

**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) File No. ER-2021-0312
Electric Service Provided to Customers in)
its Missouri Service Area)

**RENEWAL OF REQUEST FOR EXPEDITED TREATMENT CONCERNING
MOTION FOR ACKNOWLEDGEMENT OF REMOVAL OF ISSUES**

COMES NOW The Empire District Electric Company d/b/a Liberty (“Empire” or “Company”), and, in support of its *Renewal of Request for Expedited Treatment Concerning Motion for Acknowledgement of Removal of Issues*, pursuant to Rule 20 CSR 4240-2.080(14), respectfully states as follows to the Missouri Public Service Commission (“Commission”):

1. On January 25, 2022, Empire filed its *Motion for Acknowledgement of Removal of Issues or, in the Alternative, Motion for Leave to Withdraw Issues and Motion for Expedited Treatment* (Motion). The Motion requested that the Commission acknowledge that because of Empire’s actions in regard to the securitization of Storm Uri and the retirement of Asbury, the issues associated with Storm Uri costs (Issue 33) and the Asbury generation plant retirement (Issues 15(f) and 31)¹ would be addressed in Commission Case Nos. EO-2022-0040 and EO-2022-0193, respectively, and, thus, are no longer at issue in this general rate proceeding.

2. On January 26, 2022, the Commission issued its *Order Shortening Time for Responses* wherein it directed that any responses to Empire’s Motion be filed no later than January 27, 2022. No such responses were filed, and no party has requested leave to so file. Accordingly, Empire renews its Motion for Expedited Treatment.

¹ As referenced in the List of Issues filed January 25, 2022. These issues have been renumbered as Issues 14 and 26 (Asbury) and 28 (Storm Uri) in the Amended List of Issues filed January 28, 2022.

3. Section 393.1700, RSMo, which provides authority for the securitization of certain costs, became effective after the filing of this case, on August 28, 2021. The statute states, in part, that “an electrical corporation”: 1) “may petition the commission for a financing order to finance energy transition costs through an issuance of securitized utility tariff bonds”; and, 2) “may petition the commission for a financing order to finance qualified extraordinary costs.” Section 393.1700.2(1) and (2), RSMo.

4. If forced to try those issues in this case, that statutory option has been effectively taken away.

5. Moreover, it raises a due process concern, in that Empire has relied upon that statutory right in filing its surrebuttal testimony in this case. In other words, Empire’s positions in the case would be different today, if it was aware that its statutory elections to seek securitization might not be recognized by the Commission.

6. On August 13, 2021, Empire filed its Notice of Intended Filing related to the securitization of the Storm Uri costs (Commission Case No. EO-2022-0040). Subsequently, on January 19, 2022, the Company filed its Verified Petition for Financing Order for authorization of the issuance of securitized utility tariff bonds regarding the extraordinary costs incurred by Empire on behalf of its customers during Storm Uri. Additionally, as reflected in the Surrebuttal Testimony of Company witness Charlotte Emery, the Company’s rate request has been revised to reflect the Company’s election to securitize the Storm Uri costs in lieu of pursuing traditional rate recovery in this proceeding. Accordingly, the Storm Uri costs are no longer an issue in this proceeding.

7. Additionally, the Company has taken action to securitize costs related to the Asbury generating plant through Section 393.1700, RSMo. On January 20, 2022, the Company filed the statutorily required Notice of Intent related to the Asbury generation plant securitization

(Commission Case No. EO-2022-0193). Due to the Company's decision to exercise its rights under Section 393.1700.2(1), RSMo, as reflected in Ms. Emery's Surrebuttal Testimony, the Company's rate request has been revised to reflect the Company's election to securitize all components of the revenue requirement related to the Asbury generating unit in lieu of pursuing traditional rate recovery in this proceeding. Thus, the components of the revenue requirement related to the Asbury generating unit are no longer at issue in this proceeding.

8. Additionally, Empire notes that the parties agree to the continuation of the Asbury AAO authorized in Empire's last rate case. Paragraph four of the first unopposed partial stipulation filed herein provides as follows:

The Asbury AAO authorized in Case No ER-2019-0374 will continue, but upon the effective date of new rates in this case, the baseline balances will be reset to zero, as Asbury will not be reflected in those rates.

9. As indicated above, the securitization statute may be exercised at the discretion of the public utility and Empire has made the management decision to exercise that election with regard to its Storm Uri costs and the Company's remaining investment in its Asbury generating plant. However, the fact that the Commission has not acknowledged this situation continues to create a situation having implications for preparation time, hearing time, travel and costs associated with expert witnesses, and the potential for settlement of this case.

10. Therefore, the Company asks that the Commission acknowledge that the issues associated with Storm Uri costs (Issue 33) and the Asbury generation plant retirement (Issues 15(f) and 31)² will be addressed in Commission Cases No. EO-2022-0040 and EO-2022-0193, respectively, and, thus, are no longer at issue in this case.

11. In the alternative, Empire moves the Commission for leave to withdraw these issues

² As referenced in the List of Issues filed January 25, 2022. These issues have been renumbered as Issues 14 and 26 (Asbury) and 28 (Storm Uri) in the Amended List of Issues filed January 28, 2022.

from this case pursuant to its Motion, to which no opposition has been filed.

12. Empire requests that the Commission issue its decision as to this Motion by February 2, 2022, as the result of this Motion will impact the parties' settlement discussions, preparation, the travel of witnesses, and the use of Commission hearing time.

WHEREFORE, Empire respectfully requests that the Commission issue its order granting Empire's *Motion for Expedited Treatment* and, thereafter, issue an order granting the *Motion for Acknowledgement of Removal of Issues or, in the alternative, Motion for Leave to Withdraw Issues*.

Respectfully submitted,

/s/ Diana C. Carter

Diana C. Carter MBE #50527
The Empire District Electric Company
428 E. Capitol Ave., Suite 303
Jefferson City, Missouri 65101
Joplin Office Phone: (417) 626-5976
Cell Phone: (573) 289-1961
E-Mail: Diana.Carter@LibertyUtilities.com

Dean L. Cooper MBE #36592
BRYDON, SWEARENGEN & ENGLAND P.C.
312 E. Capitol Avenue
P. O. Box 456
Jefferson City, MO 65102
Telephone: (573) 635-7166
E-mail: dcooper@brydonlaw.com

Sarah B. Knowlton MBE #71361
Liberty Utilities
116 North Main Street
Concord, NH 03301
Phone: 603-724-2123
E-mail: Sarah.Knowlton@libertyutilities.com

**ATTORNEYS FOR THE EMPIRE DISTRICT
ELECTRIC COMPANY**

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been sent by electronic mail to all counsel of record on this 31st day of January, 2022.

/s/ Diana C. Carter