

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

In the Matter of the 2022 Triennial Compliance     )  
Filing Pursuant to 20 CSR 4240-22 by The         )     Case No. EO-2021-0331  
Empire District Electric Company d/b/a Liberty     )

**NOTICE OF JOINT AGREEMENT**

COMES NOW The Empire District Electric Company (“Liberty” or the “Company”), and on behalf of itself and the Commission Staff (“Staff”) and the Office of the Public Counsel (“OPC”), respectfully submits this Notice of Joint Agreement.<sup>1</sup>

1. Pursuant to Chapter 22 of the Rules of the Missouri Public Service Commission (“Commission”), Liberty submitted, on April 1, 2022, its triennial Electric Utility Resource Planning (“integrated resource plan” or “IRP”) filing.

2. On August 29, 2022, the Staff Report was filed herein regarding Liberty’s 2022 triennial IRP filing. A report was submitted by OPC on September 8, 2022. The reports by Staff and OPC do not assert any deficiencies regarding Liberty’s 2022 triennial IRP filing but do set forth certain concerns and requested remedies.

3. Pursuant to Rule 20 CSR 4240-22.080(9), “(i)f the staff, public counsel, or any intervenor finds deficiencies in or concerns with a triennial compliance filing, it shall work with the electric utility and the other parties to reach, within sixty (60) days of the date that the report or comments were submitted, a joint agreement on a plan to remedy the identified deficiencies and concerns.”

4. Since the submission of Staff’s and OPC’s reports, Liberty has met with the parties to discuss and address all stated concerns with Liberty’s 2022 triennial IRP filing, and agreement has been reached by the Company, Staff, and OPC regarding all items.

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<sup>1</sup> Additionally, counsel for Renew Missouri, the Missouri Division of Energy, Dogwood Energy, and the Missouri Joint Municipal Electric Utility Commission have stated their organization’s non-objection.

### **Staff's Concerns and the Joint Action Plans**

**Staff Concern A:** Staff has continued concern from the securitization case (EO-2022-0040) regarding the use of the Riverton unit 11 in the winter months. These units are described in Empire's filing in this section as dual fuel (Natural gas (NG) and fuel oil when NG is unavailable) and able to be used in the winter months. However, as Staff discovered in the securitization case, the Company cannot utilize Riverton 11 with fuel oil as it did not tune it to operate at temperatures under 70 degrees for operations with fuel oil. Therefore, there is concern that the operation of Riverton 11 may not be possible during future cold weather events.

**Joint Resolution:** A successful test for Riverton Unit 11 was conducted on October 8, 2022. During this test Riverton Unit 11 was started on fuel oil and raised to synchronous speed (900 rpm). Testing documentation has been provided to Staff. Staff and OPC state that they continue to have concern that the operation of Riverton 11 may not be possible during future cold weather events given the mild temperature on October 8, 2022. However, during the securitization case, Staff was of the understanding that Riverton Unit 11 had not successfully fired on fuel oil in a substantial amount of time. Therefore, a successful start on fuel oil as recently as October 8, 2022, lessens Staff's concern since the unit appears to be able to start on fuel oil again, even if in mild temperatures. Staff and OPC state that they will continue to monitor the functionality of Riverton Unit 11, but consider Staff's Concern A resolved for now, for purposes of this filing.

**Staff Concern B:** Staff reiterates its concern from Empire's 2019 IRP that Empire has potentially overstated avoided capacity cost benefits when calculating the total resource cost test (TRC) results for its demand-side programs and portfolio, therefore the programs may not be cost-effective and may not comply with 393.1075.4., RSMo.

**Joint Resolution:** Since this issue is related to demand-side programs, it will be handled in Liberty’s MEEIA Cycle 2 docket, where the Company and stakeholders can further discuss avoided cost methodology.

**Staff Concern C:** Risk potentially borne by ratepayers from Empire’s further shift toward renewable solar generation.

**Joint Resolution:** Staff’s proposed remedies here were also proposed as special contemporary issues (“SCIs”). The Commission did not include the suggested SCIs in its special contemporary issue order issued October 26, 2022, and Staff withdraws these proposed remedies for purposes of this filing. However, Staff and OPC state that they continue to have concern with the risk potentially borne by ratepayers from Empire’s further shift toward solar generation and Staff and OPC reserve the right to raise this concern in future IRP filings.

**OPC’s Concerns and the Joint Action Plans**

**OPC Concern #1:** Liberty did not properly evaluate its ability to provide reliable service.

**OPC Concern #2:** Liberty did not evaluate the risk of Southwest Power Pool (“SPP”) market volatility.

**OPC Concern #3:** Algonquin’s goal of net-zero by 2050 has improperly guided Liberty’s Resource Planning Process.

**Joint Resolution for OPC Concerns 1-3:** OPC and Liberty agree that the joint resolution set forth below will remedy these three concerns. Liberty will provide the results along with its workpapers either with its 2023 IRP Annual Update or in a report filed in this docket no later than April 1, 2023, whichever occurs earlier. In addition, Liberty will include a full analysis of unserved hours (number of hours and cost) for each plan modeled with a restriction of Southwest Power

Pool (“SPP”) energy available to 10% or less of Liberty’s annual peak in its next triennial IRP filing.

**Remedy:** Liberty will obtain an estimate of the number of hours that could not have been served by Liberty’s resources through a review of hourly reports from the model runs already completed.

- (1) For plans 1, 3, 7, 8, 11, and 12;
- (2) for years 1, 3, 5, and 15; and
- (3) under the following conditions for all of the uncertain factors that Liberty determined were critical (load, cost of new builds, natural gas prices, and emission price/carbon pressure):
  - a. base for all factors;
  - b. high for all factors; and
  - c. low for all factors.

Outputs:

- (1) Number of hours where market purchases exceed 110 MW; and
- (2) Number of hours when Liberty load exceeded available Liberty resources in that hour taking into account the modeled forced and planned outages and availability of wind and solar generation. The available resources should not be the same for every hour.

WHEREFORE, Liberty respectfully submits this Notice of Agreement and requests such relief as is just and proper under the circumstances.

Respectfully submitted,

/s/ Diana C. Carter  
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**CERTIFICATE OF SERVICE**

I hereby certify that the above document was filed in EFIS on this 3<sup>rd</sup> day of November, 2022, with a copy sent to all counsel of record.

/s/ Diana C. Carter