

- October 22, 2019 Pursuant to Commission Rule 20 CSR 4240-3.190(3)(D), Empire submitted (EFIS Tracking No. BEGR-2020-0183) its notice regarding a reduction in coal inventory below a 30-day capacity burn supply for Asbury, noting that does not equate to calendar days.
- November 13, 2019 As a further effort to be transparent and forthcoming, the Company filed its Updated Asbury Informational Notice stating that, although the exact retirement date was unknown, based on current coal supplies and other factors, the Company believed the plant would be retired no later than March of 2020.
- December 9, 2019 Public Counsel submitted its Motion to Modify Test Year, asking the Commission to “modify the ordered test year to include isolated adjustments related to the retirement of Asbury, as well as updates to September 30, 2019, and true-up through January 31, 2020.”
- January 28, 2020 The Commission issued its *Order Denying Public Counsel’s Motion to Modify the Test Year*. The order provides “Asbury’s retirement is best addressed in Empire’s next rate proceeding.”
- February 19, 2020 The Commission issued its *Order Denying Motion for Reconsideration*, stating: “The Commission will not modify the test year, nor allow isolated adjustments for Asbury’s retirement to be addressed in this general rate proceeding. The Commission will address the impacts of Asbury’s retirement in Empire’s next rate proceeding, which Empire states it will file upon the conclusion of this proceeding.”

1. Despite the issuance of the two orders referenced above, as well as a directive from the Regulatory Law Judge in response to a motion for clarification from the Staff of the Commission, OPC continued to pre-file testimony regarding its positions with regard to the impacts of Asbury’s retirement and continued to serve numerous data requests on this issue.

2. As such, Empire objected to the admission of all such testimony and other items presented by OPC on these issues as being wholly irrelevant to the decisions that the Commission is to render in this case. In its opposition to this objection, OPC notes that Empire did not object to testimony regarding Asbury from before the orders of the Commission were issued directing that the Commission would address the impacts of Asbury’s retirement in Empire’s next rate proceeding. This is correct. Although all evidence purportedly reflecting the

retirement of Asbury in this proceeding is not relevant to the issues to be decided by the Commission in this case, Empire elected to exercise its objection rights only as to the actions of OPC taken in flagrant disregard of the Commission's orders.

3. OPC now argues that the Asbury plant was retired in December of 2019. This is despite the fact that from its first consideration of retiring the Asbury plant, the Company has been transparent with the Commission and all stakeholders regarding its intentions for the plant, including with IRP filings, filings of Informational Notices in this rate case on August 9 and November 13, 2019, and a coal level submission on October 22, 2019, and despite the fact that OPC twice asked the Commission to look beyond the test year as updated and trued-up in order to capture Asbury's retirement.

4. Asbury was de-designated from the market at the end of March 1, 2020. There should be no dispute over the fact that March 1, 2020, would be the earliest possible retirement date for the Asbury plant. The retirement is an extraordinary event that occurred outside of the true-up period in this proceeding, which ended January 31, 2020. As such, the issuance of an AAO is the proper means of addressing the retirement of Asbury at this time, and OPC's offered testimony and other exhibits attempting to bring the retirement of Asbury into this case should not be admitted into evidence.

5. The issuance of an AAO 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. This ratemaking decision will not be unnecessarily delayed, as the Company will be filing its next rate case, to address its wind investments, shortly after this current rate case concludes.

WHEREFORE, The Empire District Electric Company submits its Reply in Support of Objections to Offers of Evidence for the Commission's consideration.

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 12th day of May, 2020, with notification of the same being sent to all counsel of record.

/s/ Diana C. Carter