

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 30th day of
September, 2026.

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.

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

Respondent

Case No. EC-2027-0042

ORDER GRANTING MOTION TO DISMISS

Issue Date: September 30, 2026

Effective Date: October 30, 2026

On August 7, 2026, 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 (together, “Complainants”) filed their *Formal Complaint and Motion for Expedited Treatment* (Complaint) with the Commission against The Empire District Electric Company d/b/a Liberty. The gravamen of the Complaint is the allegation that Liberty’s Ozark-to-Branson 69 kV to 161 kV project (Project) constitutes an electric plant pursuant to Section 393.170, RSMo (Supp. 2025), and thus is subject to the

requirement to obtain a Certificate of Convenience and Necessity (CCN).¹ The Commission disagrees and dismisses the Complaint as a matter of law.

Motion to Dismiss

On September 8, 2026, Liberty filed its *Answer and Motion to Dismiss* (Motion). The Motion argues that Missouri courts and the Commission have repeatedly rejected the proposition that a public utility must obtain a new CCN for each transmission facility constructed within service territory already certificated to that utility.

In support, the Motion cited *In State ex rel. Harline v. Public Service Commission of Missouri*, 343 S.W.2d 177 (Mo. App. 1960), where the court rejected the argument that a utility must obtain a separate certificate before constructing a transmission line within territory already certificated to it. The Motion also cited *Empire District Electric Co. v. Cox*, 588 S.W.2d 263 (Mo. App. 1979), which held that once a public utility has been certificated to serve a defined area, it need not obtain a new certificate each time an extension or improvement within that certificated area becomes necessary. The Complaint did not allege that Liberty's Project falls outside of its existing certificated service area; rather, it confirmed that the new 161 kV transmission line will be *in approximately the same location* as an existing 69 kV transmission line (emphasis added).²

The Motion concludes that because the Project is located within Liberty's existing certificated service territory, Liberty does not need an additional CCN for the Project and

¹ In addition to raising related issues pursuant to the alleged lack of CCN authority, the complaint also alleges issues concerning easements, eminent domain, and condemnation proceedings. The Commission has no statutory authority to adjudicate these issues. See Sections 523.010 and 523.256, RSMo (Supp. 2025); *Am. Petroleum Exch. v. Pub. Serv. Com'n.*, 172 S.W.2d 952, 955 (Mo. 1943); and *Missouri Off. of Pub. Couns. v. Evergy Missouri W., Inc.*, 728 S.W.3d 568 (Mo. Ct. App. 2025).

² *Formal Complaint and Motion for Expedited Treatment*, filed August 7, 2026, pp. 1-2.

Complainants have therefore failed to allege facts sufficient to establish a violation of Section 393.170, RSMo (Supp. 2025). The Complainants did not respond to the Motion.

On September 22, 2026, the Staff of the Commission filed *Staff's Response in Support of Company's Motion to Dismiss* (Response). The Response states that the transmission line at issue is located within Liberty's existing certificated service territory and does not seek to extend beyond that territory. Thus, the Response argues that Liberty is not required to obtain an additional CCN to construct this replacement transmission line.

The Response concludes that the Commission cannot grant the relief requested by the complaint because it would be contrary to longstanding case law. The Response cites several cases in support, including a decision by the Missouri Supreme Court, *Pub. Serv. Com'n. v. K.C. Power & Light Co.*, 31 S.W.2d 67, 71 (1930) which held that a utility was not required to obtain additional CCNs for extensions of its lines in the territory where it already has authority to operate.

Conclusion

The Complaint alleges that Liberty violated a statute and related Commission rules by not obtaining a CCN for the construction of the Project. The Complaint does not allege that the Project falls outside of Liberty's current CCN service area. The Commission finds that, as a matter of law, Liberty is not required to obtain an additional CCN to construct this replacement transmission line. Additionally, the Commission lacks jurisdiction over matters pertaining to easements, eminent domain, and condemnation. The Commission will grant the unopposed Motion and will dismiss the Complaint for failure to state a claim on which relief may be granted.

The parties are notified that this Order, which dismisses the Complaint, will be final unless an application for rehearing is filed no later than October 29, 2026.³

THE COMMISSION ORDERS THAT:

1. The Motion is granted. The Complaint is dismissed.
2. This order shall become effective on October 30, 2026.
3. This case shall close on October 31, 2026.



BY THE COMMISSION

A handwritten signature in black ink that reads "Nancy Dippell".

Nancy Dippell
Secretary

Hahn, Ch., Coleman, Kolkmeyer,
and Mitchell CC., concur.

Hatcher, Senior Regulatory Law Judge

³ Section 386.500, RSMo (2016). If the application for rehearing is denied, the parties then have 30 days after the denial is issued to file an appeal with the appellate court with territorial jurisdiction. See Section 386.510, RSMo (Supp. 2025).

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

Pursuant to 386.290, RSMo., 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 30th day of September, 2026.



Nancy Dippell

Nancy Dippell
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

September 30, 2026

Case No: EC-2027-0042

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Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).¹

Sincerely,



**Nancy Dippell
Secretary**

¹

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