

Asbury. “Because Asbury will be retired outside of the true-up period of this rate case and the O&M changes will not yet be known and measurable, an AAO is an option that could be used to address the out of period changes.” *Id.*

4. By order issued October 17, 2019, the Commission established the procedural schedule for the processing of this case.

5. Again, in an effort to be transparent and forthcoming, on November 13, 2019, the Company filed its Updated Asbury Informational Notice stating that, based on current coal supplies and other factors, the Company believed the plant would be retired no later than March of 2020. More specifically, Liberty-Empire will retire the plant on March 1, 2020.

6. On 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.”

7. Since Commission Rule 20 CSR 4240-2.080(13) requires responses within ten days of the filing of any pleading, Liberty-Empire is submitting this Response to Public Counsel’s Motion to Modify Test Year at this time. In order to more substantively respond to Public Counsel’s request, however, Liberty-Empire requires clarification of many significant issues, which are described below

8. First, it is unclear from the Public Counsel’s filing whether it is requesting that isolated adjustments beyond the true-up period be allowed *only* for the increases and decreases related to the retirement of Asbury, or if Public Counsel is requesting the revenue requirement be updated to include isolated adjustments for all known and measurable changes that are to occur beyond the true-up period but before the effective date of new rates. If Public Counsel is not requesting

that isolated adjustments be allowed for all known and measurable changes that are to occur beyond the true-up period but before the effective date of new rates, Public Counsel provides no rationale or criteria for determining which items qualify for an isolated adjustment in this case. To respond in any meaningful manner, the Company needs to know the scope of the isolated adjustments being proposed along with the cut-off date being requested by Public Counsel. Is it one month after the existing true-up cut off, the date Asbury is retired – no matter what that date is, etc.?

9. Additionally, Liberty-Empire needs to understand if Public Counsel is requesting that the updated, true-up test year be modified to include isolated adjustments related to the retirement of Asbury whether or not the increases and decreases are known and measurable – or if Public Counsel is requesting that the isolated adjustments be made only for those changes related to the retirement of Asbury where the amounts are known and measurable as of a certain date.

10. Lastly, in order for Liberty-Empire to fully respond to Public Counsel's request to "modify the ordered test year to include isolated adjustments related to the retirement of Asbury," the Company needs to know exactly which adjustments Public Counsel is requesting be made. It is unclear if Public Counsel is asking for all impacts related to the retirement of Asbury to be taken into account, including dismantling costs, cost of removal, and asset retirement obligations, or if Public Counsel is asking that only certain adjustments be made.

WHEREFORE, in the event the Commission intends to consider Public Counsel's request to modify the ordered test year to include isolated adjustments related to the retirement of Asbury, Liberty-Empire requests an order of the Commission directing Public Counsel to make its request more definite and certain and allowing Liberty-Empire and the other parties twenty

days to response to Public Counsel's clarified request. Liberty-Empire requests such other and further relief as is just and proper under the circumstances.

Respectfully submitted,

/s/ Diana C. Carter

Diana C. Carter MBE #50527

428 E. Capitol Ave., Suite 303

Jefferson City, Missouri 65101

Joplin Office Phone: (417) 626-5976

Cell Phone: (573) 289-1961

E-Mail: Diana.Carter@LibertyUtilities.com

CERTIFICATE OF SERVICE

I hereby certify that the above document was filed in EFIS on this 19th day of December, 2019, with notification of the same being sent to all counsel of record.

/s/ Diana C. Carter