



4. On January 30, 2020, Public Counsel submitted its Motion for the Commission to Reconsider Its Order Denying Public Counsel's Motion to Modify Test Year, and the Commission issued its *Order Directing Responses to Public Counsel's Motion to Reconsider Modifying the Test Year*.

5. Public Counsel's request for reconsideration contains no new information and is inaccurate in its assertion that "the retirement of Asbury is both known and measurable." Although it is known that Asbury will be retired, the fact remains that the cost and expense impacts of the retirement of Asbury will not be known and measurable in time to be adequately addressed in this case.

6. The Company continues to explore all opportunities related to the closure of the Asbury plant. For example, the Company is actively exploring multiple opportunities to reuse the existing facility to support ongoing customer and Company needs. The operations and maintenance for the future wind farms will be based at the Asbury facility, but the final plan for the Asbury facility and other structures on the property is not known at this time.

7. Additionally, and quite significantly, costs of dismantlement are still under consideration. On July 18, 2019, Empire engaged Black and Veatch to perform an Asbury Decommissioning Study. The study will identify the costs to decommission and dismantle the facility and is expected to be completed in mid-2020.

8. It would be patently unjust and unreasonable to look beyond the ordered true-up cut off in this case to attempt to make isolated adjustments to the revenue requirement due to the retirement of Asbury, as many of the components will not be known and measurable in time to be adequately addressed in this case. To attempt to address the revenue requirement changes before they are known and measurable could result in arbitrary and capricious decision making.

9. The issuance of an AAO, however, will allow the Commission to defer a final decision on the cost impact of the retirement of Asbury until the next rate case, when there will be significantly more facts known with regard to changing costs and expenses as a result of the retirement of Asbury. This ratemaking decision would not be unnecessarily delayed, as the Company will be filing its next rate case, to address its wind investments, just as this current rate case concludes.

WHEREFORE, Liberty-Empire requests an order of the Commission denying Public Counsel's request for reconsideration of the Commission's *Order Denying Public Counsel's Motion to Modify the Test Year*. Liberty-Empire requests such other and further 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 February, 2020, with notification of the same being sent to all counsel of record.

/s/ Diana C. Carter