

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

In the Matter of the Petition of The Empire District )  
Electric Company d/b/a Liberty to Obtain a )  
Financing Order that Authorizes the Issuance of ) Case No. EO-2022-0193  
Securitized Utility Tariff Bonds for Energy )  
Transition Costs Related to the Asbury Plant )

**VERIFIED PETITION FOR FINANCING ORDER**

COMES NOW The Empire District Electric Company d/b/a Liberty (“Liberty” or the “Company”), and, pursuant to RSMo. §393.1700 (the “Securitization Statute”), submits this Verified Petition for Financing Order for authorization of the issuance of securitized utility tariff bonds regarding the retired Asbury generating plant. In this regard, Liberty respectfully states as follows to the Missouri Public Service Commission (the “Commission”):

**I. Introduction**

1. On January 20, 2022, pursuant to Commission Rule 20 CSR 4240-4.017(1) and RSMo. §393.1700, Liberty submitted a Notice of Intent, initiating this docket. This Petition is being filed 60 days following the submission of the Notice of Intent.

2. With this Petition, Liberty seeks a Financing Order for authorization of the issuance of securitized utility tariff bonds regarding the Asbury generating plant. Specifically, Liberty seeks a determination by the Commission that the retirement of Asbury was reasonable and prudent and that the issuance of securitized utility tariff bonds and the imposition of securitized utility tariff charges is expected to provide quantifiable net present value benefits to customers (“Quantifiable Benefits”), as well as a determination by the Commission of the amount of the Company’s undepreciated investment and other energy transition costs related to Asbury that may be financed through the issuance of securitized utility tariff bonds.

3. Based on the Company's analysis, use of securitized utility tariff bonds for the Company's energy transition costs of \$145,019,637 related to Asbury will result in Quantifiable Benefits of \$47,330,401 (net present value Quantifiable Benefits of \$32,051,938), in comparison to the costs that would result from the application of customary ratemaking. This is discussed further below and is explained in detail in the Company's direct testimonies.

4. Concurrently with the filing of this Petition, and in support thereof, the pre-filed direct testimonies of the following witnesses are being submitted by the Company: Charlotte Emery, Aaron Doll, Shaen Rooney, Drew Landoll, Frank Graves, and Katrina Niehaus. Attached to this Petition as Appendix A is a proposed financing order form.

5. On January 19, 2022, the Company filed its Verified Petition for Financing Order for authorization of the issuance of securitized utility tariff bonds regarding the extraordinary costs incurred by Liberty on behalf of its customers during Storm Uri (Commission Case No. EO-2022-0040).

6. By separate motion, Liberty intends to seek to have this Asbury securitization proceeding consolidated with and into the Storm Uri securitization proceeding, resulting in additional cost savings for Liberty's customers.

7. A procedural schedule, which contemplates consolidation of the two dockets, has been issued by the Commission in the Storm Uri securitization proceeding. If consolidation is granted, Liberty will propose a revised form of financing order for the Commission's consideration.

## **II. The Applicant**

8. Liberty is a Kansas corporation with its principal office and place of business at 602 Joplin Street, Joplin, Missouri. Liberty is qualified to conduct business and is conducting business in Missouri, as well as in the states of Arkansas, Kansas, and Oklahoma. Liberty is engaged, generally, in the business of generating, purchasing, transmitting, distributing, and selling

electricity. Liberty is a “public utility” and an “electric corporation” pursuant to RSMo. §393.1700.1(6), with its Missouri operations subject to the jurisdiction of the Commission as provided by law.

9. A certified copy of Liberty’s Restated Articles of Incorporation, as amended, was filed in Case No. EF-94-39, and a certificate from the Missouri Secretary of State that Liberty, a foreign corporation, is authorized to do business in Missouri was filed with the Commission in Case No. EM-2000-369. This information is current and correct, and the referenced documents are incorporated herein by reference.

10. Liberty has no pending actions or final unsatisfied judgments or decisions against it from any state or federal agency or court that involve customer service or rates. Liberty’s annual report and assessment fees are not overdue.

### **III. Asbury and the Securitization Statute**

11. RSMo. §393.1700.2(1) provides that an electrical corporation “may petition the commission for a financing order to finance energy transition costs through an issuance of securitized utility tariff bonds.” RSMo. 393.1700.1(7) defines energy transition costs as including all of the following:

(a) Pretax costs with respect to a retired or abandoned or to be retired or abandoned electric generating facility that is the subject of a petition for a financing order filed under this section where such early retirement or abandonment is deemed reasonable and prudent by the commission through a final order issued by the commission, include, but are not limited to, the undepreciated investment in the retired or abandoned or to be retired or abandoned electric generating facility and any facilities ancillary thereto or used in conjunction therewith, costs of decommissioning and restoring the site of the electric generating facility, other applicable capital and operating costs, accrued carrying charges, and deferred expenses, with the foregoing to be reduced by applicable tax benefits of accumulated and excess deferred income taxes, insurance, scrap and salvage proceeds, and may include the cost of retiring any existing indebtedness, fees, costs, and expenses to modify existing debt agreements or for waivers or consents related to existing debt agreements;

(b) Pretax costs that an electrical corporation has previously incurred related to the retirement or abandonment of such an electric generating facility occurring before August 28, 2021.

12. Development of the plans for the Asbury generating unit began in the late 1960s, and Asbury Unit 1, a Babcock & Wilcox cyclone steam generator, was commissioned in 1970. When it began operations, it had a nominal rating of 206 MW and sourced its coal onsite via mine mouth operation. Asbury was de-designated from the Southwest Power Pool (“SPP”) Integrated Marketplace and retired March 1, 2020.

13. In this proceeding, Liberty will demonstrate that the Asbury generating plant was reasonably and prudently retired before all undepreciated investment thereto had been recovered through rates and that the issuance of a financing order authorizing Liberty to finance the Company’s energy transition costs related to Asbury and issue securitized utility tariff bonds for these costs will provide Quantifiable Benefits to Liberty’s customers. In other words, Liberty will demonstrate that the relief requested in this Petition will result in a more economical way to finance these costs so as to minimize the burden on Liberty’s customers.

14. RSMo. §393.1700.2(1) provides that any petition for a financing order to finance the recovery of energy transition costs specifically address a number of topics. The chart below identifies these required topics along with the witnesses providing supporting testimony on behalf of the Company:

Statutory Requirement	Company Witness(es)
(a) A description of the electric generating facility or facilities that the electrical corporation has retired or abandoned, or proposes to retire or abandon, prior to the date that all undepreciated investment relating thereto has been recovered through rates and the reasons for undertaking such early retirement or abandonment.	Drew Landoll Aaron Doll Shaen Rooney Frank Graves
(b) The energy transition costs.	Charlotte Emery Katrina Niehaus
(c) An indicator of whether the electrical corporation proposes to finance all or a portion of the energy transition costs using securitized	Charlotte Emery

utility tariff bonds. If the electrical corporation proposes to finance a portion of the costs, the electrical corporation shall identify the specific portion in the petition.	
(d) An estimate of the financing costs related to the securitized utility tariff bonds.	Charlotte Emery
(e) An estimate of the securitized utility tariff charges necessary to recover the securitized utility tariff costs and financing costs and the period for recovery of such costs.	Charlotte Emery
(f) A comparison between the net present value of the costs to customers that are estimated to result from the issuance of securitized utility tariff bonds and the costs that would result from the application of the traditional method of financing and recovering the undepreciated investment of facilities that may become securitized utility tariff costs from customers. The comparison should demonstrate that the issuance of securitized utility tariff bonds and the imposition of securitized utility tariff charges are expected to provide quantifiable net present value benefits to customers.	Charlotte Emery
(g) A proposed future ratemaking process to reconcile any differences between securitized utility tariff costs financed by securitized utility tariff bonds and the final securitized costs incurred by the electrical corporation or assignee provided that any such reconciliation shall not affect the amount of securitized utility tariff bonds or the associated securitized utility tariff charges paid by customers.	Charlotte Emery

**IV. The Securitization Process**

15. Securitization makes use of relatively low-cost bonds that are secured by an irrevocable right to impose, bill, charge, collect, and receive securitized utility tariff charges to recover such costs. Securitization for a retired coal plant is a process by which “energy transition costs” are not financed directly by the Company at its overall cost of capital beginning with the date the bonds are issued.

16. These securitized utility tariff charges for “energy transition costs” and related financing costs, which would be periodically updated as described in detail below, are separate and distinct from the Company’s base rates.

17. This irrevocable right, also referred to as “securitized utility tariff property,” is sold to a bankruptcy-remote special purpose entity (“SPE”) that is the issuer of the bonds.

18. As further discussed in the Direct Testimony of Katrina Niehaus, to facilitate the proposed securitization, Liberty will create a wholly-owned, bankruptcy-remote SPE which will purchase the applicable securitized utility tariff property including the rights to impose, bill, charge, collect, and receive securitized utility tariff charges and issue the applicable securitized utility tariff bonds. Liberty will perform the necessary servicing and administrative functions for its SPE.

19. Because of the nature of the securitized utility tariff property pledged to support the securitized utility tariff bonds, the securitization process results in the issuance of highly-rated bonds (usually AAA or equivalent rated) to raise the capital necessary to reimburse an electric corporation for its "energy transition costs" and to pay the associated financing costs relating to issuing the bonds and maintaining the structure to ensure timely payment of debt service on the bonds.

20. This approach makes it possible to reduce the Company's overall revenue requirement associated with the Company's undepreciated investment and other energy transition costs related to Asbury, thereby reducing costs recovered from customers. The revenue requirement is lower because securitization results in a lower-cost method of financing energy transition costs in comparison to customary cost recovery and ratemaking methods, as explained in the Company's direct testimonies.

21. The Company requests that its up-front financing costs associated with the securitization process be included in the principal amount of securitized utility tariff bonds. Principal, interest, and on-going financing costs, including, but not limited to costs of servicing and maintaining the securitized utility tariff bonds, will be recovered through the securitized utility tariff charges.

22. The Company estimates that its up-front financing costs will be approximately \$3,287,122 million and that its estimated on-going financing costs of the securitized utility tariff bonds will total approximately \$346,599 annually.

23. As Ms. Niehaus explains in her Direct Testimony, several of the components of the up-front financing costs will vary depending upon the size of the final issuance of the securitized utility bonds. The U.S. Securities and Exchange Commission (“SEC”) registration fee and the underwriters’ fees, which are typically necessary components of the process, are proportional to the amount of a bond issuance. In addition, other up-front costs, such as legal, consulting, and accounting fees and expenses, rating agency fees, printing expenses, and trustee costs will not be known until the issuance of the securitized utility tariff bonds.

24. Any costs incurred by the Commission for any outside consultants or counsel retained in connection with the securitization are also up-front financing costs under the Securitization Statute. As a result, final up-front financing costs will not be known until after the final terms of the issuance have been established.

25. The securitized utility tariff bonds can be issued in a registered public offering or unregistered exempt offering and will be structured to achieve the highest possible credit rating from applicable rating agencies. In either case, there will be extensive marketing of the securitized utility tariff bonds to ensure a broad solicitation of potential, unaffiliated investors, as further described in the Direct Testimony of Ms. Niehaus.

26. Upon issuance of the securitized utility tariff bonds, the SPE will transfer the net proceeds from the sale of the bonds to Liberty as consideration for the transfer of the securitized utility tariff property. Thus, the SPE will be a transferee, purchaser, acquirer, assignee, or pledgee of the securitized utility tariff property as provided in the Securitization Statute.

27. To maximize the benefits from securitization for customers, it is necessary to obtain AAA-equivalent credit ratings for the securitized utility tariff bonds. Necessary elements for credit ratings include, but are not limited to: (1) the non-bypassability of the securitized utility tariff charges; (2) a true sale of the securitized utility tariff property to a bankruptcy-remote issuer, which

will be Liberty's SPE; (3) a mandatory periodic formula-based true-up mechanism to adjust securitized utility tariff charges to ensure that securitized utility tariff bond debt service and ongoing financing costs are paid on time as scheduled; (4) the requirement that the Commission will not amend, modify, or terminate the Financing Order or otherwise adjust the securitized utility tariff charges, except for the periodic true-ups, as required by the Securitization Statute; (5) the pledge to the holders of securitized utility tariff bonds of the SPE collection accounts established for timely remittances of securitized utility tariff charges; (6) a statutory pledge that neither the state nor the Commission may impair the rights of securitized utility tariff bond holders; (7) provisions for successor servicers and related fees; and (8) demonstration that the proposed transaction structure is designed to satisfy specified rating agency stress case cash flow scenarios. These elements are discussed further in the Direct Testimony of Ms. Niehaus.

28. Critical to achieving the securitization is the issuance of a Financing Order that meets the requirements of the Securitization Statute. As discussed in Ms. Niehaus' Direct Testimony, the proposed Financing Order attached hereto as Appendix A would: (1) authorize Liberty to use securitization to finance the qualified "energy transition costs" costs found to be prudent, updated through the projected date of issuance of the securitized utility tariff bonds, and allow securitized utility tariff bonds to be issued in an aggregate amount equal to the sum of (a) qualified energy transition costs (including carrying charges on such amounts through the issuance date of the securitized utility tariff bonds, calculated at the relevant weighted average cost of capital ("WACC") approved by this Commission) as defined above and (b) up-front financing costs incurred in connection with issuance of the securitized utility tariff bonds; (2) approve the structure of the proposed securitization financing; (3) approve securitized utility tariff charges in amounts calculated and adjusted from time to time as provided in the Financing Order, to be sufficient to pay the debt service on the securitized utility tariff bonds together with related financing costs on



a timely basis; and (4) approve Liberty's proposed tariff (form attached to the Direct Testimony of Charlotte Emery).

29. Pursuant to a servicing agreement between Liberty and its SPE, Liberty will act as the initial servicer of the securitized utility tariff charges for its SPE. As servicer, Liberty will bill, charge, receive, and collect such charges from its retail customers, and will remit these collections to an indenture trustee for each series of securitized utility tariff bonds on behalf, and for the account, of the SPE.

30. As servicer, the Company will be responsible for making any required or allowed true-ups of the securitized utility tariff charges as provided for in the Financing Order. The securitized utility tariff charges collected by Liberty pursuant to the servicing agreement and remitted to the SPE will be calculated to ensure the collection of an amount sufficient to timely pay the principal and interest on the securitized utility tariff bonds and the on-going financing costs. The securitized utility tariff charges will be allocated to the various customer classes in the manner determined by the Commission and set forth in the Financing Order.

31. The securitized utility tariff charges will be billed, imposed, received, and collected pursuant to Liberty's securitized utility tariff included as Schedule CTE-5 to Ms. Emery's Direct Testimony. Although the exact calculation of the securitized utility tariff charges cannot be made until all the final terms of the securitized utility tariff bonds are known, Ms. Emery estimates that the initial utility securitized tariff charges imposed on the monthly electric bill of one of its residential customers using 1,000 kWh will be \$3.49 per month.

32. In order to synchronize the collection of securitized utility tariff charges with the first payment on the securitized utility tariff bonds, the tariff charges will become effective as of the date of issuance of the securitized utility tariff bonds. Liberty will make at least annual adjustments to the securitized utility tariff charges to account for (a) any under-collections or over-collections

or (b) otherwise ensure the timely payment of the securitized utility tariff bonds and on-going financing costs and other required amount and charges payable in connection with the bonds.

**V. Energy Transition Costs and Quantifiable Benefits**

33. As agreed to and approved in Commission Case Number ER-2021-0312, the Company has included the following components related to the Asbury energy transition costs: (1) net book value of the retired plant, along with associated carrying charges; (2) incurred and estimated costs associated with environmental compliance; and (3) anticipated costs to decommission the plant. These components are then offset by the associated accumulated deferred income taxes, excess deferred income taxes, and the Company’s proposed balance of the regulatory liability account established as a result of the Accounting Authority Order issued in Commission Case Number ER-2019-0374.

34. Ms. Emery conducted a comparison between the net present value of the costs to customers that are estimated to result from the issuance of securitized utility tariff bonds, as requested herein, and the costs that would result from the application of the customary method of ratemaking and financing of these costs. This analysis demonstrates that the issuance of securitized utility tariff bonds and the imposition of the requested Securitized Energy Transition Charge are expected to provide Quantifiable Benefits.

35. Ms. Emery explains the applicable kilowatt-hour rider increment as follows:

<b>Class</b>	<b>Allocation %</b>	<b>Revenue Target \$</b>	<b>Class Usage kWh</b>	<b>SETC \$/kWh</b>
Residential	45.02%	\$6,032,078	1,726,927,308	\$0.00349
Commercial	9.05%	\$1,212,593	319,949,719	\$0.00379
Small Heating	2.02%	\$271,145	79,799,575	\$0.00340
General Power	18.01%	\$2,412,684	812,169,431	\$0.00297
Transmission	1.08%	\$144,662	70,481,082	\$0.00205
Total Electric Building	7.62%	\$1,021,703	319,940,627	\$0.00319
Feed Mill	0.02%	\$2,127	477,498	\$0.00445
Large Power	15.83%	\$2,121,560	875,159,495	\$0.00242
Misc. Service	0.00%	\$402	135,540	\$0.00297

Street Lighting	0.63%	\$84,364	287,677	\$0.29326
Private Lighting	0.70%	\$94,073	193,109	\$0.48715
Special Lighting	0.02%	\$2,618	601,937	\$0.00435
Total/Average	100.00%	\$13,400,011	4,206,122,998	\$0.00319

This results in a monthly charge of \$3.49 for residential customers using 1,000 kwh/month, which is necessary to ensure the timely payment of the securitized utility tariff bonds and ongoing financing costs and other required amounts and charges payable in connection with the bonds, over a period of 13 years.

36. In addition, Ms. Emery provides a blueprint for a proposed future ratemaking process to reconcile any differences between securitized utility tariff costs financed by securitized utility tariff bonds and the final securitized costs incurred by Liberty or its assignee provided that any such reconciliation shall not affect the amount of securitized utility tariff bonds or the associated securitized utility tariff charges paid by customers.

## **VI. Conclusion**

37. Pursuant to RSMo. §393.1700, Liberty seeks a determination by the Commission that the retirement of Asbury was reasonable and prudent and seeks the issuance of a Financing Order for authorization of the issuance of securitized utility tariff bonds. Based on the Company's analysis, use of securitized utility tariff bonds for the Company's energy transition costs of \$145,019,637 related to Asbury will result in Quantifiable Benefits of \$47,330,401 (net present value Quantifiable Benefits of \$32,051,938), in comparison to the costs that would result from the application of customary ratemaking. Following the close of the intervention period herein, Liberty will seek to have this Asbury securitization proceeding consolidated with and into the Storm Uri securitization proceeding (Commission Case No. EO-2022-0040), resulting in additional cost savings for Liberty's customers.

WHEREFORE, The Empire District Electric Company d/b/a Liberty respectfully requests that the Commission, no later than 215 days from the date of the filing of this Petition:

- (1) grant authorization for the financing of the Company's energy transition costs related to the retired Asbury generating plant;
- (2) find that the Company's energy transition costs and up-front financing costs are appropriately financed by debt secured by securitized utility tariff charges;
- (3) issue a Financing Order consistent with the form of financing order attached hereto and which addresses the requirements of the Securitization Statute and expectations of the credit rating agencies so that Liberty may accomplish the proposed securitization transaction;
- (4) approve Liberty's proposed securitized utility tariff charges;
- (5) approve Liberty's proposed tariff; and
- (6) provide any further relief the Commission deems just and reasonable and in the public interest.

Respectfully submitted,

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/s/ Diana C. Carter  
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**VERIFICATION**

On behalf of the applicant, The Empire District Electric Company, and pursuant to Commission Rule 20 CSR 4240-2.060(1)(M), the undersigned, upon his oath and under penalty of perjury, hereby states that the above Petition is true and correct to the best of his information, knowledge, and belief.

/s/ Tim Wilson \_\_\_\_\_  
Tim Wilson  
Vice President – Electric Operations

**CERTIFICATE OF SERVICE**

I hereby certify that the above document was filed in EFIS on this 21<sup>st</sup> day of March, 2022, and sent by electronic transmission to the Staff of the Commission and the Office of the Public Counsel.

/s/ Diana C. Carter