

**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)

**EMPIRE’S SUGGESTIONS IN OPPOSITION TO
PUBLIC COUNSEL’S MOTION TO MODIFY TEST YEAR**

COMES NOW The Empire District Electric Company, a Liberty Utilities company (“Liberty-Empire” or the “Company”), and for its Suggestions in Opposition to Public Counsel’s Motion to Modify Test Year to Include Isolated Adjustments Related to Retirement of Asbury (the “Motion”), respectfully states as follows to the Missouri Public Service Commission (“Commission”):

In its Motion, the Office of the Public Counsel (“Public Counsel”) asks that the Commission require an adjustment outside of the test year, as updated and trued up, for costs associated with the anticipated retirement of the Asbury power plant on March 1, 2020. Significantly, Public Counsel has known since at least August 2019 that Asbury would be retired in 2020. More importantly, the issue of the impact of Asbury’s retirement on the Company’s revenue requirement is not yet ripe for a ratemaking determination, because all of the facts surrounding Asbury’s retirement are not yet known and, as described below, are very much under development at this time. Recognizing that it would be premature to address the impact of the retirement of Asbury in this case, but wanting to be transparent about the Company’s plans, the Company suggested in its direct prefiled case that an accounting authority order (“AAO”) would be an appropriate mechanism to address the impact of the closure of Asbury on the Company’s expenses. The issuance of an AAO would 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, just as this current rate case concludes. For these reasons, and those stated below, the Company requests that the Commission deny Public Counsel's Motion.

Timeline of Significant Procedural Events

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| May 29, 2019 | Liberty-Empire filed its Notice of Intended Case Filing, initiating this docket and stating the intent to file a general rate case. |
| June 28, 2019 | Liberty-Empire filed its Triennial Integrated Resource Plan (File No. EO-2019-0049), in which it addressed the Asbury generation plant, including the possible date for its retirement. The preferred plan included the imminent retirement of Asbury. |
| August 9, 2019 | In an effort to be transparent and forthcoming, Liberty-Empire filed its Informational Notice in this rate case proceeding, stating that the retirement of Asbury would occur no later than June of 2020. |
| August 14, 2019 | Liberty-Empire made its general rate case filing, including the submission of revised tariff sheets and direct testimony. |
| September 27, 2019 | A proposed procedural schedule was submitted, stating the signatories' agreement for a test year with the twelve-month period ending with March 31, 2019, updated to September 30, 2019, and trued-up to include known and measurable information through January 31, 2020. |
| October 17, 2019 | The Commission issued its order establishing the procedural schedule for the processing of this case. The order did not vary the proposed test year. Included in the dates ordered by the Commission are March 13, 2020 for the Company to provide all true-up documentation and July 11, 2020 for the effective date of new rates. |
| November 13, 2019 | As a further effort to be transparent and forthcoming, the Company filed its Updated Asbury Informational Notice stating that, although the exact retirement date was unknown, based on current coal supplies and other factors, the Company believed the plant would be retired no later than March of 2020. |
| 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.”

December 19, 2019 Liberty-Empire submitted its Response to Public Counsel’s Motion to Modify Test Year, stating that, in order to more substantively respond to Public Counsel’s request, clarification of many significant issues was needed.

December 26, 2019 Public Counsel submitted its Reply to Empire’s Response to Public Counsel’s Motion to Modify Test Year.

Discussion

1. As part of the Company’s initial rate case filing, Company witness Sheri Richard explained that “(u)pon closure of the Asbury plant, there will be an impact on the Company’s O&M expenses. Examples of this include reduced expenses to maintain the plant such as materials expense. In addition, labor costs associated with the plant may be reduced due to redeployment elsewhere in the Company.” Richard Direct Testimony, p. 26. Ms. Richard continued by stating that the Company was not opposed to the issuance of an AAO to address the impact on operating and maintenance (“O&M”) expense as a result of the closure of 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.*

2. The Company’s position regarding accounting for the retirement of the Asbury plant has not changed since the submission of its general rate case filing, and the fact remains that the cost and expense impacts of the retirement of Asbury will not be known and measurable in time to be adequately addressed in this case.

3. For example, 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. The Company is actively exploring multiple opportunities to

reuse the existing facility to support ongoing customer and Company needs. Some large pieces of equipment may be sold, rather than scrapped for salvage, thereby reducing the overall demolition cost. The quantity of and cost to remove asbestos is currently unknown. There has been interest expressed in repurposing the turbine deck and structure for the placement of flow batteries. The cooling tower and some associated pumps could also be reused. At this point, the Company is exploring all opportunities related to the closure of the Asbury plant.

4. On July 18, 2019, Empire engaged Black and Veatch, an engineering, procurement, consulting, and construction company, 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. Currently, costs are estimated for the coming three years for labor and certain expenses associated with the decommissioning of the facility. Costs of dismantlement are still under consideration and have not been estimated at this time.

5. Due to the uncertainties surrounding the cost and expense impacts of the retirement of Asbury, the Company did not propose to adjust the revenue requirement in this case as a result of the closure of the Asbury plant. It would be patently unjust and unreasonable to look beyond the ordered true-up cut off in this case to attempt to make isolated adjustments to the revenue requirement due to the retirement of Asbury, as many of the components will not be known and measurable in time to be adequately addressed in this case. This is true even when considering Public Counsel's proposed revisions to the procedural schedule.

6. Recognizing, however, that the closure of the Asbury plant will have an impact on the Company's O&M expenses, the Company kept all stakeholders advised of its retirement plans and stated that it was not opposed to the issuance of an AAO to address the impact on O&M expense as a result of the closure of Asbury. As the parties are aware, within one month of

the operation of law date of the current rate case, the Company will be filing a rate case to address its acquisition of the three wind farms that were the subject of Case Nos. EO-2018-0092 and EA-2019-0010. At that time, there will be significantly more facts known with regard to changing costs and expenses as a result of the retirement of Asbury. To attempt to address those changes before they are known and measurable could result in arbitrary and capricious decision making.

7. With regard to Public Counsel's request to rebase fuel costs to reflect the closure of Asbury, the Company notes that implementation of Public Counsel's Fuel Adjustment Clause ("FAC") proposal would likely work to the detriment of customers. According to Public Counsel, failure to rebase due to the closure of the Asbury facility will keep the base fuel cost artificially low. If this is the case, due to the FAC sharing mechanism, the Company would not recover five percent of the increase in fuel costs above the base. Additionally, it appears Public Counsel calculated the Asbury recoverable fuel costs incorrectly, creating a \$0.60/MWh FAC base increase upon the removal of Asbury.¹ According to the Company's calculations, the actual adjustment of the fuel costs and revenues from Asbury, irrespective of consumables and fuel administration costs, would result in only a \$.024/MWh increase in the FAC base. Adjustments for the consumables and fuel administration costs related to Asbury generation would further lower the FAC base factor by \$0.15/MWh, thereby creating an FAC base increase of only \$0.09/MWh due to the removal of Asbury - and not \$0.60/MWh as Public Counsel calculated.² Raising the FAC base to reflect the retirement of Asbury, under either Public

¹ Based on Liberty-Empire witness Todd Tarter's Direct Testimony workpapers, it appears Public Counsel left out Asbury allocated costs for "unit train" and "undistributed and other," which is approximately \$1.97 million in FAC recoverable costs.

² The Supplemental Direct Testimony of Liberty-Empire witness Aaron Doll adjusts the FAC base down to \$24.16/MWh, largely due to the inclusion of non-retail transmission revenues. Utilizing the Company's calculations for the removal of the Asbury fuel costs, revenues, and consumables as discussed herein, the FAC base reflecting the retirement of Asbury would be approximately \$24.24/MWh.

Counsel's calculations or the Company's calculations, would likely not be economically beneficial to Liberty-Empire's customers due to the 95/5 FAC sharing mechanism.

WHEREFORE, Liberty-Empire requests an order of the Commission denying Public Counsel's Motion to Modify Test Year to Include Isolated Adjustments Related to Retirement of Asbury. Liberty-Empire requests such other and further 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 January, 2020, with notification of the same being sent to all counsel of record.

/s/ Diana C. Carter