

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

In the Matter of the Request of The Empire )  
District Electric Company d/b/a Liberty for )  
Authority to File Tariffs Increasing ) Case No. ER-2021-0312  
Rates for Electric Service Provided to )  
Customers in its Missouri Service Area )

**STIPULATION AND AGREEMENT AS TO EDRA**

COME NOW The Empire District Electric Company (“Empire”) and the Empire District Retired Members & Spouses Association, LLC (“EDRA”) (together, the “Signatories”), by and through their respective counsel, and for their Stipulation and Agreement as to EDRA (“Stipulation”),<sup>1</sup> respectfully state as follows to the Missouri Public Service Commission (“Commission”):

1. Issue 25 on the Amended List of Issues submitted herein on January 28, 2022, reads as follows: Is Empire meeting the merger stipulation employee benefit obligations to its retired employees?

2. The Signatories hereto agree to resolve the issue as follows:

Empire will not make any change to any benefit offering (defined as the health benefit design and cost sharing mechanism) that would be materially adverse to any person qualifying for such benefit as of January 1, 2017, so long as (1) there is no material change of applicable state or federal law, rule or regulation, or the application of existing law, that would impair the ability of Empire to provide the benefit or substantially increases the cost to Empire of providing the benefit; or (2) there is no change to the Commission’s current practice authorizing the tracking and cost recovery of benefit offerings and including such costs in cost of service for ratemaking purposes. Empire agrees to use its best efforts to include in cost of service the expense of the benefit offerings. The parties agree that Empire may cease to maintain a stand-alone retiree health plan covering Empire retirees exclusively and that Empire, at any time, may integrate the Empire retirees into another retiree plan offered by Liberty.

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<sup>1</sup> The Staff of the Commission, the Office of the Public Counsel, Midwest Energy Consumers Group, Renew Missouri Advocates, the City of Ozark, and The Empire District Electric Company SERP Retirees are also parties to this proceeding. Although not signatories, these parties do not object to the approval of this Stipulation and Agreement as to EDRA. As such, the Commission may treat it as unanimous.

Notice of any disputes or controversy concerning the continued availability of a benefit offering shall be provided to the opposing party in writing not less than thirty (30) days prior to the initiation of any adjudicative action or proceeding to enforce this commitment, including arbitration.

Arbitration will only be used to resolve any dispute by the mutual agreement of the parties. If arbitration is agreed to by the parties, then the American Arbitration Association (AAA) rules shall govern such proceeding, with a petition to be filed with the AAA unless the parties mutually agree to waive such requirement. Each party shall select one (1) AAA approved arbitrator, and the two (2) party selected AAA arbitrators shall then select a neutral third AAA approved arbitrator, with such third neutral AAA approved arbitrator costs to be shared by the parties. All arbitrators shall be experts in the field of the dispute. Each party shall bear the costs associated with the arbitration, including, but not limited to, legal fees and arbitrator costs for the arbitrator that party selects. All arbitrations shall be held in Joplin, Missouri or in such other location as the parties may agree. All procedural schedules shall be set by the arbitration panel, with the final order issued no later than one-hundred fifty (150) days from the date of the written notice of dispute. All arbitration awards are binding on the parties.

The parties agree that section 386.315, RSMo., (“A public utility which uses Financial Accounting Standard 106 shall be required to use an independent external funding mechanism that restricts disbursements only for qualified retiree benefits”) and the Empire VEBA Trust Agreements, specifically the fourth "whereas" paragraph (“WHEREAS, the funds held by the Trustee pursuant to this Agreement will be held for the exclusive benefit of existing and future beneficiaries in accordance with the terms of the Company’s health and welfare plan documents;”) require that the assets of the Empire VEBA Trust be segregated from other VEBA assets of Liberty and that such Empire VEBA Trust assets be used for the exclusive benefit of eligible Empire retirees. EDRA shall be notified anytime of the intent to modify or amend the Empire VEBA Trust Agreements.

Subject to compliance with applicable privacy and consent laws, the Company shall provide to EDRA on a quarterly basis a spreadsheet listing the name and mailing address of all new Empire retirees or changes in the status of current Empire retirees and surviving spouses.

3. To the extent the above language conflicts with Section (2) of the STIPULATION AND AGREEMENT AS TO EDRA, Retirees Plan, approved by the Commission in Case EM-2016-0213, the Signatories seek modification or waiver of the prior stipulation. All other provisions of the STIPULATION AND AGREEMENT AS TO EDRA, Case EM-2016-0213, remain unchanged.

**WHEREFORE**, the Signatories hereto recommend that the Commission approve this Stipulation and Agreement.

Respectfully submitted,

By: /s/ Diana C. Carter  
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**ATTORNEYS FOR EDRA**

**CERTIFICATE OF SERVICE**

I hereby certify that the above document was filed in EFIS on this 4<sup>th</sup> day of February, 2022, and sent by electronic transmission to all counsel of record.

/s/ Diana C. Carter