

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

In the Matter of The Empire District Electric Company’s)
Request for Authority to File Tariffs Increasing Rates for Electric) Case No. ER-2019-0374
Service Provided to Customers in its Missouri Service Area)

RESPONSE TO COMMISSION ORDER

COMES NOW The Empire District Electric Company, a Liberty Utilities company (“Liberty-Empire” or the “Company”), and for its Response to Commission Order, respectfully states as follows to the Missouri Public Service Commission (“Commission”):

1. From its first consideration of retiring the Asbury plant, the Company has worked hard to be transparent with the Commission and all stakeholders regarding its intentions for the plant, including with IRP filings, Informational Notices herein on August 9 and November 13, 2019, and a coal level submission on October 22, 2019. The Company has endeavored to work through a methodical process to address all aspects of the Asbury plant’s closure.

2. On December 9, 2019, the Office of the Public Counsel (“Public Counsel”) filed its Motion to Modify Test Year. Liberty-Empire opposed the Motion, noting that the issue of the impact of Asbury’s retirement on the Company’s revenue requirement was not yet ripe for a ratemaking determination. On 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” and directs the parties to submit a list of items to be included in an accounting authority order (“AAO”) to address the impacts resulting from Asbury’s retirement.

3. 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. On February 19, 2020, the Commission issued its *Order Denying Motion for Reconsideration*, stating: “(t)he

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."

4. The Company continues to explore all opportunities related to the closure of the Asbury plant, including 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. 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.

5. It would be patently unjust and unreasonable to attempt to make isolated adjustments to the revenue requirement in this case due to the retirement of Asbury, as many of the components are not known and measurable at this time, and nothing has changed with regard to the timing of the plant's closure. To attempt to address the revenue requirement changes before they are known and measurable could result in arbitrary and capricious decision making.

6. 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, shortly after this current rate case concludes.

7. Pursuant to the *Order Denying Public Counsel's Motion to Modify the Test Year* and the Commission's directive to "file a list of suggested items or categories to address impacts resulting from Asbury's retirement for inclusion in an Accounting Authority Order, no later than April 3, 2020," the company proposes that the following items should be included in an AAO:

- a. Non-fuel/non-labor operating and maintenance expenses for Asbury;
- b. Dismantlement and Decommissioning costs for Asbury.

WHEREFORE, Liberty-Empire submits this Response to Commission Order and requests such 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 3rd day of April, 2020, with notification of the same being sent to all counsel of record.

/s/ Diana C. Carter