STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held at its office in Jefferson City on the 19th day of May, 2021.

In the Matter of The Empire District Electric Company d/b/a Liberty (Empire) for Authority to Implement Rate Adjustments Related to the Company's Fuel and Purchase Power Adjustment (FAC) Required in 20 CSR 4240-20.090	))))))	**File No. ER-2021-0332** Tariff No. JE-2021-0178

ORDER REJECTING TARIFF TO CHANGE FUEL ADJUSTMENT RATES

Issue Date: May 19, 2021 Effective Date: May 31, 2021

On April 1, 2021, The Empire District Electric Company, d/b/a Liberty (Liberty) filed a tariff sheet proposing to revise its fuel adjustment rate in its tariffed fuel adjustment clause (FAC) as provided by Commission Rule 20 CSR 4240-20.090(8). Liberty proposes to set the fuel adjustment rate per kilowatt hour (kWh) to $.0000 for the Accumulation Period ending February 2021 and the Recovery Period ending November 2020, effective June 1, 2020.[1]

Commission Rule 20 CSR 4240-20.090(8) governs fuel and purchased power cost recovery mechanisms for electric utilities. That rule requires Liberty to make periodic FAC filings that are designed to allow the Commission to review the actual total energy costs that the company has incurred during an Accumulation Period. In addition, these periodic filings are designed to adjust the FAC rates up or down, to reflect the actual energy costs incurred during the Accumulation Period. Liberty's FAC tariff calls for two annual filings:

[1] Liberty filed identical tariff sheets in File Nos. ER-2021-0332 and EO-2021-0333. The tariff sheet is assigned Tariff No. JE-2021-0178.

a filing covering the six-month Accumulation Period running from September through February; and, a second filing covering the Accumulation Period running from March through August. Any increases or decreases in rates approved by the Commission, or that take effect by operation of law, are then collected from or refunded to customers over two six-month Recovery Periods: June through November and December through May.

Liberty provided testimony that for Accumulation Period 25 from September 2020 through February 2021, Liberty's actual total energy costs eligible for the FAC were under-collected by approximately $176,248,936.[2] Under normal circumstances, Liberty would file a FAC rate tariff designed to recover 95 percent of the energy cost differences, or approximately $167,436,489.[3] However, due to "extraordinary costs" resulting from the February 2021 cold weather event (Winter Storm Uri), Liberty is seeking approval to defer collection of $168,720,211of its total energy costs until its next general rate case.[4]

Concurrent with its fuel adjustment rate filing, Liberty submitted a FAC true-up filing in File No. EO-2021-0333 that identified an under-collection of $1,293,237 ($1,283,722 under-collected actual fuel costs plus $9,515 interest) for Recovery Period 23 of Liberty's FAC. In this fuel adjustment rate filing, Liberty proposes to defer that under-collection along with its Winter Storm Uri "extraordinary costs" until its next general rate case. By doing so, Liberty will reset its fuel adjustment rate to $.0000. Liberty also proposed that the Commission approve language in this proceeding providing that Liberty continues to have a reasonable expectation of recovery of these deferred costs.[5]

[2] Direct Testimony of Charlotte T. Emery, (filed April 1, 2021), page 4.
[3] Direct Testimony of Charlotte T. Emery, (filed April 1, 2021), pages 4-5.
[4] Direct Testimony of Charlotte T. Emery, (filed April 1, 2021), page 5.
[5] Direct Testimony of Charlotte T. Emery, (filed April 1, 2021), pages 10-11.

On May 3, 2021, Staff recommended the Commission issue an interim rate adjustment order to approve Liberty's tariff sheet to be effective on June 1, 2021, subject to true-up and prudence review. Staff noted that Liberty is proposing that the portion of its fuel costs associated with Winter Storm Uri be treated in a different manner than would normally be afforded through the FAC mechanism. Staff agrees with Liberty that these are "extraordinary costs" and that Commission Rule 20 CSR 4240-20.090(8)(A)2.A(XI), allows for extraordinary costs to not be passed through the FAC. Staff also recommends Liberty's request to defer recovery of its under-collection be approved. Staff did not oppose Liberty's request for language indicating that Empire continues to have a reasonable expectation of recovery of these deferred costs.

On May 12, 2021, the Office of the Public Counsel (OPC) filed a pleading opposing Staff's recommendation and requesting that the Commission reject Liberty's tariff sheet. OPC contends that the proposed tariff sheet impermissibly defers the true-up amount under-collected during Recovery Period 23. OPC argues that Commission rules and Liberty's FAC tariff require Liberty's fuel adjustment rates for Recovery Period 25 be designed to recover the under-collected true-up amount, and cannot be designed to recover that amount at a later date. OPC also objected to the Commission including language about the reasonable expectation of recovery in a future case.

Staff and Liberty replied to OPC's response on May 17, 2021. Neither Staff nor Liberty made any new arguments or explained how the deferral of the true-up amount is authorized under Liberty's current tariff.

OPC's objection raises an issue about whether the proposed fuel adjustment rates comply with Liberty's FAC tariff. As required by Commission Rule 20 CSR 4240-20.090(8)(H), the Commission will reject the tariff sheet, Tariff No. JE-2021-0178, suspend the timeline for the fuel adjustment rate filing in this case, set a date for a prehearing conference, order the parties to propose a procedural schedule, and order Liberty to file a tariff sheet to implement interim adjusted fuel adjustment rates to reflect any part of the proposed adjustment not now in question.

Because the proposed substitute tariff indicates an effective date of June 1, 2021, and the Commission is required by its rules to act within 60 days of the original filing, the Commission will make this order effective in less than 30 days.

THE COMMISSION ORDERS THAT:

1. The proposed substitute tariff sheet, assigned Tariff No. JE-2021-0178, is rejected.

2. The timeline of Liberty's fuel adjustment rate filing in ER-2021-0332 is suspended.

3. A prehearing conference is scheduled for 10:00 a.m. on June 8, 2021, to be conducted by WebEx telephone and video conference. The WebEx link and access code will be distributed by email to all counsel of record.

4. The parties shall file a proposed procedural schedule no later than June 18, 2021.

5. Liberty shall file any revised tariff sheets necessary to implement interim fuel adjustment rates consistent with uncontested components of Liberty's proposed fuel adjustment rates.

6. This order shall be effective on May 31, 2021.

BY THE COMMISSION

Morris L. Woodruff
Secretary

Silvey, Chm., Rupp, Coleman, and
Holsman, CC., concur.
Kolkmeyer, C., abstains.

Dippell, Deputy Chief Regulatory Law Judge

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 19th day of May, 2021.

Morris L. Woodruff
Secretary

Digitally signed by MOPSC
DN: CN=MOPSC, O=MOPSC, OU=, E=kim.happy@psc.mo.gov, C=US
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MISSOURI PUBLIC SERVICE COMMISSION

May 19, 2021

File/Case No. ER-2021-0332

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Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,



Morris L. Woodruff
Secretary

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.