

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

**LIST OF ISSUES, ORDER OF WITNESSES, ORDER OF
CROSS-EXAMINATION, AND ORDER OF OPENING STATEMENTS**

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”) and states:

In preparing this list of issues, Staff has solicited input from the parties, attempted to list all the issues, and attempted to obtain consensus on the descriptions of the issues. This is Staff’s best effort to list and describe all the issues in this case. To the extent errors in issues or listed witnesses are discovered, the Commission will be advised as soon as possible. All parties do not agree that the issues listed herein are actually issues in this case. In order to prevent the need for filing multiple lists of issues, the parties have agreed to include all issues whether agreed to by opposing parties.

Parties

Staff
The Empire District Electric Company (“Empire” or “Company”)
The Office of the Public Counsel (“OPC”)
Midwest Energy Consumers Group (“MECG”)
Empire District Retired Members & Spouses Association, LLC (“EDRA”)
Renew Missouri Advocates (“RenewMO”)
The Empire District Electric Company SERP Retirees, LLC (“EDES”)
The City of Ozark, Missouri (“Ozark”)

List of Issues

1. Policy

2. Voltage Optimization Study

(a) Should the Commission order Empire to 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?

(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?

3. Reliability Reporting: Should the Commission order Empire to report additional details of its reliability investment programs?

4. PISA

(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?

5. Project Guardian

(a) Should the Commission order Empire to meet with Staff and OPC on Project Guardian?

(b) Should the Commission order Empire to meet with Staff and OPC on all other "pilots" the Company is currently running or plans to run.

6. Empire's Emergency Conservation Plan: 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)?

7. Value of Lost Load Study: 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. Low-Income Programs

(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.

9. Late Fee: Should Empire's late fee be reduced from 0.5% to 0.25%?

10. Green Button: Should the Commission order Empire to adopt the Green Button Platform?

11. Low-Income Weatherization Program ("LIWAP")

- (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?
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12. J.D. Power Customer Satisfaction Reports: 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. Billing

- (a) Should the Commission order Empire to meet with Staff and OPC at least twice before its next rate case regarding input on the feasibility of future bill revisions with the intent to update the bill's contents in a cost-effective and customer informative manner moving forward?
- (b) Should Empire be ordered to update its bill and its website with the following information within one month (or sooner) of rates going into effect in this case?
 - Provide a link to the SAFHR website <https://www.mohousingresources.com/safhr> and not the Company's website;

- Include some supporting messaging containing relevant information (i.e., what it is, how one can participate, etc.) regarding Project Help;
- Include language containing contact information regarding Low-Income Weatherization Assistance Program (“LIWAP”) enrollment; and
- Add language that directs further billing questions to a hyperlink to the Company’s website which provides an FAQ of greater billing detail (e.g., this is what a MEEIA surcharge is, this is what the FAC is, what do TOU rates mean, etc.).

14. Charitable Contributions

- Should the Commission disallow ** [REDACTED] ** from Empire’s revenue requirement for an alleged failure for the past five years to comply with the minimum charitable donations Empire agreed to and the Commission ordered it to do?
- 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. Rate Base Issues

- What is the appropriate amount of LIPP expense to include in rate base and to be amortized over six years?
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- Should the expense lead days associated with federal and state income taxes be increased from 39.38 days to 365 days?
- What are the appropriate Cash Working Capital expense lag days for Asbury?
- What is the balance of Iatan/PCB environmental costs that should be included in the cost of service?
- What is the appropriate amount of fuel inventory?

16. Income Statement Issues - Payroll and Benefits

- Should the annualized amount of employee benefit expense for health, dental, vision, life insurance, accident insurance, accidental death & dismemberment, and short and long-term disability be based on the annual amount of expenses Empire would expect to incur for each employee at June 30, 2021, or based upon a three year average?
- Should the four-year average of FAS 88 expense (2017-2020) be included in rates?
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incentive compensation plans?

17. Income Statement Issues – Other

- (a) Should bad debt expense take into account any bad debt expense that may be associated with any additional revenues Empire receives as a result of the rate case?
- (b) Should the costs relating to Empire's Time Of Use education campaign (\$187,500 Total Company or \$166,965 Missouri jurisdiction) be included in the cost of service?
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 - i. Should inflation factors be used to calculate Generation O&M Normalization expense?

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- (b) Should the monthly amortization for PeopleSoft costs be reduced?
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19. Rate Case Expense (Revenue Requirement)

- (a) How much of Empire's rate case expenses should be included in Empire's revenue requirement?
- (b) Should Empire's prudent rate case expenses be normalized or amortized, and over what period of time?
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- (a) Should rate base be reduced based on test generation wind revenue?
- (b) What is the appropriate level of wind project for non-FAC O&M expense to be included in the cost of service?
- (c) What is the appropriate level of wind O&M (non-labor) expense to be included in the cost of service?
- (d) Should the normalized expense level for wind O&M be based on expenses for the month of June 2021, or the three months of April 2021, May 2021, and June 2021?
- (e) 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?

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- (g) Should the Commission order Empire District Electric Company to provide additional information regarding the ** [REDACTED] ** of the Neosho Ridge wind farm?

21. PAYGO

- (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?

22. Market Price Protection Mechanism (“MPPM”)

- (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?

23. Fuel Adjustment Clause (“FAC”)

- (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 are the appropriate variable fuel and purchased power expenses to be used when calculating the FAC base factor?
- (f) What is the percentage of SPP and MISO transmission expense that should be recovered through the FAC?
- (g) 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?
- (h) Should SPP Energy market and REC revenues from the wind farms be included in the FAC?

- (i) What amount of REC revenues from the Wind Projects shall be included in the FAC base factor calculation?
- (j) 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?
- (k) 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?
- (l) Should the value of the wind project production tax credits transferred to Empire be included in the FAC?
- (m) What additional FAC reporting requirements should the Commission require of Empire?
- (n) 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 the mitigation of language should be adopted?
 - 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?
- (o) Should the FAC include separate provisions for customers on a time-of-use rate?

24. Transmission Tracker: If Empire is not authorized to include transmission revenues and expenses in the FAC, should Empire be granted a transmission tracker to track transmission revenues and expenses between rate cases?

25. Rate of Return; Return on Equity; Capital Structure; Cost of Debt

- (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?

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

27. Class Cost of Service and Rate Design Issues

- b) How should Empire's revenue requirement be allocated amongst Empire's customer rate classes (Class revenues responsibilities)?
- c) What interclass revenue responsibility shifts, if any, should be implemented in this case?
- d) What is the appropriate residential customer charge?
- e) What is the appropriate way to design rates for the GP, LP and TS rate schedules?
- f) What rate schedules, if any, should be consolidated or reconfigured?

- g) What is the appropriate default or mandatory rate structure, rate design, and tariff language for each rate schedule; what measures are appropriate to facilitate implementation?
- h) Should the company's proposed Time of Use rate schedules be implemented on an opt-in basis?
 - i. If so, should participation be capped?
 - ii. Should the "Best Bill" proposal be implemented?
 - iii. Should the requested revenue tracker be implemented?
 - iv. Should the FAC be modified as requested by the Empire?
- i) Should tariff sheets consistent with the settlement in ET-2020-0390 be implemented?
- j) Should rates be calculated using the Company's updated billing determinants and allocation to blocks?
- k) Should the growth adjustment for RG, CB, SH, GP and TEB rates reflect an update period of May 2021 or June 2021?
- l) Should the billing determinants reflect the Company's weather normalization and COVID adjustments?
- m) Should the Commission approve the Renewable Energy Purchase tariff? If so, with what conditions?

28. AMI

- (a) What return should be authorized for Empire on its capital investment in AMI (\$43.4 million) when Empire does not have time-of-use rates generally available to all of its customers?
- (b) What return should be authorized for Empire on the net book value of Empire's retired meters?

29. Depreciation Issues

- (a) Should Empire's proposed depreciation rates be approved?
- (b) What should be the life parameters for the following accounts: 311, 312, 314, 331, 332, 334, 335, 352, 356, 370.1, and 396?
- (c) What depreciation rates should be set for AMI meters?
- (d) Should the reserve allocation of Empire's accumulated depreciation accounts within each function be structured to re-balance the reserve within each function?
- (e) Should the Commission allow Empire to book assets for general plant in accordance with the Federal Energy Regulatory Commission Accounting Release 15?

30. Retiree Issues

- (a) Should Empire be ordered to externally fund its SERP benefits through a Rabbi trust, pursuant to the prior stipulation provision?
- (b) Is Empire meeting the merger stipulation employee benefit obligations to its retired employees?

31. Asbury

- (a) Should the \$122.4 million of net book value of Empire's 2015 AQCS investment in Asbury that remained when Empire retired Asbury be included in Empire's cost-of-service through the Asbury AAO or otherwise?
- (b) What is the retirement date for Asbury?
- (c) Should the Commission order the discontinuance of the Asbury AAO, or allow its continuance as requested by Empire?
- (d) What balances should be included in the Asbury AAO regulatory asset?
- (e) What balances should be included in the Asbury AAO regulatory liability?

32. Resource Adequacy: Do Empire's current resources provide adequate electricity to meet its customers' load requirements?

33. Storm Uri

- (a) What is the amount of Empire's prudently incurred extraordinary Storm Uri costs?
- (b) Over what time should Empire's prudently incurred extraordinary Storm Uri costs be amortized?
- (c) What carrying costs should apply?
- (d) Should Empire collect a return on Empire's prudently incurred Storm Uri costs?

Hearing Schedule

Hearings will start each day at 8:30 a.m. and, to the extent possible given many participants' travel requirements and scheduling conflicts, issues will be handled upon the conclusion of the preceding issue. The parties intend to maintain this hearing schedule and acknowledge that it may be necessary to hold hearings after 5:00 p.m.

Monday, January 31, 2022

Admission of testimony of witnesses not scheduled to take the stand (agreement that do not need to tender for cross).

Company: Jill Schwartz Direct, Drew Landoll Direct, Eric Fox Direct

Opening Statements (general; min-openings with each issue after policy, as needed)

- Empire
- Staff
- OPC
- MEGG
- EDRA

- EDESR
- RenewMO
- Ozark

1. Policy

Company Witness: Tim Wilson

Staff Witnesses: Amanda McMellen, Cedric Cunigan

OPC Witness: Geoff Marke

2. Voltage Optimization Study

(a) Should the Commission order Empire to 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?

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Company Witness: Jeff Westfall

OPC Witness: Geoff Marke

3. Reliability Reporting: Should the Commission order Empire to report additional details of its reliability investment programs?

Company Witness: Jeff Westfall

Staff Witness: Saeid Dinderloo

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(c) Should Empire be ordered to update the studies and metrics on an annual basis as long as PISA is in place for Empire?

Company Witness: Shaen Rooney

OPC Witness: Geoff Marke

5. Project Guardian

(a) Should the Commission order Empire to meet with Staff and OPC on Project Guardian?

(b) Should the Commission order Empire to meet with Staff and OPC on all other “pilots” the Company is currently running or plans to run.

Company Witness: Chad Hook
OPC Witness: Geoff Marke

- 6. Empire’s Emergency Conservation Plan:** 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)?

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OPC Witness: Geoff Marke

Tuesday, February 1, 2022

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Company Witness: Jon Harrison
Staff Witness: Kory Boustead
OPC Witness: Geoff Marke

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Company Witness: Jon Harrison
OPC Witness: Geoff Marke

10. Green Button: Should the Commission order Empire to adopt the Green Button Platform?

Company Witness: Greg Tillman
MECG Witness: Andrew Teague
OPC Witness: Geoff Marke

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Company Witness: Nate Hackney
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OPC Witness: Geoff Marke

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Company Witnesses: Tim Wilson, Jon Harrison
OPC Witness: Geoff Marke

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Wednesday, February 2, 2022 (the majority of these issues will be addressed by settlement)

15. Rate Base Issues

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- What is the appropriate amount of fuel inventory?

Company Witness: Charlotte Emery, Tim Lyons, Tisha Sanderson, Todd Tarter
 Staff Witnesses: Keith Foster, Nancy Harris, Courtney Horton, Amanda McMellen
 OPC Witness: John Riley

16. Income Statement Issues - Payroll and Benefits

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Thursday, February 3, 2022

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- (l) Should the value of the wind project production tax credits transferred to Empire be included in the FAC?
- (m) What additional FAC reporting requirements should the Commission require of Empire?
- (n) 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 the mitigation of language should be adopted?
 - 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?
- (o) Should the FAC include separate provisions for customers on a time-of-use rate?

24. Transmission Tracker: If Empire is not authorized to include transmission revenues and expenses in the FAC, should Empire be granted a transmission tracker to track transmission revenues and expenses between rate cases?

Friday, February 4, 2022

25. Rate of Return; Return on Equity; Capital Structure; Cost of Debt

- (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?

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

Monday, February 7, 2022

27. Class Cost of Service and Rate Design Issues

- a) How should Empire's revenue requirement be allocated amongst Empire's customer rate classes (Class revenues responsibilities)?
- b) What interclass revenue responsibility shifts, if any, should be implemented in this case?
- c) What is the appropriate residential customer charge?
- d) What is the appropriate way to design rates for the GP, LP and TS rate schedules?
- e) What rate schedules, if any, should be consolidated or reconfigured?
- f) What is the appropriate default or mandatory rate structure, rate design, and tariff language for each rate schedule; what measures are appropriate to facilitate implementation?
- g) Should the company's proposed Time of Use rate schedules be implemented on an opt-in basis?
 - i. If so, should participation be capped?
 - ii. Should the "Best Bill" proposal be implemented?
 - iii. Should the requested revenue tracker be implemented?
 - iv. Should the FAC be modified as requested by the Empire?
- h) Should tariff sheets consistent with the settlement in ET-2020-0390 be implemented?
- i) Should rates be calculated using the Company's updated billing determinants and allocation to blocks?
- j) Should the growth adjustment for RG, CB, SH, GP and TEB rates reflect an update period of May 2021 or June 2021?
- k) Should the billing determinants reflect the Company's weather normalization and COVID adjustments?
- l) Should the Commission approve the Renewable Energy Purchase tariff? If so, with what conditions?

28. AMI

- (a) What return should be authorized for Empire on its capital investment in AMI (\$43.4 million) when Empire does not have time-of-use rates generally available to all of its customers?
- (b) What return should be authorized for Empire on the net book value of Empire's retired meters?

29. Depreciation Issues

- (a) Should Empire's proposed depreciation rates be approved?
- (b) What should be the life parameters for the following accounts: 311, 312,

314, 331, 332, 334, 335, 352, 356, 370.1, and 396?

- (c) What depreciation rates should be set for AMI meters?
- (d) Should the reserve allocation of Empire's accumulated depreciation accounts within each function be structured to re-balance the reserve within each function?
- (e) Should the Commission allow Empire to book assets for general plant in accordance with the Federal Energy Regulatory Commission Accounting Release 15?

30. Retiree Issues

- (a) Should Empire be ordered to externally fund its SERP benefits through a Rabbi trust, pursuant to the prior stipulation provision?
- (b) Is Empire meeting the merger stipulation employee benefit obligations to its retired employees?

Tuesday, February 8, 2022

31. Asbury

- (a) Should the \$122.4 million of net book value of Empire's 2015 AQCS investment in Asbury that remained when Empire retired Asbury be included in Empire's cost-of-service through the Asbury AAO or otherwise?
- (b) What is the retirement date for Asbury?
- (c) Should the Commission order the discontinuance of the Asbury AAO, or allow its continuance as requested by Empire?
- (d) What balances should be included in the Asbury AAO regulatory asset?
- (e) What balances should be included in the Asbury AAO regulatory liability?

32. Resource Adequacy: Do Empire's current resources provide adequate electricity to meet its customers' load requirements?

33. Storm Uri

- (a) What is the amount of Empire's prudently incurred extraordinary Storm Uri costs?
- (b) Over what time should Empire's prudently incurred extraordinary Storm Uri costs be amortized?
- (c) What carrying costs should apply?
- (d) Should Empire collect a return on Empire's prudently incurred Storm Uri costs?

Order of Cross-Examination

For specific issues, a different order of cross-examination may be more appropriate.

Generally, the order of cross-examination, based on adversity, is the following:

Empire Witnesses: EDRA, EDESR, Ozark, RenewMO, MECG, Staff, OPC

Staff Witnesses: EDRA, EDESR, Ozark, RenewMO, MECG, OPC, Empire

OPC Witnesses: MECG, EDRA, EDESR, Ozark, RenewMO, Staff, Empire

MECG Witnesses: EDRA, EDESR, Ozark, RenewMO, OPC, Staff, Empire

EDRA Witnesses: EDESR, MECG, Ozark, RenewMO, Staff, OPC, Empire

EDESR Witnesses: EDRA, MECG, Ozark, RenewMO, Staff, OPC, Empire

Respectfully submitted,

/s/ Nicole Mers

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed or hand delivered, transmitted by facsimile or by electronic mail to all counsel of record on this 25th day of January, 2022.

/s/ Nicole Mers