

**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-2021-0312

PUBLIC COUNSEL’S MOTION TO CLARIFY ORDER

COMES NOW the Office of Public Counsel (Public Counsel) and moves the Commission to clarify its March 9, 2022, *Order Approving Stipulations and Agreements* as follows:

1. On the first page of its *Order Approving Stipulations and Agreements* the Commission correctly states that by the first settlement agreement—the January 28, 2022, *Non-Unanimous Partial Stipulation and Agreement*—among other things, the signatories agreed to “a starting rate base amount of \$2,049,632,599.” On the third page the Commission states, “Similarly the Agreements establishes Liberty’s rate base at a specified amount without describing how that amount was calculated.” However, the Commission does not acknowledge that, to resolve disputes over the appropriate rate base for the wind projects (Kings Point, North Fork Ridge, and Neosho Ridge), the starting rate base amount of \$2,049,632,599 was reduced by \$20 million to \$2,029,632,599 by the *Fourth Partial Stipulation and Agreement*, filed February 5, 2022:

16. Issue #16 of the Amended List of Issues, Wind Projects, reads as follows: (a) Should rate base be reduced based on test generation wind revenue? (b) Should the amount of the rate base addition of the wind projects include reductions by the net revenues, RECs, and PTCs generated by the wind projects (including for test power) until the date new rates from this case become effective? (c) Should the amount of the rate base addition of the wind projects include reductions for the payments to Tenaska pursuant to the Purchase and Sale Agreement when it elected to terminate its role as contractor for two of the wind projects?
17. Issue #16 is resolved as follows: The first partial stipulation provided for a starting rate base amount of \$2,049,632,599. Empire agrees to a \$20 million reduction in rate base from that \$2,049,632,599 to \$2,029,632,599.

2. In its *Order Approving Stipulations and Agreements*, on page three the Commission states, “Similarly the Agreements establishes (*sic*) Liberty’s rate base at a specified amount without describing how that amount was calculated.”

3. Following is what the first settlement agreement says regarding the calculation of the starting rate base amount of \$2,049,632,599:

While not agreeing to the specific methodologies and arguments used to derive the balance, the Signatories agree to a starting rate base amount of \$2,049,632,599, ***which represents Staff’s rate base reflected in its case as of the surrebuttal filing minus any rate base item reflected in Staff’s case related to Asbury.***¹ (Emphasis added).

4. While the signatories did not agree to how Staff calculated the \$2,049,632,599 balance, they agreed to that balance, and that Staff had calculated it.

5. Having earlier noted that Staff’s rate base reflected in its case as of the surrebuttal filing was not in the record, at the February 10, 2022, *On-the-Record Presentation* the presiding officer admitted Staff’s surrebuttal EMS (Exhibit Management System) run into the record as *Commission Exhibit 1*²; however, that run includes impacts of Asbury, *i.e.*, the rate base in that run represents Staff’s case as of the surrebuttal filing with rate base items related to Asbury.

6. Attached hereto is Staff’s run as of the surrebuttal filing minus any rate base item reflected in Staff’s case related to Asbury, and minus any expenses and associated taxes reflected in Staff’s case related to Asbury. It reflects both the starting rate base amount of \$2,049,632,599 and the starting net operating income available of \$104,315,916. It does not reflect the \$20 million reduction to the starting rate base amount of \$2,049,632,599 of the fourth settlement agreement.

7. Without documentation in the record of Staff’s rate base reflected in its case as of the surrebuttal filing minus any rate base item reflected in Staff’s case related to Asbury, it is

¹ P. 1, ¶1.

² Tr. 7:138-39.

understandable that the Commission concluded that the settlement agreements do not describe how the starting rate base amount of \$2,049,632,599 was calculated, despite the reference in the first settlement agreement to “Staff’s rate base reflected in its case as of the surrebuttal filing minus any rate base item reflected in Staff’s case related to Asbury.”

WHEREFORE, in light of the foregoing, the Office of Public Counsel moves the Commission to clarify its March 9, 2022, *Order Approving Stipulations and Agreements* by acknowledging that the *Fourth Partial Stipulation and Agreement*, filed February 5, 2022, reduces The Empire District Electric Company’s d/b/a Liberty rate base attributable to its Kings Point, North Fork Ridge, and Neosho Ridge wind projects by \$20 million, and Liberty’s total rate base from the \$2,049,632,599 of the January 28, 2022, *Non-Unanimous Partial Stipulation and Agreement* to \$2,029,632,599, and make any other clarifications it deems appropriate.

Respectfully,

/s/ Nathan Williams

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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 14th day of March 2022.

/s/ Nathan Williams