

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

In the Matter of the Empire District Electric Company,)
Liberty Utilities (Central) Co. and Liberty Sub Corp.) Case No. EM-2016-0213
Concerning an Agreement and Plan of Merger and)
Certain Related Transactions.)

STIPULATION AND AGREEMENT AS TO EDESR

COME NOW The Empire District Electric Company (“Empire”), Liberty Utilities (Central) Co. (“LU Central”), and Liberty Sub Corp. (sometimes collectively hereinafter “Joint Applicants”), and The Empire District Electric SERP Retirees (“EDESR”), by and through their undersigned counsel and, pursuant to Missouri Public Service Commission (“Commission”) rule 4 CSR 240-2.115, request that the Commission approve this agreement as a settlement of the EDESR’s issues related to the Joint Application filed by the Joint Applicants. In support thereof, the signatories hereto state the following:

The Signatories hereto agree as follows:

The Signatories hereto recommend that the Commission approve the proposed transaction (“Transaction”) subject to the following condition:

Supplemental Executive Retirement Plan (“SERP”)

Empire will, within one year after the Transaction closes, cause to be performed an actuarial analysis with the intention of determining whether a SERP funded via a Rabbi trust according to the SERP plan is less expensive to ratepayers than benefits paid from Empire's general funds for the life of the plan (the “Study”).

The current SERP recipients shall be included in the development of all assumptions and allowed review and analysis of the Study. If the Study concludes the annual costs and expenses of funds contributed by Empire using a

Rabbi trust (including contributions to the trust) to provide benefits are essentially the same or less than the costs and expenses to ratepayers of providing the alternate of SERP benefits from Empire's general funds, Empire will discuss the results of the Study with Staff and OPC, and to the extent neither party oppose the rate recovery of the Rabbi trust in place of the SERP funded from general funds, Empire will fund a Rabbi trust according to the plan. Any trust documents shall be subject to review by the SERP recipients' counsel.

General Provisions

- A. This Stipulation has resulted from negotiations among the Signatories and the terms hereof are interdependent. In the event the Commission does not adopt this Stipulation in total, then this Stipulation shall be void and no Signatory shall be bound by any of the agreements or provisions hereof. The stipulations herein are specific to the resolution of this proceeding, and all stipulations are made without prejudice to the rights of the Signatories to take other positions in other proceedings except as otherwise provided herein. The Signatories agree that any and all discussions related hereto shall be privileged and shall not be subject to discovery, admissible in evidence, or in any way used, described or discussed.
- B. This Stipulation is being entered into for the purpose of disposing of The EDESR's issues in this case. The Signatories represent that the terms of this Stipulation constitute a fair and reasonable resolution of the issues addressed herein, in a manner which is not detrimental to the public interest. Except as otherwise addressed herein, none of the Signatories to this Stipulation shall be deemed to have approved, accepted, agreed, consented or acquiesced to any

accounting principle, ratemaking principle or cost of service determination underlying, or supposed to underlie any of the issues provided for herein.

- C. The Signatories further understand and agree that the provisions of this Stipulation relate only to the specific matters referred to in the Stipulation, and no Signatory or person waives any claim or right which it otherwise may have with respect to any matter not expressly provided for in this Stipulation. The Signatories further reserve the right to withdraw their support for the settlement in the event that the Commission modifies the Stipulation in a manner which is adverse to the Signatory, and further, the Signatories reserve the right to contest any such Commission order modifying the settlement in a manner which is adverse to the Signatory contesting such Commission order. The Signatories agree that the details of this Stipulation have no precedential value in any future proceeding not related to enforcement of this agreement.
- D. The non-utility Signatory Parties enter into this Stipulation in reliance upon information provided to them by the Joint Applicants and this Stipulation is explicitly predicated upon the truth of representations made by the Joint Applicants.
- E. In the event the Commission accepts the specific terms of this Stipulation without modification, the Signatories waive, with respect to the issues resolved herein: their respective rights pursuant to Section 536.070(2), RSMo 2000 to call, examine and cross-examine witnesses; their respective rights to present oral argument or written briefs pursuant to Section 536.080.1, RSMo 2000; their respective rights to the reading of the transcript by the Commission pursuant to


Section 536.080.2, RSMo 2000; their respective rights to seek rehearing pursuant to Section 386.500, RSMo 2000; and their respective rights to judicial review pursuant to Section 386.510, RSMo 2000. Furthermore, in the event the Commission accepts the specific terms of this Stipulation without modification, the Signatories agree that the pre-filed testimony of all witnesses who have pre-filed testimony in this case shall be included in the record of this proceeding without the necessity of such witnesses taking the stand.

F. Except as otherwise addressed in this Stipulation, Commission approval of the acquisition by LU Central and Liberty Sub Corp. of the stock of Empire, and for the Joint Applicants to execute and perform in accordance with the terms of the Agreement, does not in any way, limit, form a basis for determination, or constitute a defense against any Signatory proposing, or the Commission ordering, the disallowance and/or imputation of account balances, expenses, revenues and/or other ratemaking findings, regarding Empire's operations in a future rate proceeding.

G. To assist the Commission in its review of this Stipulation, the Signatories also request that the Commission advise them of any additional information that the Commission may desire from the Signatories relating to the matters addressed in this Stipulation, including any procedures for furnishing such information to the Commission.

WHEREFORE, the Signatories hereto recommend that the acquisition by LU Central and Liberty Sub Corp. of the stock of Empire as contemplated by the Agreement and Plan of

Merger is reasonable and not detrimental to the public interest and respectfully request that the Commission approve this Stipulation and Agreement subject to the conditions contained herein.

By: 

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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was sent via U.S. Mail, postage prepaid, hand-delivery, electronic filing system, or electronically, this 23rd day of August, 2016, to the following:

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