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

<u>FOURTH PARTIAL STIPULATION AND AGREEMENT</u>

COME NOW the Staff of the Missouri Public Service Commission ("Staff"), the Office of the Public Counsel ("OPC"), and The Empire District Electric Company d/b/a Liberty ("Empire") (collectively, the "Signatories"), by and through their respective counsel, and for the parties' Fourth Partial Stipulation and Agreement ("Fourth Stipulation"),[1] the Signatories respectfully state as follows the Missouri Public Service Commission ("Commission"):

1. The Signatories withdraw subpart (a) of Issue 13 (charitable contributions), without prejudice as to future proceedings, and Issues 14 (rate base issue), 15 (income statement issue), 18 (MPPM), 20 (transmission tracker), 26 (Asbury), 27 (resource adequacy), and 28 (Storm Uri) from the Amended Issues List and with the understanding that all components of Asbury and Storm Uri will be addressed in securitization proceedings.
2. When taken together, the stipulations resolve all issues in this proceeding other than 23 (class revenues responsibilities).
3. Issue #2, Voltage Optimization Study, of the Amended List of Issues reads as follows: (a) Should the Commission order Empire to issue a request for proposals for an independent, third-

[1] Midwest Energy Consumers Group ("MECG"), Renew Missouri Advocates ("RenewMO"), the City of Ozark, Missouri ("Ozark"), Empire District Retired Members & Spouses Association, LLC ("EDRA"), and The Empire District Electric Company SERP Retirees, LLC ("EDESR") are also parties to this proceeding. Although not signatories, these parties do not object to the approval of this Fourth Stipulation. As such, the Commission may treat it as unanimous.

party consultant to conduct a study in calendar year 2022 of its distribution system designed to gauge the costs and benefits of a voltage optimization program in Empire's service territory? (b) Should Empire be ordered to select a consultant based on ranked majority voting from Empire, Staff and OPC to have the cost/benefit study performed? (c) Should Empire be ordered to file the cost/benefit study in Empire's PISA docket with a target date on or before December 31, 2022?

4. With this Fourth Stipulation, Issue #2 is resolved as follows: Empire will issue a request for proposals for an independent, third-party consultant to conduct a study in calendar year 2022 of its distribution system designed to gauge the costs and benefits of a voltage optimization program in Empire's service territory. Empire will meet with Staff and OPC to discuss the RFP responses and possible next steps.

5. Issue #4, PISA, reads as follows: (a) Should the Commission order Empire to file cost-benefit analyses for investments greater than $1 million and outcome-based objective metrics (benchmarks) that include both baseline and target metrics in Case No. EO-2019-0046 by the end of the calendar year 2022? (b) If so, should Empire be ordered to meet with interested parties to discuss the parameters and assumptions surrounding the filing at least twice leading up to the filing? (c) Should Empire be ordered to update the studies and metrics on an annual basis as long as PISA is in place for Empire?

6. With this Fourth Stipulation, Issue #4 is resolved as follows: Empire will meet with Staff and OPC at least twice regarding "parameters and assumptions" and will provide to Staff and OPC, with HC confidentiality protection, cost-benefit analyses and performance metrics for planned capital investments of greater than $1 million. Empire agrees to file the cost-benefit analyses and performance metrics in its PISA docket and update annually.

7. Issue #6, Empire's Emergency Conservation Plan, reads as follows: Should Empire's Emergency Conservation Plan be modified to trigger phase I of the plan when SPP wholesale market energy prices reach $500/MWh ($0.50/kWh) and phase II when SPP wholesale market energy prices reach $1000/MWh ($1.00/kWh)? Issue #7, Value of Lost Load Study, reads as follows: Should Empire be required to engage with interested stakeholders at least twice for input regarding the scope, methodology, questions and goals of a value of lost load study to be conducted in calendar year 2022 before the cold weather season by an independent third party retained by Empire for purposes of recommending changes to Empire's Emergency Conservation Plan embodied in its tariff?
8. With this Fourth Stipulation, Issues 6 and 7 are resolved as follows: Empire, in consultation with Staff and OPC, will engage a consultant to develop a Value of Lost Load ("VOLL") study. Empire will issue a competitive request for proposal. Staff and OPC will have input on the selection of the consultant and the scope and timing of the study. Empire will be allowed to recover the costs of the study. Staff, OPC, and Empire, jointly, may elect not to pursue a VOLL study in the event the cost outweighs the expected benefits of such a study. When the study is complete, the Signatories may recommend to the Commission changes to Empire's tariff they believe are supported by the study's results. The Signatories also agree that Empire will immediately begin a review of its Emergency Conservation Plan and determine if any enhancements or improvements would be beneficial. Following that review, Empire will make a filing with the Commission proposing tariff changes or stating that Empire believes no such changes are needed.
9. In resolution of Issue #9, Late Fee, Empire's late fee will be reduced from 0.5% to 0.25%.

10. Issue #8 Low-Income Programs and Issue #10 Low-Income Weatherization Program ("LIWAP") respectively read as follows:

(a) Should the LIPP continue?
(b) If so, what, if any, modifications should be made?
(c) Should the Commission order Empire to implement a Keeping Current and Keeping Kool-like bill assistance program?
(d) If so, should the Commission order Empire to provide shareholder funding of $750,000 annually?
(e) Should the Commission order Empire to create a Critical Needs Program consistent with the Critical Needs Program the Commission approved in Case Nos: GR-2021-0108 and ER-2021-0240?
(f) If so, should the Commission order annual funding of $200,000, with funding split 50/50 between customers and shareholders, and with unspent funding allocated to Empire's bill assistance program?
(g) Should the Commission order Empire to fund a one-time independent 3rd party needs assessment study that should not exceed $100,000 in funding from Empire's bill assistance program.

and

(a) Should the budget for the LIWAP program be increased by $500,000?
(b) If so, should Empire be ordered to provide shareholder funding for this amount?
(c) Should the Commission order Empire to give the three agencies—Economic Security Corporation, Ozark Area Community Action Corporation, and West Central Missouri Community Action Agency—more discretion in how they may utilize funds from Empire?
(d) Should the Commission order Empire's Annual Low-Income meetings to continue to occur?

11. In resolution of both Issue #8, Low-Income Programs, and Issue #10, Low-Income Weatherization Program ("LIWAP"), the Signatories agree as follows:

a. Low-Income Pilot Program ("LIPP")
    i. Empire's LIPP will continue, with shareholders matching the $250,000 customer funding.
    ii. The requirement for payments to stay current within 60 days of bill date will be waived.
    iii. The LIPP discount will increase to two times the customer charge during the peak heating months of December through February and peak cooling months of June through August.
    iv. There will be a 2,000 customer cap.
    v. Unspent funds will rollover annually to Empire's low-income weatherization program.

vi. Updates will be provided twice a year to Staff and to OPC.

b. Low-Income Study
   i. Empire will perform a one-time study at a cost not to exceed $100,000.
   ii. Empire will work with stakeholders to discuss the study design and RFP.

c. Critical Needs Program
   i. Empire will establish a critical needs program consistent with the direct testimony of Geoff Marke in this docket funded annually with $50,000 by customers and $50,000 by shareholders.
   ii. Unspent funds will rollover annually to Empire's low-income weatherization program.

d. Low-Income Weatherization Program
   i. Total funding increased from $250,000 to $550,000 annually, with shareholders contributing $300,000.
   ii. Funding under this program will be momentarily freed up to include the option for pass-over, marketing, hiring, training, health and safety; relaxation of funding restrictions to be revisited in the next rate case.
   iii. Missouri Division of Energy will continue to have administrative oversight of this low-income weatherization program under these new terms.

e. Liberty Utilities Service Corp. will establish an employee position devoted to low-income programs in the Central Region (which includes Empire).

f. Customers who call in for bill assistance will be given the option to be referred to one of the three community action agencies ("CAAs") if they are interested in free weatherization.

g. Empire will continue to meet annually with stakeholders and the CAAs.

12. Issue #11 reads as follows: Should Empire be required to file its future annual company-specific J.D. Power Reports (not just the scores) in this docket together with memoranda that detail how Empire is improving its relationships with its customers in light of the J.D. Power Report scores of Empire relative to its peers, as well as its relative rank across the United States, and specifically as it pertains to its cost of service.

13. With this Fourth Stipulation, Issue #11 is resolved as follows: Until Empire files its next general rate case, Empire to provide an Empire-specific report on J.D. Power results (not just

the scores) in this docket, along with a pleading/memorandum responding to the report as the reports become available.

14. Issue #13(b) of the Amended List of Issues reads as follows: Should the Commission order Empire to remove the statement on its website about the $500,000 level of funding customers received from Liberty for COVID-19 relief?
15. In resolution of Issue 13(b), Empire will remove the statement on its website about the $500,000 level of funding customers received from Liberty for COVID-19 relief.
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.
18. Issue #17 of the Amended List of Issues reads as follows: (a) Should Paygo be included as an FAC revenue? (b) Should Paygo be included in the general revenue requirement? (c)Should an estimated amount of Paygo be included in revenue requirement and the balance tracked and adjusted in the next general rate case?
19. In resolution of Issue #17, PAYGO, the Signatories agree that Paygo is not a FAC component for this case, and that a base amount of $4 million Paygo is contemplated in Empire’s overall

revenue requirement. Empire will track its actual Paygo revenue amounts against the base amount and record them in a regulatory tracker account. Actual amounts of Paygo revenue received will be tracked against the base amount, which in this case is set at $4 million.

20. Issue #18 of the Amended List of Issues reads as follows: (a) Is it necessary and appropriate for the Commission to make changes to the MPPM in this case? (b) If so, (i) Should the rate base revenue requirement component remain formulaic or only change with the effective dates of new rates? (ii) What costs should be included? (iii)What revenues should be included? (iv) How should the PPA replacement value be calculated? (v) When should a jurisdictional allocation factor be applied? (vi)Should the MPPM include interest on the cumulative costs/gains? (vii)If the cumulative value at the end of ten years is a net cost, how should the net cost be shared between customers and Empire? (c)How should the components in Empire's MPPM be tracked?

21. In resolution of Issue #18, Market Price Protection Mechanism ("MPPM"), the Signatories agree as follows:

    a. Clarification only.

    b. -

        i. Rate base revenue requirement component only changes with the effective date of new rates.

        ii. All wind project costs recovered from customers will be included, not including the PISA costs.

        iii. All wind project revenues returned to customers, including SPP IM revenues, revenues from the sale of RECs, Paygo, the value of the production tax credits, and all miscellaneous revenues.

iv. A PPA replacement value will be calculated:

- For any renewable compliance standard not met by the existing wind PPAs through life of the MPPM;
- Based on the energy from the wind projects being used to meet the renewable standards that is not met by existing solar requirements (e.g., currently 2% of Missouri RES).

v. Costs and revenues included at the Missouri jurisdictional level.

vi. Interest at Empire's long-term debt rate (e.g., long-term debt will be the carrying costs) will be included.

vii. 50/50 split with soft cap of $52.5 million on customers' losses with Commission making determination on how additional losses, if any, are treated at the conclusion of the MPPM.

(c) All costs and revenue components shall be tracked including the revenues included in the FAC to assure that all costs and/or revenues are appropriately treated. Balances as of the end of each MPPM year will be submitted to the Commission 60 days following the end of each MPPM year. Since Paygo has a base amount included in the Wind Revenue Requirement, any amount above/below the base amount will be incorporated into the MPPM calculation to ensure a timely capturing of costs and/or revenues.

22. Issue #19 Fuel Adjustment Clause ("FAC") reads:

(a) Should the revised FAC subaccount testimony schedule submitted by Empire be adopted?
(b) Which FERC subaccounts, if any, should be added to Empire's FAC?
(c) Which FERC subaccounts, if any, should be removed from Empire's FAC?
(d) What should be included in the FAC base factor for this case?
(e) What is the percentage of SPP and MISO transmission expense that should be recovered through the FAC?

(f) What percentage of the SPP transmission revenues should be included in the FAC? What is the amount of transmission revenues that should be included in the FAC base factor calculation?
(g) What amount of REC revenues from the Wind Projects shall be included in the FAC base factor calculation?
(h) Should the wind project costs that Empire calls hedging costs/gains be included in the FAC?
  i. If yes, what amount of costs/gains should be included in the calculation of the FAC base factor?
(i) Should the paygo component of the wind project contracts be included in the FAC?
  i. If yes, what amount of paygo should be included in the calculation of the FAC base factor?
(j) Should the value of the wind project production tax credits transferred to Empire be included in the FAC?
(k) What additional FAC reporting requirements should the Commission require of Empire?
(l) How should the FAC tariff sheets be revised?
  i. Should the FAC tariff sheets include language that allows the Commission to allow a variance from any provision of the FAC?
  ii. Should the FAC tariff sheets include language that would allow for extended recovery periods?
  iii. Should the FAC tariff sheets explicitly prohibit recovery of retirement and/or decommissioning costs related to the retirement of a generation plant? If so, what language should be adopted?
  iv. Should the FAC tariff sheets explicitly prohibit recovery of fuel and purchased power costs for research and development? If so, what language should be adopted?

23. In resolution of Issue #19, Fuel Adjustment Clause ("FAC"), the Signatories agree as follows (listed by subissue):

(a) The revised FAC subaccount testimony schedule submitted by Empire will not be adopted.

(b)&(c) FERC subaccounts will be added and removed pursuant to Fourth Stipulation **Attachment A**.

(d) The FAC base factor for this case is $8.70 per MWh, Staff's base factor adjusted for the transmission expense change and the REC change described herein.

(e) The percentage of SPP and MISO transmission expense that should be recovered through Empire's FAC shall be based on those expenses in Staff's base factor calculation of 19.39% for SPP transmission expenses and 50% for MISO expenses.

(f) No SPP transmission revenues shall be recovered through Empire's FAC; therefore, no transmission revenues shall be included in the base factor of Empire's FAC.

(g) The amount of REC revenues from the wind projects in Empire's FAC base factor shall be based on a REC value of $2.44/REC.

(h) & (h)i. The Signatories agree that the wind project costs labeled as hedging costs/gains is not a FAC component for this case, and that a base amount of $0 is contemplated in Empire's overall revenue requirement. Empire will track its actual hedging costs/gains against the base amount and record them in a regulatory tracker account. Actual amounts of hedging costs/gains will be tracked against the base amount, which in this case is set at $0.

(i) & (i)i. The Paygo component of the wind project contracts will not be included in Empire's FAC; instead, it will be tracked against the base amount of $4 million included in revenue requirement in this case. The treatment of the tracked amount will be determined in Empire's next general rate case.

(j) The Signatories agree that the wind project production tax credits are not a FAC component for this case, and that a base amount of $0 is contemplated in Empire's overall revenue requirement. Empire will track its actual wind project production tax credits against the base amount and record them in a regulatory tracker account. Actual amounts of wind project production tax credits received will be tracked against the base amount, which in this case is $0.

(k) Empire will continue its existing reporting. Empire will provide copies of the reported notices and additional information to OPC and Staff; and the deadlines for Empire's quarterly FAC surveillance reports shall be the following:

Quarter Ending	Submission Deadline
March 31	May 30
June 30	August 31
September 30	November 30
December 31	February 28

(e) & (l)i-iv. Empire will revise its FAC tariff sheets to include the changes shown in Fourth Stipulation **Attachment B**, which are all of the agreed to changes.

24. Issue #21 Rate of Return, Return on Equity; Capital Structure; Cost of Debt reads:

(a) What return on common equity should be used for determining the rate of return?
(b) What capital structure should be used for determining the rate of return?
(c) What cost of debt should be used for determining rate of return?

25. Issue #22 Allowance for Funds Used During Construction reads: What metric should be used for Empire's carrying cost rate for funds it uses during construction that are capitalized?

26. Issue #21, Rate of Return, and Issue #22, Allowance for Funds Used During Construction, are resolved as follows:

The Signatories agree that AFUDC shall be calculated in accordance with the Federal Energy Regulatory Commission's ("FERC") Uniform System of Accounts for Electric Utilities formula (short-term debt receives 100% weighting until Construction Work in Progress Balances exceed short-term debt balances). For purposes of the calculation of rates, Empire's revenue requirement increase is an annual increase of $35,515,913.

27. Issue #24 reads as follows: Should the Commission allow Empire to book assets for general plant in accordance with the Federal Energy Regulatory Commission Accounting Release 15?

28. In resolution of Issue #24, Empire agrees to the following conditions for use of general plant amortization:

a. Empire will continue to specify the original cost and associated retirement units for all additions to the accounts where it is using General Plant Amortization accounting treatment.

b. Empire will regularly retire all assets that exceed the amortization period on at least a bi-annual basis.

c. Empire will retire the assets for plant-in-service and accumulated depreciation reserves that exceed the amortization period.

General Plant Amortization Account	Total Company Fully Accrued Plant to be Retired
391.1 - Office Furniture & Equip.	1,557,007
391.3 – Computer	9,814,564
393 - Stores Equip.	82,634
394 - Tools, Shop & Garage Equip.	1,910,684
395 - Laboratory Equip.	859,093
397 - Communication Equip.	4,697,886
398 - Misc. Equip.	28,997

d. Empire will provide a report to Staff and OPC when it implements general plant amortization that details any additional plant items Empire deems needs to be retired based on the implementation of FERC Accounting Release-15 that was not previously provided in response to OPC data request 8536 in Case No. ER-2021-0312. This report will detail each plant account where additional retirements are to take place, the asset retirement units to be retired, the original transaction year, and the original cost of the retirement units to be retired from service.

General Terms

29. Admission of Testimony: The Signatories consent to the admission of, and request that the Commission admit into the record in this proceeding, without the need for witnesses to take the stand, all written testimony that has been filed herein concerning the Issues addressed by this Fourth Stipulation.

30. Unless otherwise explicitly provided herein, none of the Signatories shall be deemed to have approved or acquiesced in any ratemaking or procedural principle, including, without limitation, any method of cost of service or valuation determination or cost allocation, rate design, revenue recovery, or revenue-related methodology. Except as explicitly provided herein, none of the Signatories shall be prejudiced or bound in any manner by the terms of this stipulation in this or any other proceeding. This stipulation has resulted from extensive negotiations among the Signatories, and the terms hereof are interdependent and non-severable. If the Commission does not approve this stipulation unconditionally and without modification, or if the Commission approves this stipulation with modifications or conditions to which a party objects, then this stipulation shall be void and none of the Signatories shall be bound by any of the agreements or provisions hereof.

31. In the event the Commission accepts the specific terms of this stipulation without condition or modification, as to the issues addressed by this stipulation, the Signatories waive their respective rights to present oral argument and written briefs pursuant to RSMo. §536.080.1, their respective rights to the reading of the transcript by the Commission pursuant to §536.080.2, their respective rights to seek rehearing pursuant to §386.500, and their respective rights to judicial review pursuant to §386.510. These waivers apply only to a Commission order approving this stipulation without condition or modification issued in this proceeding and only to the issues that

are resolved hereby. These waivers do not apply to any issues explicitly not addressed by this stipulation. The Signatories agree that any and all discussions, suggestions, or memoranda reviewed or discussed, related to this stipulation shall be privileged and shall not be subject to discovery, admissible in evidence, or in any way used, described or discussed.

32. This Fourth Stipulation contains the entire agreement of the Signatories concerning the issues addressed herein.

33. This Fourth Stipulation does not constitute a contract with the Commission. Acceptance of this Stipulation by the Commission shall not be deemed as constituting an agreement on the part of the Commission to forego the use of any discovery, investigatory powers or other statutory powers which the Commission presently has. Thus, nothing in this Fourth Stipulation is intended to impinge or restrict in any manner the exercise by the Commission of any statutory right, including the right to access information.

WHEREFORE, the Signatories respectfully request the Commission to issue an Order approving this Fourth Partial Stipulation and Agreement and authorizing Empire to file tariff sheets to implement the terms hereof.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that the above document was filed in EFIS on this 5th day of February, 2022, and sent by electronic transmission to all counsel of record.

_/s/ Diana C. Carter______