

**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

**PUBLIC COUNSEL’S RESPONSE TO STAFF’S REPORT**

COMES NOW the Office of Public Counsel (“Public Counsel”) and responds to Staff’s June 8, 2026, Report as follows:

1. Public Counsel concurs with Staff that Liberty has not met the improvements to Customer First via customer service and billing metrics of the “Supplemental Stipulation” the Commission requires before it would allow Liberty’s rates to increase for any of the months of January, February, and March of 2026. The Commission should apply those metrics strictly.

2. In its January 14, 2026, *Report and Order* the Commission said, “Addressing the customer service and billing issues is a priority for the Commission.”<sup>1</sup> Since that order, through discovery, Public Counsel learned that Liberty has been applying a franchise fee rate of 2% to its gross sales of electricity in the City of Bolivar since at least sometime in 2022, but that the correct rate is 1.961%. Even after realizing that it was applying the wrong franchise fee rate to electricity sales in Bolivar, Liberty is continuing to apply the incorrect 2% rate. (See attached Liberty responses to OPC DRs 1322, 1323, 1325, and 1326).

3. It would be unreasonable for the Commission not to consider such new information when evaluating the propriety of Liberty’s proposed new rates.

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<sup>1</sup> P.54 (verify cite).

4. Despite Liberty's representations, Liberty continuing to apply a 2% franchise fee rate to gross sales in Bolivar demonstrates that Liberty is not putting its customers first.

5. Further evidence that Liberty is not putting its customers first is found in Liberty's approach to correcting its sales tax billing errors. Liberty is reacting to those sales tax errors, not uncovering them. Liberty should have, as contemplated by the State of Missouri, used the geospatial location of its electric service meters to determine the correct Missouri sales tax for the service it provides through those meters.

6. From Liberty's responses to data requests, it is apparent to Public Counsel that, as part of its migration to Customer First, Liberty imported its existing Missouri customer energy sales locations information into its new computer systems, at least for Missouri sales taxes purposes. It also appears that the information Liberty imported originated from Liberty's customers.

7. Department of Revenue rule 12 CSR 10-117.100(3)(A)6 provides:

Metered sales (e.g., natural gas and utilities) subject to state sales tax are subject to the local sales tax in effect where the meter is located.

8. For many years the Missouri Department of Revenue has maintained and updated a web-based, GIS-based map and tables of composite sales tax rates applicable in Missouri. See §§ [32.310](#) (map by July 1, 2019) and [144.637, RSMo](#) (boundary change database required effective January 1, 2023). The map and databases may be found at <https://missouri.atr.avalara.com/> and <https://dor.mo.gov/taxation/business/tax-types/sales-use/#taxbreakdown>, respectively.

9. Liberty should have the GIS coordinates for each of its advanced meters from when it transitioned to its Advanced Metering Infrastructure. Regardless, Liberty should know the location of its meters sufficiently to properly apply Missouri sales tax.

10. Except for rule 12 CSR 10-117.100(3)(A)6 and the first clause of the first sentence below, Liberty's postal code approach comports with the following statutory language from [§144.637.3](#), RSMo.:

If a vendor is unable to determine the applicable rate and jurisdiction using an address-based database record after exercising due diligence, the vendor may apply the nine-digit zip code designation applicable to a purchase. If a nine-digit zip code designation is not available for a street address or if a vendor is unable to determine the nine-digit zip code designation applicable to a purchase after exercising due diligence to determine the designation, the vendor may apply the rate for the five-digit zip code area. The lowest combined tax rate imposed in the zip code area shall apply if the area includes more than one tax rate in any level of taxing jurisdiction. For the purposes of this section, there shall be a rebuttable presumption that a vendor has exercised due diligence if the vendor has attempted to determine the tax rate and jurisdiction by utilizing software approved by the director and makes the assignment from the address and zip code information applicable to the purchase. If the director certifies an address-based database provided by a third party, a vendor may use such database in place of the database records provided for in this subsection.

11. Liberty's customers are not getting some of the fundamental benefits Liberty should have designed Customer First to realize. Instead, it appears that Algonquin focused on the new benefits it intended for Customer First to enable without assuring that Customer First would deliver fundamental aspects of a vendor-vendee relationship, aspects such as accurate billings of not only Commission-authorized rates and charges, but also sales taxes and franchise fees.

12. Serious deficits in Liberty's customer billings were a significant Commission concern. In its *Report and Order*, the Commission said:

Addressing the customer service and billing issues is a priority for the Commission. Staff's opinion was that the implementation of Customer First compromised Empire's ability to provide safe and reliable service at just and reasonable rates. The Commission agrees and finds that authorizing an increase in rates prior to the customer service and billing issues being addressed would result in unjust and unreasonable rates.

The Commission is presented with two distinct choices – to require improvements to Customer First via customer service and billing metrics to be met before a rate increase is authorized as provided in the Supplemental Stipulation or

deny Empire any rate increase as its customer service falls below what its customers deserve, as advocated by Public Counsel and CCM. For the reasons discussed, the only reasonable path forward for the Commission is to require improvements to Customer First before authorizing a delayed and phased-in rate increase which also withholds financial recovery of the return on the asset related to Customer First until a second set of metrics are met – the Commission finds this to be a pragmatic solution in these particular circumstances.<sup>2</sup>

13. While the Commission may have found that, for the particular circumstances facing it when it approved them, the metrics were part of a pragmatic solution, the Commission now is faced with different circumstances of which it was unaware when it approved those metrics. The most egregious of those circumstances being Liberty’s knowing, intentional and continuing overcollection of franchise fees from its Bolivar customers, although how Liberty has chosen to implement Customer First in a manner which allows the perpetuation and addition of data and process errors also is egregious.

14. The Commission must have a record supporting its decisions sufficient for judicial review. [§386.510, RSMo.](#); [Mo. Const. art. V, § 18](#); [State ex rel. Praxair, Inc. v. Mo. PSC, 344 S.W.3d 178 \(Mo. 2011\)](#).

15. Public Counsel suggests that an appropriate next step for the Commission to take would be to further suspend the rate tariff sheets to which it has assigned Tracking No. JE-2026-0123, for an additional 30 days plus six months to allow time for adequate discovery and a hearing.

16. The Commission foreshadowed this suggestion in the following paragraph from its May 4, 2026, *Order Granting Staff’s Requested Extension and Further Suspending Tariff Sheets*:

On April 28, Liberty filed a response to OPC’s filing which included a request for a Commission ruling regarding January’s metrics. Liberty also requested that should the Commission find in its favor, that it then direct Staff to file its report on the February and March metrics no later than May 15.

The Commission does not find it reasonable to issue a decision on a single month at this time but will take the request under advisement. There are due process

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<sup>2</sup> R&O, pp. 53-54.

considerations – evidence may need to be introduced or parties may request to supply briefs – either of which will entail a procedural schedule that will necessarily overlap the Staff’s work on, and deadline to file, its recommendations for the February and March reports. The Commission finds it more reasonable to wait until it has reports and recommendations for three months pursuant to the standard set by the Supplemental Stipulation. In taking Liberty’s request for a ruling under advisement and granting Staff’s request for an extension, the Commission finds Liberty’s request that Staff be ordered to file its recommendation by May 15 to be moot.

**Wherefore**, the Office of Public Counsel responds to Staff’s June 8, 2026, Report as set forth above.

Respectfully,

/s/ Nathan Williams

Nathan Williams  
Chief Deputy Public Counsel  
Missouri Bar No. 35512

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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 18<sup>th</sup> day of June 2026.

/s/ Nathan Williams



Liberty Utilities

Case No. OO-2025-0233

Office Public Counsel Data Request - 1322

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Data Request Received: 2026-05-21

Response Date: 2026-06-10

Request No. 1322

Witness/Respondent: Sandi Hennequin

Submitted by: John Riley, john.riley@opc.mo.gov

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**REQUEST:**

During the period January 1, 2026, to present, what franchise fee/tax rates did/is Liberty imposing on its retail sales of electricity in the city of Bolivar, Missouri?

**RESPONSE:**

During the period of January 1, 2026, to present, Liberty is applying and remitting a 2% franchise rate for the retail sales of electricity in the city of Bolivar, Missouri.



Liberty Utilities

Case No. OO-2025-0233

Office Public Counsel Data Request - 1323

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Data Request Received: 2026-05-21

Response Date: 2026-06-10

Request No. 1323

Witness/Respondent: Sandi Hennequin

Submitted by: John Riley, john.riley@opc.mo.gov

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**REQUEST:**

What are the City of Bolivar, Missouri, ordinances which imposed franchise fee/tax rates on Liberty's retail sales of electricity in the city of Bolivar, Missouri during the period January 1, 2026, to present?

**RESPONSE:**

Please see below Ordinance No. 3775, which includes the current Franchise Fee rate:

**“AN ORDINANCE OF THE CITY OF BOLIVAR, MISSOURI, AMENDING PRIOR ORDINANCE NO. 3758 TO CORRECT SCRIVENER’S ERROR AS TO RATE OF GROSS RECEIPTS TAX IMPOSED UPON ELECTRIC CORPORATIONS CONDUCTING BUSINESS WITHIN THE CITY.”**

WHEREAS, on or **about July 26, 2022**, the Board of Aldermen passed Bill No. 2022-53, Ordinance No. 3758 for the purpose of reaffirming the rate of gross receipts taxes imposed on electric corporations conducting business within the City; and

WHEREAS, Section I of the said Ordinance No. 3758 contained a scrivener’s error stating that the rate of said gross receipts taxes was at three percent (3%); and

WHEREAS, the actual rate of the said gross receipts tax should be 1.961%; and

WHEREAS, the Board of Aldermen desires to amend said Ordinance No. 3758 to state the correct rate of the gross receipts tax **at 1.961%**.

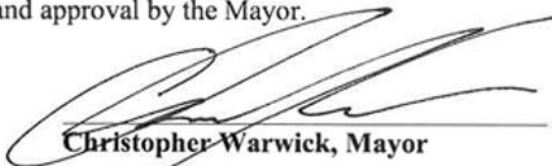
NOW, Be it Ordained by the Board of Aldermen of the City of Bolivar, Missouri, as follows:

**Section I:** Bill No. 2022-53, Ordinance No. 3758 is hereby amended by amending Section I thereof to replace any reference to three percent (3%) to: 1.961%.

**Section II:** All parts of Ordinance No. 3758 not specifically amended herein shall otherwise remain in full force and effect.

**Section III:** This Ordinance shall be in full force and effect from and after its passage by Board of Aldermen and approval by the Mayor.



  
Christopher Warwick, Mayor

  
Paula Henderson, City Clerk



Liberty Utilities

Case No. OO-2025-0233

Office Public Counsel Data Request - 1325

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Data Request Received: 2026-05-21

Response Date: 2026-06-10

Request No. 1325

Witness/Respondent: Sandi Hennequin

Submitted by: John Riley, john.riley@opc.mo.gov

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**REQUEST:**

When did Liberty begin collecting the 1.961 percent of the gross receipts required by Bolivar, Missouri, ordinance Section 730.025.B.?

**RESPONSE:**

Liberty has, historically, and is, currently, collecting and remitting 2% of the gross receipts.



Liberty Utilities

Case No. OO-2025-0233

Office Public Counsel Data Request - 1326

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Data Request Received: 2026-05-21

Response Date: 2026-06-10

Request No. 1326

Witness/Respondent: Sandi Hennequin

Submitted by: John Riley, john.riley@opc.mo.gov

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**REQUEST:**

Is Liberty currently collecting the 1.961 percent of the gross receipts required by Bolivar, Missouri, ordinance Section 730.025.B.?

**RESPONSE:**

Liberty has, historically, and is, currently, collecting and remitting 2% of the gross receipts.