

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

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

Complainants,)

v.)

File No. EC-2027-0042

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

Respondent)

STAFF’S RESPONSE IN SUPPORT OF COMPANY’S MOTION TO DISMISS

COMES NOW the Staff of the Missouri Public Service Commission, by and through counsel, and in support of dismissal, states as follows:

1. On August 7, 2026,¹ 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”) filed a formal complaint against The Empire District Electric Company d/b/a Liberty (“Liberty”) pursuant to Commission Rule 20 CSR 4240-2.070. The complaint is regarding the replacement of a 69kV transmission line with a 161kV line. Complainants allege Liberty’s acquisition and attempts to acquire easements as part of this project violate §393.170(1) RSMo as Liberty has not obtained a Certificate of Convenience and Necessity (“CCN”) for this project.

¹ All date references will be to 2026 unless otherwise indicated.

Complainants' requested relief is for the Commission to issue an order that this transmission line constitutes an "electric plant" pursuant to §393.170 RSMo and subject to the requirement to obtain a CCN; issue an order that Liberty is required to obtain a CCN before proceeding with construction of the transmission line and condemnation proceedings; issue an order finding that Liberty acted in bad faith by proceeding with construction of the project; issue an order referring this matter to General Counsel to determine if penalties are warranted; and refer this matter to Staff for investigation pertaining to easements and eminent domain authority.

2. On August 7, the Commission issued an order setting a deadline for Liberty's response, and ordered Staff to investigate the complaint and file a report or alternative pleading no later than September 22.

3. On September 8, 2026, Liberty filed its *Answer and Motion to Dismiss*. Liberty moves for dismissal on grounds that the Commission cannot issue declaratory judgments; Missouri law does not require an additional CCN for transmission facilities constructed within a utility's existing certificated service territory; and the Commission has no jurisdiction over eminent domain or easement acquisition. In its response, Liberty included a map of the whole of its transmission line upgrade plans and indicating the portion of the transmission line at issue.²

4. The Commission has no jurisdiction or authority to grant a public utility eminent domain; landowners disputing a utility condemnor's eminent domain must seek

² See *Appendix A – Project Locations R1*, EC-2027-0042, Docket Item No. 5

remedy from the courts, not from the Commission.³ Missouri statute grants public utilities the authority to condemn property for the construction or expansion of its transmission lines.⁴ This authority is subject to a utility receiving a CCN to provide service to the area from the Commission, per § 393.170 RSMo. The Commission has the authority to issue a CCN but plays no role in easement negotiation or eminent domain proceedings, as, pursuant to § 523.256 RSMo, the authority to adjudicate eminent domain proceedings rests with the judicial system, not the Commission.

5. The courts of this state have consistently held that, once a public utility has been certificated to serve a defined area, then the utility need not obtain an additional CCN to construct a transmission line within this area.⁵

6. The transmission line at issue is located within Liberty's certificated service territory and does not seek to extend beyond the existing certificated territory. As such, Liberty is not required to obtain an additional CCN to construct this replacement transmission line. A Commission order requiring Liberty to obtain a new CCN before construction of this project is contradictory to the settled law as set forth by Missouri's courts and would be improper. Therefore, the Commission cannot grant this requested relief.

³ Section 523.256, RSMo; *Am. Petroleum Exch. v. Pub. Serv. Commn.*, 172 S.W.2d 952, 955 (Mo. 1943) (citing to *Kirksville v. Hines*, 285 Mo. 233, 240 (1920)); *In the Matter of the Application of Grain Belt Express LLC for an Amendment to its Certificate of Convenience and Necessity Authorizing it to Construct, Own, Operate, Control, Manage, and Maintain a High Voltage, Direct Current Transmission Line and Associated Converter Station*, EA-2023-0017

⁴ 523.010 RSMo

⁵ *Public Service Commission v. Kansas City P. & L. Co.*, 325 Mo. 1217, 1226, 31 S.W.2d 67, 71[6] (banc 1930); *State ex rel. Harline v. Public Service Commission*, 343 S.W.2d 177 (Mo.App. 1960); *State ex rel. Doniphan Telephone Company v. Public Service Commission*, 377 S.W.2d 469, 474[5] (Mo.App. 1964); *StopAquila.Org v. Aquila, Inc.*, 180 S.W.3d 24, 36 (Mo. App., W.D. 2005); See also *State ex rel. Cass Cnty. v. PSC*, 259 S.W.3d 544, 549 at note 6 and 7 (Mo. App., W.D., 2008)

7. As the Commission lacks jurisdiction over matters pertaining to easement negotiation and eminent domain proceedings, the Commission cannot grant the Complainants' requested relief pertaining to these matters.

8. Following review, Staff agrees with the arguments put forth by Liberty that dismissal as a matter of law is proper, and thus supports Liberty's Motion to Dismiss.

WHEREFORE, on account of all the foregoing, Staff prays that the Commission grant Liberty's *Motion to Dismiss* in this case; and grant such other and further relief as the Commission deems just in the circumstances.

Respectfully Submitted,

/s/ Travis J. Pringle

Travis J. Pringle
Missouri Bar No. 71128
Chief Deputy Counsel for the Staff of the
Missouri Public Service Commission
P.O. Box 360
Jefferson City, Mo 65102-0360
(573) 751-5700 (Telephone)
(573) 526-1500 (Facsimile)
(Email) travis.pringle@psc.mo.gov

/s/ Mark Johnson

MARK JOHNSON
Missouri Bar No. 64940
Chief Staff Counsel
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102
573-751-7431 (Voice)
573-751-9285 (Fax)
mark.johnson@psc.mo.gov

Attorneys for the Staff of the
Missouri Public Service Commission

/s/ Benjamin Hahs

BENJAMIN HAHS

Rule 13 Certified Law Student

Missouri Public Service Commission

P.O. Box 360

Jefferson City, MO 65102

573-751-8397

benjamin.hahs@psc.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic mail, or First Class United States Postal Mail, postage prepaid, on this 22nd day of September, 2026, to all counsel of record.

/s/ Travis J. Pringle