reason for rejecting Public Counsel's recommendation for the amount of A&G costs to include in Liberty's revenue requirement for setting rates (¶ 1), the Commission missed the point of Public Counsel's analysis of Empire's A&G average costs in 2013-2016. As Public Counsel stated at pages 16-19 of its reply brief, Public Counsel used its analysis of Empire's A&G average costs in 2013-2016 as a check on the reasonableness of Public Counsel's recommendation, not as the basis for it. Public Counsel's recommendation is based on the then most recent year—2024—FERC Form 1 data—for Ameren Missouri, Evergy Missouri Metro and Evergy Missouri West.

8. As to the Commission's second stated reason for rejecting Public Counsel's recommendation for the amount of A&G costs to include in Liberty's revenue requirement for setting rates (¶ 2), comparing $66.1 million to $41.8 million is misleading because the $41.8 million includes Staff's disallowance adjustments whereas the $66.1 million does not. Further, as stated above, Public Counsel's recommendation is based on the then most recent year—2024—FERC Form 1 data—for Ameren Missouri, Evergy Missouri Metro and Evergy Missouri West. When their per customer A&G costs are averaged the result is $149. Multiplying $149 per customer by 164,320 Liberty Missouri customers results in Public Counsel's recommended $24.5 million—approximately $17.2 million below Staff's recommendation.

9. As to the Commission's third stated reason for rejecting Public Counsel's recommendation for the amount of A&G costs to include in Liberty's revenue requirement for setting rates (¶ 3), the Commission incorrectly states that "[Liberty]'s service territory is more rural and dispersed than the service territory of Ameren Missouri, Evergy Missouri Metro, or Evergy Missouri West." As the map on the Commission's website at https://psc.mo.gov/CMSInternetData/Electric/Missouri%20Electric%20Service%20Area%20Map%2011-8-19.pdf demonstrates, Evergy Missouri Metro has the smallest service territory and much of Ameren Missouri's and Evergy Missouri West's service territories are rural. Further, the Commission does not explain why a more rural and dispersed service territory would cause higher A&G costs for a utility that, like Ameren Missouri, Evergy Missouri Metro, and Evergy Missouri West, has implemented wireless remote meter reads when a large component of A&G costs is salaries. Finally, the Commission does not identify which of the "challenges identified by Empire in support of its increased A&G expenses appear reasonable" the Commission relies on for its conclusion. In short, its analysis is vague.

10. The Commission's stated reasons for rejecting Public Counsel's recommendation for the amount of A&G costs to include in Liberty's revenue requirement for setting rates are unreasonable and unlawfully insufficient.

11. With regard to making an isolated adjustment to depreciation reserve to update it to the Commission-ordered operation-of-law date—January 26, 2026—for depreciation accumulated after the March 31, 2025, true-up cutoff date on plant-in-service as of March 31, 2025, applying the Commission's conclusion that "having an isolated adjustment to any component of the revenue requirement requires review to verify known and measurable amounts that cannot reasonably be completed up to the effective date of new rates" (¶4) is unreasonable. Liberty's plant-in-service balances as of March 31, 2025, are known and measurable, verified, and were used by both Liberty and Staff for their true-up revenue requirement recommendations. Liberty's depreciation rates applicable to those plant-in-service balances are known and measurable. The operation of law date in this case was known and measurable as of March 5, 2025, when the Commission suspended the effective date of the tariff sheets to January 2, 2026, and then on November 14, 2025, when the Commission extended the suspension date to January 26, 2026. The depreciation accrued on the March 31, 2025, plant-in-service balances from March 31, 2025, to January 26, 2026, is simply a matter of multiplying those plant-in-service balances by the applicable depreciation rates for the period from March 31, 2025, to January 26, 2026—all of which are both known and measurable.

12. Further, the Commission's reliance on the matching principle to reject Public Counsel's recommendation that the Commission adjust Liberty's revenue requirement used for setting rates for the impact of accumulating depreciation expense for plant-in-service as of the March 31, 2025, end of the ordered true-up cutoff date until the operation-of-law date in this rate

case is both unlawful and unreasonable. The matching principle in traditional ratemaking is that all of the components that affect an annual revenue requirement are measured over the same annual period—the test year—to capture the variations to each that occur during that year due to seasons and other factors. In Missouri all of the update period revenue requirement components are evaluated against the test year revenue requirement components and where they differ generally the test year components are modified to those in the update period. Effectively, the update period becomes the new test year which is closer in time to when new rates will take effect. In contrast, for a true-up only specific revenue requirement components are compared to those in the updated test year. In other words, if true-up changes are made, they are a series of discrete or isolated adjustments and, by definition, each of those changes violates the matching principle. The Commission has defined isolated adjustments to be changes to the values of specific revenue requirement components made based on information beyond the true-up cut-off date. Public Counsel's proposed isolated adjustment to recognize depreciation expense that has accumulated since March 31, 2025, to the present (January 25, 2026) and that will accumulate by January 26, 2026, its impact on depreciation reserve (original cost less accumulated depreciation) and, in turn, its impact on Liberty's revenue requirement and rates, is based on Liberty's actual plant-in-service balances as of March 31, 2025. Stated differently, Public Counsel's proposed revenue requirement adjustment based on accumulated depreciation expense is matched with Liberty's plant-in-service balances as of March 31, 2025. No party has proposed increasing Liberty's plant-in-service balances for any plant additions it has made since March 31, 2025, nor has any party proposed adjusting Liberty's depreciation reserve balances for depreciation expense accumulated on any of that plant. Any party was free to do so.

13. The Commission's stated reasons for rejecting Public Counsel's proposed isolated adjustment for depreciation expense for plant-in-service as of the March 31, 2025, end of the ordered true-up cutoff date until the operation of law date in this rate case are unreasonable or unlawful.

14. In part, section 386.420.4, RSMo. provides:

> In any proceeding resulting in the establishment of new rates for a public utility that is not classified as a price-cap or competitive company, the commission shall cause to be prepared, with the assistance of the parties to such proceeding, and shall approve, after allowing the parties a reasonable opportunity to provide written input, a detailed reconciliation containing the dollar value and rate or charge impact of each contested issue decided by the commission, and the customer class billing determinants used by the commission to calculate the rates and charges approved by the commission in such proceeding. Such information shall be sufficient to permit a reviewing court and the commission on remand from a reviewing court to determine how the public utility's rates and charges, including the rates and charges for each customer class, would need to be temporarily and, if applicable, permanently adjusted to provide customers or the public utility with any monetary relief that may be due in accordance with the procedures set forth in section 386.520. In the event there is any dispute over the value of a particular issue or the correctness of a billing determinant, the commission shall also include in the reconciliation a quantification of the dollar value and rate or charge impact associated with the dispute.

Wherefore, the Office of Public Counsel applies to the Commission to rehear this case on the foregoing grounds and requests the Commission to prepare the detailed reconciliation required by §386.420.4, RSMo.

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 23rd day of January 2026.

/s/ Nathan Williams