

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

In the Matter of The Empire District Electric Company,)
Liberty Utilities (Central) Co. and Liberty Sub Corp.) Case No. EM-2016-0213
Concerning an Agreement and Plan of Merger and)
Certain Related Transactions.)

STIPULATION AND AGREEMENT

COME NOW The Empire District Electric Company (“Empire”), Liberty Utilities (Central) Co. (“LU Central”), and Liberty Sub Corp. (sometimes collectively hereinafter “Joint Applicants”), and Algonquin Power & Utilities Corp., and the Office of the Public Counsel (“OPC”), by and through their undersigned counsel and, pursuant to Missouri Public Service Commission (“Commission”) Rule 4 CSR 240-2.115, request that the Commission approve this agreement as a comprehensive settlement of all issues relevant to the Joint Application filed by Empire, LU Central and Liberty Sub Corp. In support thereof, the signatories hereto agree as follows:

BACKGROUND

On March 16, 2016, Joint Applicants filed a Joint Application with the Commission under §393.190 RSMo., 2000, requesting an order from the Commission authorizing them to perform in accordance with the terms of an Agreement and Plan of Merger dated February 9, 2016 (the “Agreement”) pursuant to which LU Central and Liberty Sub Corp. will acquire all of the stock of Empire (the “Transaction”).

The Signatories have met to discuss resolution of this matter on a number of occasions. As a result, the Signatories have now reached a Stipulation and Agreement (“Stipulation”) set forth below which they recommend to the Commission, subject to the conditions and representations contained in the Stipulation.

The Signatories hereto recommend that the Commission approve the proposed Transaction subject to the following conditions (and subject to any other unopposed and approved stipulations in this case):

STAFF STIPULATION AND AGREEMENT

1. The Stipulation and Agreement between the Joint Applicants and the Staff of the Commission filed on August 4, 2016, and attached hereto as Appendix A, is hereby incorporated by reference as if more fully set forth herein.

RATEPAYER PROTECTIONS

2. In the first rate case after Empire implements a new customer information system and/or billing system, Empire will support the costs of the new system by submitting a “business case,” with its application. The business case will, among other things, (1) demonstrate Empire’s need for a new system and the impact of the merger on this need, (2) demonstrate Empire’s analysis resulting in the selection of the new system implemented, (3) describe and quantify the costs associated with the selected system, and (4) describe the impact on rates of the cost of the new and the retiring systems, including the treatment of any remaining undepreciated balances and changes to the useful lives of the systems.

3. The Joint Applicants will ensure that the merger will be rate-neutral for Empire’s customers. In ensuring that the transaction is rate-neutral, the Joint Applicants commit that there will be no establishment of regulatory assets as part of the merger, unless approved by the Public Service Commission.

CORPORATE GOVERNANCE AND RING-FENCING

4. Empire shall not assume liability for the debts issued by Algonquin, Liberty Utilities, or any of their subsidiaries or affiliates.
5. Empire shall maintain corporate officers who have a fiduciary duty to Empire.
6. Empire shall maintain separate books and records, and make them available for review by Staff and OPC.
7. Should it be deemed necessary for Staff or OPC employees to travel to locations outside of the State of Missouri to examine any records deemed relevant to the subject matter at hand Empire shall bear all reasonable expense incurred by the employees, provided, however, that before any such expense shall be incurred by Staff or OPC, Empire shall be given reasonable notice to produce the records requested for inspection and examination at the office of the Commission at Jefferson City, Missouri, the offices of its local counsel, Empire's offices in Joplin, Missouri, or at such other point in Missouri, as may be mutually agreed, in which case Empire shall make available at that place, at that time, a person(s) who is acquainted with the records.
8. Empire shall maintain its own board of directors with a majority of non-management, independent directors.
9. Empire shall not pay a dividend if its equity to total capitalization ratio, based on a 12-month rolling average, falls below 40%, or if payment of dividends would cause Empire's equity to total capitalization ratio to fall below that threshold.

EMPLOYMENT IN THE STATE OF MISSOURI

10. In its first general rate case after the close of the Transaction, Empire shall provide testimony discussing the employment metrics related to the number of full time

employees and the average turnover rate along with any material changes to those metrics since the close of the Transaction.

CHARITABLE CONTRIBUTIONS AND COMMUNITY SUPPORT

11. During the five-year period following the closing of the Transaction, Empire shall maintain, at a minimum, on a total company basis, an annual level of charitable contributions and traditional local community support of approximately ** _____
_____**.

AFFILIATE TRANSACTION AND COST ALLOCATION MATTERS

12. Shared services costs shall be directly charged to the extent practicable. In its next base rate proceeding in Missouri, Empire shall file testimony addressing shared services charges and the bases for such charges. Empire's testimony shall also explain any changes in allocation procedures since its last base rate proceeding.

13. Empire shall provide copies to Staff and OPC of the portions of any external audit reports performed for Algonquin and Liberty Utilities Co.'s shared services pertaining directly or indirectly to determinations of direct billings and cost allocations to Empire. Such material shall be provided no later than thirty (30) days after the final report is completed.

14. Within Empire's next general electric rate case, Empire will provide upon request a list of proceedings, if any, where Liberty Utilities Co.'s cost allocation practices have been audited in any other jurisdictions. Empire shall further make any such audit reports available to the Commission, its Staff, and the OPC upon request.

15. Applicants will notify the Commission Staff and the OPC within thirty days anytime there 1.) is an addition or deletion of an affiliated entity that provides services to, or receives services from, Empire; 2.) an addition or deletion of an unregulated service provided by

Empire ; or 3.) an addition or deletion of a regulated service by Empire for which a tariff has not been approved.

16. Either the Staff or the OPC can request an independent attestation engagement of the CAM related to non-regulated affiliates and activities. If approved by the Commission, the costs of any independent attestation engagement related to the CAM shall be shared by the regulated and non-regulated operations consistent with the allocation of similar costs.

TAX INDEMNITY

17. Empire's parent company will indemnify Empire for any federal or local income tax liability in excess of Empire's standalone liability for any period in which Empire is included in a consolidated income tax filing.

RATE CASE MORATORIUM

18. The Joint Applicants agree to refrain from filing a rate case until at least one full year of financial and operational information is available following the close of the Transaction.

CORPORATE SOCIAL RESPONSIBILITY

19. No later than thirty days after the closing of the Transaction, Empire will fund an account in the amount of \$1,500,000 to be available to the following Community Action

Agencies:

Ozarks Area Community Action Corporation (OACAC)
Economic Security Corporation of the Southwest Area (ESC)
West Central Missouri Community Action Agency (WCMCAA)

It is expressly acknowledged that said funds are not operating costs of the utility but will be appropriately recorded as a transaction cost, and not recovered in rates. The funds will be prioritized towards the creation of an additional position(s) within the Community Action

Agency structure to better enable the utilization of weatherization dollars or such other appropriate use as deemed effective by the agencies.

\$500,000 will be allocated to each agency with the express purpose of the creation of an additional position(s) to enable further low-income weatherization deployment at a recommended spend level of \$50,000 per year over a ten-year period. Any excess funds can be allocated in the following categories at the agencies' discretion:

- Weatherization training and certification of agency personnel
- Discretionary funds for health and hazard for on-site units (that may or may not otherwise be passed over)
- Outreach efforts
- Utility weatherization account
- Hardship fund for on-bill payments

Each agency is required to provide documentation to the Company to verify how expenditures were occurred.

Community action agencies are required to file annual report with the Company on how funds were expended. Empire will file a condensed report of each of the three agencies individual annual reports with the Commission Staff, OPC and the Division of Energy (DE) as to how annual funds were expended.

Any additional information is left to the Agencies discretion (e.g., estimated additional homes weatherized as a result of the expenditures).

20. Empire shall investigate the feasibility of a bill payment extension for residential and small commercial accounts to be prolonged from twenty-one days to thirty-one days before the 0.5% for residential and 5% for commercial penalty begins. The results of the study shall be presented to OPC and Staff within 6 months following the Transaction. The results of the study

shall be used to inform recommendations on payment term extensions in the context of Empire's next rate case.

21. For existing (as of the date of the approved stipulation) bad debt and arrearage related to customers who received benefits through a low income program will be matched by the Company (below the line) dollar (customer) for dollar (Company) assuming that the customer account remains current for a period of at least 12 months after reconnection. This program shall be in place for a period of 18 months from the Transaction.

- The Company will record any and all action taken on the customer-side to pay the amount towards the reduction of said bad debt/arrearages and file a comprehensive report of actions to date in future rate cases.

22. Empire will commit to having a link on their front homepage signaling clearly for ratepayers with a "Trouble Paying Your Bill" signage. Said link will contain information on the Company's delinquency policy, including fees, timelines, cut-off practices, Community Action Agency other 3rd party contacts (e.g., Salvation Army, United Way, etc...), LIHEAP, LIWAP, and additional Company specific programs (e.g., EASE, etc...). Said link will also contain contact information for prospective at-risk ratepayers and information regarding paragraph 21 above.

23. Empire commits to an annual meeting with each of the local Community Action Agencies in-person for the next five years in Joplin, Missouri at Empire's headquarters with extended invitations to (at least) the Commission Staff, OPC, and the Division of Energy to discuss progress to date Strengths, Weaknesses, Opportunities, and Threats to Empire's low-income population.

DIVISION OF ENERGY OVERSIGHT OF WEATHERIZATION FUNDS

24. Empire and The Empire District Gas Company agree to provide DE an annual payment totaling up to 5% of the agreed to weatherization funds for a pilot program concerning the administration and monitoring of the funds (not to exceed an annual cap of \$12,500) to the extent DE is utilized for the management of those funds. Said funds, will be provided for a period of five years and be considered below the line and not recovered in future rates. Nothing in this paragraph will affect Staff's and OPC's ability to oppose funding for DE in future cases whether for Empire or any other utility. DE shall work with the OPC, Staff, and Empire to develop reporting standards for its administration and monitoring activities to be presented at the annual meetings with each local Community Action Agency.

GENERAL PROVISIONS

A. This Stipulation has resulted from negotiations among the Signatories and the terms hereof are interdependent. In the event the Commission does not adopt this Stipulation in total, then this Stipulation shall be void and no Signatory shall be bound by any of the agreements or provisions hereof. The stipulations herein are specific to the resolution of this proceeding, and all stipulations are made without prejudice to the rights of the Signatories to take other positions in other proceedings except as otherwise provided herein. The Signatories agree that any and all discussions related hereto shall be privileged and shall not be subject to discovery, admissible in evidence, or in any way used, described or discussed.

B. This Stipulation is being entered into for the purpose of disposing of all issues in this case. The Signatories represent that the terms of this Stipulation constitute a fair and reasonable resolution of the issues addressed herein, in a manner which is not detrimental to the public interest. Except as otherwise addressed herein, none of the Signatories to this Stipulation shall be deemed to have approved, accepted, agreed, consented or acquiesced to any accounting

principle, ratemaking principle or cost of service determination underlying, or supposed to underlie any of the issues provided for herein.

C. The Signatories further understand and agree that the provisions of this Stipulation relate only to the specific matters referred to in the Stipulation, and no Signatory or person waives any claim or right which it otherwise may have with respect to any matter not expressly provided for in this Stipulation. The Signatories further reserve the right to withdraw their support for the settlement in the event that the Commission modifies the Stipulation in a manner which is adverse to the Signatory, and further, the Signatories reserve the right to contest any such Commission order modifying the settlement in a manner which is adverse to the Signatory contesting such Commission order. The Signatories agree that the details of this Stipulation have no precedential value in any future proceeding not related to enforcement of this agreement.

D. The non-utility Signatory Parties enter into this Stipulation in reliance upon information provided to them by the Joint Applicants and this Stipulation is explicitly predicated upon the truth of representations made by the Joint Applicants.

E. In the event the Commission accepts the specific terms of this Stipulation without modification, the Signatories waive, with respect to the issues resolved herein: their respective rights pursuant to Section 536.070(2), RSMo 2000 to call, examine and cross-examine witnesses; their respective rights to present oral argument or written briefs pursuant to Section 536.080.1, RSMo 2000; their respective rights to the reading of the transcript by the Commission pursuant to Section 536.080.2, RSMo 2000; their respective rights to seek rehearing pursuant to Section 386.500, RSMo 2000; and their respective rights to judicial review pursuant to Section 386.510, RSMo 2000. Furthermore, in the event the Commission accepts the specific terms of this

Stipulation without modification, the Signatories agree that the pre-filed testimony of all witnesses who have pre-filed testimony in this case shall be included in the record of this proceeding without the necessity of such witnesses taking the stand.

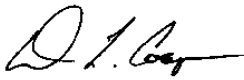
F. Staff shall have the right to provide, at any agenda meeting at which this Stipulation is noticed to be considered by the Commission, whatever oral explanation the Commission requests, provided that Staff shall, to the extent reasonably practicable, promptly provide other Signatories with advance notice of when Staff shall respond to the Commission's request for such explanation once such explanation is requested from Staff. Staff's oral explanation shall be subject to public disclosure, except to the extent it refers to matters that are privileged or previously designated confidential by any Signatory.

G. Except as otherwise addressed in this Stipulation, Commission approval of the acquisition by LU Central and Liberty Sub Corp. of the stock of Empire, and for the Joint Applicants to execute and perform in accordance with the terms of the Agreement, does not in any way, limit, form a basis for determination, or constitute a defense against any Signatory proposing, or the Commission ordering, the disallowance and/or imputation of account balances, expenses, revenues and/or other ratemaking findings, regarding Empire's operations in a future rate proceeding.

H. To assist the Commission in its review of this Stipulation, the Signatories also request that the Commission advise them of any additional information that the Commission may desire from the Signatories relating to the matters addressed in this Stipulation, including any procedures for furnishing such information to the Commission.

WHEREFORE, the Signatories hereto recommend that the acquisition by LU Central and Liberty Sub Corp. of the stock of Empire as contemplated by the Agreement and Plan of Merger is reasonable and not detrimental to the public interest and respectfully request that the Commission approve this Stipulation and Agreement subject to the conditions contained herein.

Respectfully submitted,



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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was sent via U.S. Mail, postage prepaid, hand-delivery, electronic filing system, or electronically, this 23rd day of August, 2016, to the following:

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