

**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)	Case No. ER-2024-0261
For Electric Service Provided to Customers)	
In its Missouri Service Area)	

LIBERTY’S RESPONSE TO STAFF’S REPORT AND MEMORANDUM

COMES NOW The Empire District Electric Company d/b/a Liberty (“Liberty” or the “Company”), and in response to Staff’s Report and Memorandum filed herein on June 8, 2026 (“Staff’s Report”) and the *Order Directing Responses* issued June 11, 2026, Liberty respectfully states as follows to the Missouri Public Service Commission (the “Commission”):

Introduction

1. The Commission’s *Report and Order* establishes that new rates in this case may take effect upon a showing of real and sustained improvement in the Company’s customer billing performance over a three consecutive month period. The record demonstrates that this standard has been met. As reflected in Staff’s detailed and thorough evaluation of the Company’s billing data, the Company issued approximately 466,000 bills from January through March 2026, of which only seven to ten bills did not conform to the agreed-upon performance metrics. The Company respectfully submits that these isolated instances do not undermine the substantial and sustained improvement the Commission required. Rather, as recognized in the Supplemental Stipulation, such limited deviations are permissible where they reflect discrete, fact-specific occurrences rather than any systemic or recurring issue. The small number of non-conforming bills identified by Staff – representing a de minimis portion of total bills issued – are appropriately characterized as “limited deviations” with the meaning of the agreement. In this context, treating these isolated deviations as a bar to implementation of new rates would be inconsistent with both

the intent of the Commission's *Report and Order* and the framework established in the Supplemental Stipulation.¹ Accordingly, the Company submits that it has satisfied the Commission's directive and that implementation of new rates at this time is warranted.

2. The Company's demonstrated improvements are the result of sustained and deliberate efforts, including changes in executive leadership that brought a clear non-negotiable commitment to delivering a high-quality customer experience and a strengthening of engagement with key stakeholders. The Company took meaningful steps to align its people, processes, and systems to support its objectives. The results of these efforts are now evident in the Company's sustained billing performance. Having met the standard established by the Commission, it is appropriate to move forward with implementation of new rates. Doing so not only recognizes that the Company has delivered the improvements required by the Commission, but also allows for the timely recovery of investments that have been used and useful in serving customers for a considerable period.

3. At the same time, it enables the implementation of a broader package of customer-focused commitments that have been held in abeyance during the improvement period. Importantly, these commitments – funded by the Company's shareholders – provide tangible and immediate benefits to customers, with a particular focus on those most in need. These include:

- **Arrearage Relief:** forgiveness of \$8.5 million customer arrears through a targeted program designed to provide meaningful support to those most impacted; and

¹ When you combine Staff's permissible deviations (2,015) with the 7 to 10 other instances, it means Staff determined that approximately 99.56% of the roughly 466,000 customer bills were issued in strict compliance with the metrics. Liberty believes that performance is exactly the result the Commission was seeking when it predicated implementation of the rate increase on real and sustained performance in the Company's billing and customer service.

- **Low-income Assistance Pilot Program:** increases the funding and design of this annual assistance program to income-qualified customers to \$900,000 from the current \$500,000, with continued funding through 50% Company match.

4. These commitments reflect a broader effort to ensure that the benefits of the Company's improved performance are shared with customers, particularly those who are most vulnerable. Delaying implementation of new rates would further delay the delivery of these meaningful customer benefits, as well as the recovery of investments already in service. The Company is mindful of affordability challenges its customers face in the current economic environment, and the settlement agreements include provisions to provide further protections to customers. For example, rates which initially were to take effect in February 2026 would not take effect until July 2026 (assuming the Commission agrees the metrics have been met). When placed in effect, customers will see an approximately \$34 million increase the first year, and a \$68 million increase (from present day) in the second year. The full increase of \$97 million will not be reflected in customers rates until the third year.

5. Further, the Company agreed that it will not file a rate case for 24 months after the effective date of new rates in this case, a further benefit to customers. Separate and apart from these affirmative customer commitments in the settlement agreements, the Company also undertook other efforts to mitigate customer impacts arising from the billing issues, the current economic situation, and other circumstances, including suspending disconnections, waiver of late fees, and flexible payment arrangements to customers. All of these actions demonstrate the Company's good faith in minimizing the financial impact on customers.

6. Accordingly, consistent with the Commission's *Report and Order* and in light of the demonstrated improvement, the Company respectfully submits that the Commission should

find that Liberty has satisfied the sustained improvement requirement, supporting rates taking effect on or before July 4, 2026.² The record shows that Liberty has met the requirements of the Supplemental Stipulation, including achieving the agreed-upon billing and customer service performance metrics for three consecutive months beginning January 1, 2026, thereby satisfying the sole condition for implementation of new rates. There is therefore no basis to further delay their effectiveness or the associated benefits. The requested \$97 million revenue increase – previously found by the Commission to be just and reasonable – excludes recovery of, or return on, the Company’s investment in its information technology software,³ reflecting only costs already determined to be reasonable and necessary to provide safe and reliable service.

Background

7. By way of background, neither the Global Stipulation and Agreement nor the Supplemental Stipulation established a standard of flawless execution or zero exceptions for billing performance. In approving the Supplemental Stipulation, the Commission made clear that the metrics were intended to function as a “pragmatic” mechanism to drive meaningful improvement in billing accuracy, customer service responsiveness and compliance with Commission rules prior to the implementation of rate relief – not as a zero-tolerance construct untethered from the operational realities of complex utility systems that necessarily depend on human judgment, field activity, and multifaceted operational processes.⁴ No utility operates every

² The Global Stipulation and Agreement provided that the initial rates agreed to by the signatories would take effect on February 1, 2026. The Supplemental Stipulation varied that timing by establishing the billing and customer service metrics. Following the Commission’s approval of the terms of the stipulations, Liberty’s compliance tariff sheets were submitted on March 6. The tariff sheets were suspended until June 4. On April 9, Liberty made its third metrics filing. Thereafter, the tariff sheets were further suspended until July 4.

³ The billing system is part of a larger IT infrastructure project that serves many functions, including network design and operations, employee time keeping and payroll, procurement, and others.

⁴ See *Report and Order*, dated January 14, 2026, pp. 55-56. (“Therefore, the Commission determines that Empire’s ongoing billing and customers service problems requirement improvement before a rate increase can be authorized. The fact that the Supplement Stipulation’s metrics represent existing requirements that Empire should have already been meeting supports the need to make the pragmatic adjustment that metrics should be met prior to the

single month with zero exceptions, and a zero-tolerance or flawless performance expectation is neither realistic nor consistent with how enterprise billing and customer service systems function in practice. Even with strong automated controls, manual reviews and continuous process improvements, isolated, non-systemic exceptions will occur; and performance expectations must, therefore, distinguish those limited events from systemic issues, while continuing to promote sustained improvement.

8. Further, there is no dispute that limited deviations from the metrics are permissible, and as Staff acknowledges in its Report, "...compliance turns on the conduct underlying the deviations, not merely their number." Staff's Report, p. 4. It bears emphasis that the 7 to 10 instances identified by Staff arise from isolated, fact-specific circumstances, including individual customer coding or classification errors, a discrete account impacted by a fire-related service interruption, and a legacy account with a long-standing arrangement reflected under an alternative billing code. Those instances are textbook examples of "limited deviations" given that they are localized and non-recurring, and do not demonstrate any systemic defect in Liberty's billing systems or processes. Nothing in Staff's Report establishes or supports the existence of a system-wide billing deficiency or any other reason justifying delayed implementation of the otherwise just and reasonable revenue increase approved by the Commission.

Staff's Alleged Non-Permissible Deviations

9. The following discussion identifies each metric where Staff alleges non-compliance and the facts associated with each of the ten instances. It is important to note at the outset that four of the ten instances cited by Staff as non-compliant involve Metric 3f on bill timing

rate increase taking effect. The Commission finds that the metrics set forth in the Supplemental Stipulation are reasonable resolutions to the mediate issues of customers service and billing and, if met, will result in Empire providing safe and adequate services at just and reasonable rates.")

and Staff's *new interpretation of what the metric requires*. Staff's Report states that it "...has revisited the wording of Metric 3f in the Supplemental Stipulation and believes that it erred in its initial analysis of Empire's compliance with Metric 3f by accepting Empire's interpretation of the metric." Staff Memorandum, p. 4. While the Company appreciates Staff's significant efforts in this docket and in the investigation docket in thoughtfully reviewing Liberty's data, the Company respectfully asserts that changing the goalpost for measurement of a metric at this late stage of the review⁵ is not appropriate or constructive.

10. **Metric 3b – Bills Without Usage.** This metric provides that for "all accounts associated with a metered service, the Company shall confirm that each meter associated with that account is attached to the account in SAP for billing purposes. In conjunction, customers on rate schedules that proscribe usage-based billing shall not receive bills without usage or beginning or end meter reads." Four of the ten instances of potential non-compliance that Staff does not classify as permissible deviations are in this category, with one situation being counted in each of the three months. There were no permitted deviations identified by Staff for this metric.

11. On the first instance, Staff acknowledged that it "cannot definitely state that this instance counts as non-compliance with Metric 3b" but "submits this incident and the circumstances surrounding it for the Commission's determination." Staff Memorandum, p. 18. Staff raises that issue as a potential non-compliance event in each of the three months under review. Staff acknowledges that the language of the metric "arguably excludes this incident from the metric." *Id.* Liberty submits that the situation does not fall within the plain wording of the metric, but the Company also is not dismissive of the customer's or Staff's concerns. The customer was

⁵ When Staff filed its Initial Report herein on April 16, 2026, it reported on the total number of bills for January, with no mention of the number in each billing cycle. That monthly method utilized by Staff in its Initial Report is consistent with all discussions between Liberty and Staff on this metric.

properly disconnected from the system for safety reasons, but, due to human error, the customer was not billed for three months of electricity.

12. If the situation is determined to have resulted in one or more deviations, they should be determined to be permissible deviations. The issue was not system-driven. Instead, it was an isolated situation resulting from human error.

13. The final instance under this metric involves a customer not being charged for usage but having a designation in the system for being on a metered service. For over 20 years, this customer has been billed based on an agreement between the Company and the customer. This is appropriate for the situation, and the customer will be reclassified in the system to reflect the proper tariff classification. Liberty submits that this instance, if found to be a deviation, falls squarely within the limited deviations contemplated by the Supplemental Stipulation. The customer experienced no service disruptions; the issue was not system-driven; and from the Company's and the customer's perspectives, the customer was properly and accurately billed.

14. **Metric 3d – Due Date Less Than 21 Days.** Two of the instances of non-compliance that Staff does not classify as permissible deviations are in this category. Staff's Report, p. 5. The two instances involve two customers that were incorrectly entered into the system under the wrong state and were given 20 days to pay instead of 21. There were no permitted deviations identified by Staff for this metric.

15. The two instances in this category were discussed in Staff's Initial Report and in Liberty's response thereto. In one case, the customer's account was mistakenly coded under the Oklahoma company code, as the customer had an Oklahoma mailing address (for a Missouri service address) and, thus, was billed under Oklahoma net terms of 20 days. The customer was contacted, and the account was corrected to the Missouri company code with applicable Missouri

net terms. The other instance also involved an account mistakenly coded under the Oklahoma company code and therefore billed under Oklahoma net terms of 20 days. This mismatch was identified through a Company control report and shortly thereafter updated to the Missouri company code with applicable Missouri net terms.

16. Staff noted that its “review of bills from both customers did not find any indications that the customers were charged incorrectly for service” and that “. . . the root cause of both instances of the Metric 3d noncompliance was a Company error not directly tied to [the SAP Billing system implementation]. . . .” Staff’s Initial Report Memorandum, pp. 10-11. To prevent similar human error in the future, the Company added a system control that monitors for mismatches between the service address and the entered company code.

17. These two isolated deviations fall squarely within the limited deviations contemplated by the Supplemental Stipulation and do not undermine the objectives the Commission sought to achieve through the billing metrics. The customers were billed accurately for usage, experienced no service disruptions, and suffered no adverse billing consequences beyond receiving 20 days – rather than 21 days – to remit payment. The issue was not system-driven, was identified by internal controls, and has since been addressed through corrective system changes.

18. **Metric 3f – Bill Timing.** Four of the ten instances of non-compliance that Staff does not classify as permissible deviations are in this category. Staff’s Report, p. 6. Staff’s Report explains that “Staff has revisited the wording of Metric 3f in the Supplemental Stipulation and believes that it erred in its initial analysis of Empire’s compliance with Metric 3f by accepting Empire’s interpretation of the metric. The interpretation used by Empire has been that the metric requires 99.7% of all bills in a given month to be issued eight or less days after the scheduled

billing date. However, another way this metric can be read is that it requires Empire to issue 99.7% of all bills *within each of Empire's 21 billing cycles* eight or less days after the scheduled billing date.” Staff Memorandum, p. 4.

19. Although Staff's Report refers to the monthly method as “Empire's interpretation,” this is the method that was discussed among Liberty and Staff *from the beginning* and utilized in all data submissions. This method was also reflected in Staff's Initial Report filed herein on April 16, 2026. As clearly outlined in Staff's Report, there have been numerous meetings and other discussions and massive amounts of data exchanged. Under this monthly method, Liberty satisfied Metric 3f (99.7% of bills within the standard) for January (99.96%), February (99.94%), and March (99.84%). Under the billing cycle method now being suggested by Staff, there are 4 cycles with percentages over 99.7% - out of the 63 cycles reviewed. In February, the percentage was 99.66 in 1 cycle, with the remaining 20 cycles being at or above 99.7 percent. In March, the percentage was at or above 99.7% for 18 cycles; the remaining percentages were 95.98, 99.66, and 99.67. Staff's use of a revised methodology does not undermine Liberty's overall effectiveness as noted above and does not reflect any significant customer impacts from January to March 2026.

20. The number of bills issued per cycle varies significantly, while the number of bills issued per month is relatively uniform. As such, the cycle method now being suggested by Staff inadvertently and without justification puts greater influence on certain bill cycles.

21. Liberty respectfully requests that the Commission evaluate this metric in terms of monthly performance. For each month, in terms of total billings, Staff agrees that Liberty met the 99.7% billing metric for January, February and March.⁶ If Staff's newly suggested method is adopted and these instances are deemed to be deviations, for the reasons stated above, Liberty

⁶ Staff Memorandum, pp. 28, 35, and 42 (99.96% in January), 35 (99.94% in February), and 42 (99.84% in March).

submits that they should be determined to be “limited deviations” allowed by the Supplemental Stipulation.

Informal Customer Complaints

22. In addition to the performance metrics set forth above, Liberty also wanted to briefly address the informal customer complaints cited by Staff. As noted in its report, Staff reviewed informal complaints filed regarding Liberty’s electric service during the first five months of this year. Staff concludes that the number of complaints increased from prior months. Although not a metric for review at this time, Liberty notes that Staff did not make an “apples to apples” comparison, as Staff compared the number of complaints filed in different time periods. The number of complaints per quarter is in part influenced by factors outside the Company’s control, e.g., the number of high-bill complaints show seasonal swings that follow temperature patterns. A comparison of complaints filed in the first five months of 2025 as compared with the number of complaints filed in the first five months of 2026 reflect that there was a 60% *reduction* in the number of complaints filed regarding Liberty’s electric service. Many of the complaints cited by Staff relate to seasonal usage patterns, realignment activities, and autopay related items rather than the billing metrics themselves. Company data demonstrates improved outcomes, including a substantial reduction in complaints year-over-year during the reporting period.

Joint and Collective Billing.

23. Staff’s Report cites “2,015 instances of non-compliance that it classified as permissible deviations.” Liberty appreciates Staff categorizing these instances as *permissible* deviations, but Staff also cautions that the number of instances pertaining to the handling of joint and collective accounts may not qualify as “limited.” As such, Liberty believes it necessary to address the joint and collective billing issue.

24. Liberty filed an Application for Temporary Variances, explaining that Liberty was changing the handling of collective/joint customer billing to improve customer experience, in part, due to the concerns raised by customers and other stakeholders during town halls and public hearings. To that end, the Companies asked for variances from (a) Commission Rule 20 CSR 4240-13.020(1) which, in conjunction with Rule 13.015(1)(C), provides that a billing period shall include usage of not less than 26 days nor more than 35 days; and (b) Commission Rule 20 CSR 4240-13.020(6) which provides that, when a meter reading route or billing cycle is changed by 9 days or more, notice shall be provided to customers at least 15 days prior to the date a customer will receive a bill based on the new cycle. Upon a finding of good cause, these temporary variances were granted by the Commission.

25. The Commission determined that “(t)he fact that the Supplemental Stipulation’s metrics represent existing requirements that Empire should have already been meeting supports the need to make the pragmatic adjustment that the metrics should be met prior to the rate increase taking effect.” *Report and Order*, p. 55. Staff also noted in its Initial Report filed herein that the metrics were based on the Commission’s rules. Liberty acted pursuant to Commission-granted variances from the Commission rule upon which Metric 3e is based. If these instances are found to be deviations from the metric, they most certainly should qualify as “limited deviations” allowed by the Supplemental Stipulation.

Compliance Tariff Sheets

26. The new rates – which the Commission previously determined were just and reasonable pending compliance with the metrics⁷ – are contained within Liberty compliance tariff sheets (Tracking No. JE-2026-0123) submitted on March 6, 2026. Staff’s Report notes three minor

⁷ “[T]he Commission finds that authorizing the rate increase of \$97 million as proposed by the Global and Supplemental Stipulations will result in just and reasonable rates.” *Report and Order*, p. 53.

issues with those tariff sheets, which are currently suspended until July 4, 2026. Liberty worked extensively with Staff pre-filing of the tariff sheets and has continued to work with Staff regarding needed changes. Liberty agrees that the three issues noted by Staff need to be addressed. Liberty continued working with Staff and submitted substitute tariff sheets for the Commission's consideration.

Recommended Next Steps

27. For the reasons set forth above, the Commission should recognize Liberty's sustained improvements in customer service and billing and, based on the documentation and arguments now before the Commission, find that the Company has met the performance metrics from January through March 2026. Liberty notes it also filed compliance reports for the months of April and May, 2026, showing continued compliance with the customer service and billing metrics.

28. Staff's interpretation of "limited deviations" is overly restrictive and inconsistent with the intent of the Supplemental Stipulation. Under its plain language, the Supplemental Stipulation does not require absolute or perfect compliance, but instead expressly contemplates the possibility of "limited deviations." The handful of deviations identified by Staff – 7 to 10 non-permissible instances across approximately 466,000 bills for the first three months of 2026 – are isolated and not indicative of any systemic billing or process failure.

29. The record does not support construing these instances as a basis to deny implementation of the Company's approved \$97 million revenue requirement increase. Any such result would be a grossly disproportionate and fundamentally unfair outcome given the isolated and limited deviations cited by Staff. Further delay in implementing the approved rates would unnecessarily defer recovery of revenues the Commission has already determined to properly

reflect Liberty's investment in infrastructure that is used and useful and Liberty's reasonable expenses, adversely impacting the Company's cash flow, its ability to timely recover prudently incurred costs, and its capacity to continue executing essential service, maintenance, and investment obligations.

30. Further delays to implementing rates, as is being suggested by Staff and OPC, also further delays the disbursement of close to \$10M of support to our customers committed to by Liberty in the settlement agreements. The Commission should therefore authorize the compliance tariff sheets to take effect on or before July 4, 2026, or allow the same to take effect by operation of law.

WHEREFORE, Liberty respectfully submits this Response to Staff's Report and Memorandum and the Commission's *Order Directing Responses* and requests that the Company's compliance tariff sheets take effect on or before July 4, 2026, and that the Commission grant such further relief as is just and proper under the circumstances.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that the above document was filed in EFIS on this 18th day of June, 2026, with notification of the same being sent to all counsel of record; and I further certify that the above document was sent by electronic transmission to all counsel of record.

/s/ Diana C. Carter