

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

Julie Dietrich; Dale & Susan Doolittle;
Melvin & Maria Hale; Miranda Saffle
Properties, LLC; Jayson & Jenny Shriver;
Diana & Jason Snider; Jonathan Vertz;
and Samuel & Joann Wammack,

Complainants

Cause No. EC-2026-_____

vs.

The Empire District Electric Company
(d/b/a Liberty Utilities)

Respondent

FORMAL COMPLAINT AND MOTION FOR EXPEDITED TREATMENT

COME NOW Julie Dietrich; Dale & Susan Doolittle; Melvin & Maria Hale;
Miranda Saffle Properties, LLC; Jayson & Jenny Shriver; Diana & Jason Snider;
Jonathan Vertz; and Samuel & Joann Wammack (collectively “Complainants” or
“Property Owners”), pursuant to §386.390 Revised Statutes of Missouri (“R.S.Mo.”), 20
C.S.R. 4240-2.070, and the facts and law cited below, complain as follows regarding The
Empire District Electric Company (d/b/a Liberty Utilities) ("Liberty" or "Respondent").
In support of their Complaint, Complainants state:

SUMMARY OF COMPLAINT

1. Complainants are the individual owners of real properties located in
Christian and Taney Counties, Missouri. Liberty has contacted them by mail and in
person, through its land agents and attorneys, to announce that it intends to construct a

new 161 kV transmission line in approximately the same location as an existing 69 kV transmission line and that the new line will require the acquisition of easements from Complainants. Liberty has informed the Complainants that if the easements are not voluntarily conveyed, it will seek to use eminent domain powers through condemnation actions to compel acquisition. Complainants bring this formal complaint to obtain a determination by the Missouri Public Service Commission (the "Commission") that Respondent is undertaking construction of a transmission facility for which a Certificate of Convenience and Necessity ("CCN") is required under §393.170 and 20 CSR 4240-20.045. Complainants further seek an order compelling Liberty to apply for and obtain a CCN before taking any further action to acquire easement rights over Complainants' properties.

PARTIES

2. Complainants. Complainants are the owners of individual properties located in either Christian County or Taney County, Missouri (collectively, the "Properties"). Although Complainants are also electric customers of Liberty, this Complaint is brought primarily in their capacity as property owners potentially affected by Liberty's proposed project. Furthermore, many of the Complainants occupy their respective Properties. Complainants' addresses and the addresses of the affected properties are set forth in Schedule A filed with this Complaint.

3. Respondent. Liberty is an "electrical corporation" and a "public utility" as defined in §§386.020(15) and 386.020(43) R.S.Mo., and is therefore subject to the

jurisdiction of the Commission under Chapter 386 and Chapter 393 R.S.Mo. Liberty's principal place of business is 3400 Kodiak Road, Joplin, Missouri 64804.

JURISDICTION

4. This complaint is filed pursuant to Chapter 393, R.S.Mo., which prohibits an electric corporation from constructing an electric plant without Commission permission and approval. §393.170(1) R.S.Mo. The Commission has established procedures for obtaining "permission and approval" for electric corporations to construct electric plants in the form of a certificate of convenience and necessity ("CCN"). 20 CSR 4240-20.045. ELECTRIC UTILITY APPLICATIONS FOR CERTIFICATES OF CONVENIENCE AND NECESSITY. Liberty has neither applied for nor obtained a CCN for this Project.

5. The Commission has authority to hear and determine complaints against Liberty pursuant to §386.390(1), which provides that "[c]omplaint may be made by ... any corporation or person ... in writing, setting forth any act or thing done or omitted to be done by any corporation, person or public utility in violation, or claimed to be in violation, of any provision of law subject to the commission's authority, of any rule.

COUNT I

Liberty's Acquisition of, and Attempts to Acquire, Easements in Furtherance of a Project That Has Not Received a CCN from the Commission Violates §393.170(1)

6. The Southwest Power Pool (SPP) is a regional transmission organization (RTO), and Liberty is one of its member utilities. RTOs are voluntary organizations of member utilities formed under the Federal Energy Regulatory Commission (FERC) by Order No. 1000 (18 CFR Part 35) in 1999. As an RTO, SPP is a non-governmental

entity. Consequently, it possesses neither electric-plant approval authority nor facility-siting authority within the State of Missouri. Indeed, FERC has explicitly clarified that “nothing in this [Order No. 1000] is intended to limit, preempt, or otherwise affect state or local laws or regulations with respect to construction of transmission facilities, including but not limited to authority over siting or permitting of transmission facilities. *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, 18 CFR Part 35 [Docket No. RM10-23-000; Order No. 1000] (2011). Accordingly, an SPP project designation does not exempt Liberty from its obligation to secure a Certificate of Convenience and Necessity from this Commission.

7. On June 24, 2025, SPP issued a “Notification to Construct” (The “NTC”) directed to Mr. Nate Morris at Empire District Electric Company (d/b/a Liberty). The NTC designated Liberty to construct a project (the “SPP Project”) consisting of four transmission line segments with capacities ranging from 161 kV to 345 kV.¹ The total cost of the SPP Project was estimated in 2024 at \$231,848,470. One of these designated segments requires the conversion of an existing 69 kV transmission line – running from Ozark Dam Substation at the Powersite Dam in Taney County to the Ozark South Substation in Christian County – to a 161 kV line, along with necessary substation upgrades to handle the increased voltage.

8. Upon information and belief, starting in late 2025 or early 2026, Liberty began contacting landowners affected by the SPP Project. Specifically, Liberty contacted

¹ See Exhibit 1 – SPP Notification to Construct (June 24, 2025)

property owners along the SPP Project Segment it identifies in its written materials and website as the “Ozark to Branson” line (the “Ozark to Branson Segment”). That name is a misnomer, because the segment terminates at Powersite Dam in Forsyth, Missouri. However, for consistency, Complainants will use Liberty’s description.

9. At a date unknown to Complainants, Liberty published a page on its website describing the SPP Project.² (the “Liberty Website”). On the Liberty Website, the SPP Project – which includes the Ozark to Branson Segment – is consistently described as a single, interconnected project:

- “Multi-year *transmission project* will strengthen grid, improve reliability, and increase energy supply to help ease rising costs.”
- “The Southwest Power Pool (SPP) – which manages the grid for much of the central United States – directed Liberty and other utilities to develop *this major project* in response to grid reliability challenges...”
- “Think of the 345 kV lines as the “interstate highway” of the electric grid – designed to move large amounts of power across long distances. The 161 kV lines are like “state highways” carrying that power from the main lines into regional and local systems that serve homes and businesses.”
- “*The project* will be completed in phases, each designed to strengthen and modernize the electric grid in our service area.”

² ² Exhibit 2 - Liberty Utilities, *Electric Transmission Projects*, <https://central.libertyutilities.com/all/electric-transmission-projects.html> (last visited Aug 1, 2026)

- "The Southwest Power Pool (SPP) completed their 2024 Integrated Transmission Plan (ITP) to assess the health of the regional energy grid. The ITP identified that Liberty's existing transmission line that starts in Ozark, Missouri, and ends near Branson, Missouri, must be upgraded from 69kV to 161kV. *This upgrade is part of a larger project* to strengthen the energy grid so that Liberty and SPP can continue to deliver safe and reliable electric service to customers now and for years to come, especially during times of high energy demand and extreme weather."

10. Additionally, in correspondence to Complainants, Liberty has described the Ozark to Branson Segment as "part of a larger multi-phase project that will take place over the next several years. Its goal is to strengthen the energy grid so Liberty can help meet the growing demand for electricity and continue providing safe, reliable service to Southwest Missouri and the Ozarks..."³ A version of this form letter is maintained on Liberty's website.⁴

11. Liberty retained the services of Contract Land Staff ("CLS"), a right-of-way and easement acquisition firm. CLS agents provided Complainants with initial written offers ("initial offers") for the acquisition of easement rights over their respective properties. Each initial offer included a copy of the proposed easement, a worksheet indicating the calculation of compensation and plats of Complainants' properties with the

³ Exhibit 3 - Intro Letter from Liberty to Complainant Dietrich date 2/16/2026.

⁴ Exhibit 4 - Liberty Form Intro Letter Dated 9/2/2025 located at https://central.libertyutilities.com/uploads/Liberty%20Intro%20Letter_v2_final%20approved_Blank_.pdf (Last visited August 3, 2026)

proposed easement areas overlaid.⁵ In every instance, the worksheets and plats distinguished areas termed “Existing Easement” and “Proposed Additional Easement.” Where an area was designated an “Existing Easement,” the worksheets assigned substantially less compensation to that area than to the “Proposed Additional Easement” areas. The offers appear to rely on Liberty’s assertion that it already holds easement rights of defined location and width. While that may be true in some instances, it is not universally so, and Liberty’s representations to Complainants regarding existing easement rights were often overstated. When the original transmission line on this Segment was constructed *circa* 1913 by the Ozark Power and Water Company, Ozark Power frequently failed to acquire or record easements. Instead, it obtained from the then-owners what are more accurately described as license agreements to construct and maintain “poles and fixtures.”⁶ Because these unrecorded documents do not bind subsequent purchasers, Liberty’s rights matured, at most, into prescriptive easements (ten-year statutory period).⁷ Moreover, the widths stated in these instruments varied greatly, and the rights granted were often limited to maintaining the lines and clearing trees.

12. In addition to mischaracterizing easement rights to Complainants, CLS agents claimed that Liberty possessed eminent domain authority to force the acquisitions. For the reasons stated herein, Liberty does not hold this authority. In 2022, the Missouri

⁵ Exhibit 5 – Initial Offer Documents

⁶ Exhibit 6 – 1912 and 1913 Agreements

⁷ See, *Ogg v. Mediacom, L.L.C.*, 142 S.W.3d 801, 809 (Mo. Ct. App. 2004)(“...the rights of the holder of an easement acquired by prescription are defined solely by the character and extent of the use made thereof during the prescriptive period.”).

Legislature amended the Missouri eminent domain statute to include two provisions that affect cases where agricultural or horticultural property is condemned for an “electric plant subject to a certificate of convenience and necessity.” The first provision entitles the owner to 150% of the calculated damages to the property.⁸ The second requires that at least one court-appointed commissioner be a farmer.⁹ If Liberty – or any electric corporation – is permitted to self-determine when an electric plant project is exempt from the requirement for a CCN, the intent of the Legislature will be defeated which will result in denying those property owner of their due process rights and the benefits and protections established by these statutes.

13. More recently, Liberty has made more formal direct offers to Complainants that include full appraisals. Despite the lack of recorded easements, Liberty instructed at least one appraiser to assume the utility held the specifically defined pre-existing easement rights. The appraiser used this information to reduce owner compensation by calculating a discounted rate for an “overlapping easement area.”¹⁰ By contrast, another appraiser hired by Liberty correctly concluded that the utility held nothing more than prescriptive easement rights.¹¹

14. Liberty has issued, by certified mail, 30-day acquisition notices to nearly all Complainants informing them that Respondent intends to acquire easements over their

⁸ §523.039 (2) R.S.Mo.

⁹ §523.040 (4) R.S.Mo.

¹⁰ Exhibit 7 – Excerpts from Appraisals

¹¹ Exhibit 7 – Excerpts from Appraisals

properties. These notices are a precursor to condemnation proceedings under §523.253 and signal Liberty’s imminent intent to institute such proceedings.¹²

15. §393.170 R.S.Mo. requires electric corporations such as Liberty to obtain Commission approval prior to beginning construction of an electric plant. An electric plant “includes all *real estate*, fixtures and personal property operated, controlled, owned, used or to be used for or in connection with or to facilitate the generation, *transmission*, *distribution*, sale or furnishing of electricity for used or to be used for the transmission of electricity...” §386.020(14) R.S.Mo. An easement is an interest in real estate.¹³

16. The procedures to obtain “commission approval” under §393.170 R.S.Mo. are established by 20 CSR 4240-20.045 which requires an electric corporation to apply for a CCN prior to construction of an asset. Construction is defined to mean “construction of a new asset”¹⁴ or “improvement, retrofit, or rebuild of an asset that will result in a ten percent (10%) increase in rate base as established in the electric utility's most recent rate case.” 20 CSR 4240-20.045(1)(B). Here, the Ozark to Branson 161 kV transmission line constitutes a single Segment of the SPP Project – a project to construct a “new asset” that will “*add* approximately 90 miles of 345 kV lines and rebuild or *convert* 79 miles of 161 kV.”¹⁵ When evaluating a CCN application, the Commission traditionally applies five criteria, commonly known as the *Tartan* factors:

¹² Exhibit 8 - Offer Letters from Liberty to Complainants

¹³ See, *Burg v. Dampier*, 346 S.W.3d 343, 353 (Mo. Ct. App. 2011) (“An easement is a non-possessory interest in the real estate of another. The interest is not an interest in title, but confers a right of one person to use the real estate of another for a general or specific purpose.”)

¹⁴ An “asset” includes a transmission line. 20 CSR 4240-20.045 (1)(A)(1).

¹⁵ Liberty Utilities, *Electric Transmission Projects*, <https://central.libertyutilities.com/all/electric-transmission-projects.html> (last visited Aug 1, 2026)

- a) There must be a need for the service;
- b) The applicant must be qualified to provide the proposed service;
- c) The applicant must have the financial ability to provide the service;
- d) The applicant's proposal must be economically feasible; and
- e) The service must promote the public interest.

In re Tartan Energy, Report and Order, 3 Mo.P.S.C. 3d 173, Case No. GA-94-127, 1994 WL 762882 (September 16, 1994).

17. If the Commission were to permit Liberty to classify the Ozark to Branson Segment as a single, isolated project that falls under the definition of an “improvement, retrofit, or rebuild of an asset,” it would establish a dangerous precedent allowing utilities to avoid Commission oversight and application of the Tartan factors. By analogy, contractors bidding on Missouri public works/construction projects are forbidden from dividing a project into components to avoid bidding or advertising requirements. §8.250 R.S.Mo. Similarly, agencies are forbidden from segmenting projects to circumvent federal environmental regulations. 23 C.F.R. §771.111(f).

18. An example of how Liberty should proceed is found in the CCN application filed by Ameren Transmission Company of Illinois (ATXI) for its Denny-Zachary-Thomas Hill-Maywood (DZTM) Project. The DZTM Project consists of three segments but was awarded by Midcontinent Independent System Operator (MISO) as a single project. Much of the DZTM Project is located in existing transmission line corridors. ATXI nonetheless applied to the Commission for a CCN covering the entire project and did not seek to divide it into smaller projects. (EA-2025-0087).

19. Even assuming, for the sake of argument, that the Ozark to Branson Segment is a stand-alone project, it does not constitute “an improvement, retrofit or rebuild of an asset.” It is the construction of an entirely new transmission line that will carry a voltage capacity that is 233% of the current capacity and will require the acquisition of new real estate assets in the form of new or expanded easements.

20. The SPP Project segments are interconnected and functionally dependent on one another. Specifically, the 161 kV conversion of the Ozark to Branson Segment serves a purpose only in conjunction with the conversion of the Blackberry to Jasper segment from 161 kV to 345 kV. Conversely, the 345 kV segment would serve little purpose if the Ozark to Branson Segment were not upgraded to 161 kV. This interdependence is confirmed by Liberty’s own website (Exhibit 2), which likens the 345 kV and 161 kV segments to a highway system and states that the 161 kV lines will “help connect and distribute power from the new 345 kV system.”

21. Similarly, and again for the sake of argument, should the *entire* SPP Project be viewed as an “improvement, retrofit, or rebuild,” it is doubtful that the Project would result in less than a ten percent increase in Liberty’s rate base. In the NTC, SPP estimated the cost of the Project at \$231,848,470 in 2024 dollars. That figure approaches ten percent of Liberty’s rate base, which Commission Staff set at \$2,601,966,957.¹⁶ Without a CCN application, the Commission is unable to confirm these estimates. Because the

¹⁶ Staff Accounting Schedules, September 17, 2025, Empire Electric Case No. ER-2024-026, (Filing 329)

estimates are stated in 2024 dollars, it is quite possible, if not probable, that inflation will push the cost above \$260,196,696 (ten percent of the rate base).

22. Pursuant to 20 CSR 4240-2.070 (4) (F), Complainants' attorneys informed Liberty's attorneys of the general nature of this Complaint by letter transmitted by email on July 31, 2026.

RESERVATION OF RIGHTS

Complainants expressly reserve, and nothing in this Complaint or in the Commission's disposition of it shall be construed to waive, release, or limit, their right to pursue in a court of competent jurisdiction all claims for damages, costs, expenses, and reasonable attorneys' fees arising from Respondent's conduct, including without limitation claims for trespass or expanded use under Section 523.283, R.S.Mo., and the recovery of reasonable attorneys' fees, costs, and expenses authorized by Section 523.283.4, R.S.Mo. This Complaint is not, and shall not be deemed, an election of remedies.

MOTION FOR EXPEDITED TREATMENT

Complainants move the Commission for expedited treatment of this Complaint in order to prevent irreparable harm to Complainants, who face the imminent threat of condemnation proceedings against their properties.

RELIEF REQUESTED

WHEREFORE, Complainants Julie Dietrich; Dale & Susan Doolittle; Melvin & Maria Hale; Miranda Saffle Properties, LLC; Jayson & Jenny Shriver; Diana & Jason

Snider; Jonathan Vertz; and Samuel & Joann Wammack respectfully request that the Commission:

- (a) Issue an Order that this Complaint be handled on an expedited basis;
- (b) Issue an Order that Respondent's Ozark-to-Branson 69 kV to 161 kV project constitutes an “electric plant” pursuant to §393.170, R.S.Mo. and subject to the requirement to obtain a Certificate of Convenience and Necessity through and according to the procedures established in 20 CSR 4240-20.045;
- (c) Issue an Order that Respondent is required to obtain a Certificate of Convenience and Necessity from the Commission before proceeding with the construction of any portion of the SPP Project including that Segment described as the Ozark-to-Branson 161 kV transmission line;
- (d) Issue an Order that Respondent may not institute or proceed with condemnation proceedings until a CCN is obtained;
- (e) Issue an Order finding that Respondent acted in bad faith by proceeding forward to construct all or any portion of the SPP Project intentionally to avoid the Commission oversight required by §393.170;
- (f) Issue an Order referring this matter to General Counsel for a determination whether an action against Respondent under §356.570 and/or §386.600 are warranted under the circumstances;
- (g) Refer this Matter to PSC Staff to investigate Respondent’s right of way and easement acquisition practices to determine if agents:

- i.* misrepresented facts regarding existing easements;
 - ii.* misrepresented the Respondent's power to exercise eminent domain authority and/or
 - iii.* exercised improper and coercive practices to obtain easements
- and to report back to the Commission its findings and recommendations including whether a property acquisition protocol should be imposed on Respondent for landowner negotiations and whether to offer to landowners that have previously signed easement an offer of rescission that would include the right of such landowners to retain all or a portion of the previously paid compensation as liquidated damages; and
- (h) Such other and further relief as the Commission deems just and proper and as the public interest may require.

Respectfully submitted,

HENRY/MEURET

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CERTIFICATE OF SERVICE

I certify that on this 7th day of August, 2026, the foregoing was emailed to the following counsel:

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