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 Rates for Electric Service Provided to Customers in its Missouri Service Area	)))))	**<u>File No. ER-2021-0312</u>** Tariff No. JE-2021-0211

REPORT AND ORDER

Issue Date: April 6, 2022

Effective Date: April 16, 2022

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OF THE STATE OF MISSOURI

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REPORT AND ORDER

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REPORT AND ORDER

I. Procedural History

On May 28, 2021, The Empire District Electric Company (Empire) filed tariff sheets designed to implement a general rate increase for electric service. The submitted tariff sheets (Tracking No. JE-2021-0211) proposed to increase Empire's gross annual electric revenues by approximately $50 million (approximately 7.61 percent).[1] In addition to the electric revenue increase, Empire also sought to recover $29.9 million in costs associated with the mid-February cold weather event known as Winter Storm Uri. Empire's total requested rate increase including Winter Storm Uri was $79.9 million. The tariff had an effective date of June 27, 2021. In order to allow sufficient time to study the effect of the tariff sheets and to determine if the rates established by those sheets are just, reasonable, and in the public interest, the tariff sheets were suspended until April 25, 2022.

The Commission directed notice of Empire's filing and set an intervention deadline. The Commission granted intervention requests from the following entities: Midwest Energy Consumers Group (MECG), Renew Missouri Advocates (Renew Missouri), The City of Ozark, The Empire District Electric SERP Retirees (EDESR), and The Empire District Retired Members & Spouses Association (EDRA).

The Commission issued an order establishing a procedural schedule and setting an evidentiary hearing. The Commission's order also established a test year encompassing October 1, 2019, through September 30, 2020, updated through June 30, 2021.

[1] Cover Letter, filed May 28, 2021.

During the week of November 15, 2021, the Commission held three WebEx local public hearings to give the Commission an opportunity to hear from the public about Empire's requested rate increase.[2] The Commission also received numerous written comments from the public.

The parties prefiled direct, rebuttal, and surrebuttal testimony. Prior to the start of the evidentiary hearing four separate partial stipulation and agreements were filed. On January 28, 2022, the Staff of the Commission (Staff), Empire, MECG, and Renew Missouri filed a *Non-Unanimous Partial Stipulation and Agreement* that resolves many of the issues between the parties. On January 31, 2022, Staff, the Office of the Public Counsel (OPC) and Empire filed a *Second Partial Stipulation and Agreement*. On February 4, 2022, Empire and EDRA filed a *Stipulation and Agreement as to EDRA* that resolves issues concerning retiree benefits. On February 4, 2022, Empire, Staff, and the OPC filed a *Fourth Partial Stipulation and Agreement*. The fourth stipulation removes the Asbury generation plant issue and the Winter Storm Uri issue from consideration for recovery in this rate case. On March 9, 2022, the Commission issued an order approving the four stipulation and agreements as a resolution of the issues contained therein.

The Commission held an evidentiary hearing on February 7, 2022, to address the single remaining issue for the Commission's determination: The question of how Empire's stipulated revenue requirement should be allocated among Empire's customer classes.[3]

Case Submission

The Commission admitted the testimony of 55 witnesses and received 119 exhibits into evidence. Briefs were filed according to the modified procedural schedule.

[2] Transcript, Vols 2-4.
[3] Commission Rule 20 CSR 4240-2.115(2)(D).

The final reply briefs were filed on March 8, 2022, and the case was deemed submitted for the Commission's decision on that date.[4]

OPC's Motion to Clarify

On March14, 2022, OPC filed a motion to clarify the Commission's March 9, 2022, Order Approving Stipulations and Agreements. The Commission's order states that the parties agreed to a starting rate base amount $2,049,632,599. OPC points out that the Fourth Partial Stipulation and Agreement reduced that amount by $20,000,000 to $2,029,632,599. The Commission will clarify the correct starting rate base amount.

II. General Matters

General Findings of Fact

The Commission gives each item or portion of a witness's testimony individual weight based upon the detail, depth, knowledge, expertise, and credibility demonstrated with regard to that specific testimony. Consequently, the Commission will make additional specific weight and credibility decisions as are necessary.[5] Any finding of fact reflecting that the Commission has made a determination between conflicting evidence is indicative that the Commission attributed greater weight to that evidence and found the source of that evidence more credible and more persuasive than that of the conflicting evidence.[6]

1. Empire is engaged in the business of the manufacture, transmission, and distribution of electricity. Empire is a regulated utility providing electric service in parts of

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[4] "The record of a case shall stand submitted for consideration by the commission after the recording of all evidence or, if applicable, after the filing of briefs or the presentation of oral argument." Commission Rule 20 CSR 4240-2.150(1).

[5] Witness credibility is solely a matter for the fact-finder, "which is free to believe none, part, or all of the testimony". *State ex rel. Public Counsel v. Missouri Public Service Comm'n*, 289 S.W.3d 240, 247 (Mo. App. 2009).

[6] An administrative agency, as fact finder, also receives deference when choosing between conflicting evidence. *State ex rel. Missouri Office of Public Counsel v. Public Service Comm'n of State*, 293 S.W.3d 63, 80 (Mo. App. 2009)

Missouri, Kansas, Oklahoma, and Arkansas. Empire provides electric service to approximately 157,958 electric customers in Missouri, including 133,243 residential customers, 24,341 commercial and industrial customers, and 374 lighting customers. [7]

2. OPC is a party to this case pursuant to Section 386.710(2), RSMo[8], and by Commission Rule 20 CSR 4240-2.010(10).

3. Staff is a party to this case pursuant to Commission Rule 20 CSR 4240-2.010(10).

General Conclusions of Law

A. Empire is an "electrical corporation" and a "public utility" as defined in Sections 386.020(15) and 386.020(43), RSMo, respectively, and as such is subject to the jurisdiction, supervision, control and regulation of the Commission under Chapters 386 and 393 of the Missouri Revised Statutes.

B. The Commission's subject matter jurisdiction over Empire's rate increase request is established under Section 393.150, RSMo.

C. Section 393.150, RSMo, authorizes the Commission to suspend the effective date of a proposed tariff for 120 days beyond the effective date of the tariff, plus an additional six months.

D. Empire can charge only those amounts set forth in its tariffs.[9]

E. Subsection 393.140(11), RSMo, gives the Commission authority to regulate the rates Empire may charge its customers for electric service.

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[7] Exhibit 36, Lyons Direct, p. 5.
[8] Unless otherwise stated, all statutory citations are to the Revised Statutes of Missouri, as codified in the year 2016 and subsequently revised or supplemented.
[9] Sections 393.130 and 393.140, RSMo.

F. Utilities are required to provide safe and adequate service.[10]

G. In determining the rates Empire may charge its customers, the Commission is required to determine whether the proposed rates are just and reasonable.[11]

H. Section 393.150.2, RSMo, makes clear that at any hearing involving a requested rate increase the burden of proof to show the proposed increase is just and reasonable rests on the corporation seeking the rate increase. As the party requesting the rate increase, Empire bears the burden of proving that its proposed rate increase is just and reasonable.

I. In order to carry its burden of proof, Empire must meet the preponderance of the evidence standard.[12] In order to meet this standard, Empire must convince the Commission it is "more likely than not" that Empire's proposed rate increase is just and reasonable.[13]

J. Witness credibility is solely a matter for the fact-finder, "which is free to believe none, part, or all of the testimony."[14]

K. An administrative agency, as fact finder, also receives deference when choosing between conflicting evidence.[15]

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[10] Sections 393.130 and 393.140, RSMo.
[11] Section 393.150.2, RSMo.
[12] *Bonney v. Environmental Engineering, Inc.*, 224 S.W.3d 109, 120 (Mo. App. 2007); *State ex rel. Amrine v. Roper*, 102 S.W.3d 541, 548 (Mo. banc 2003); *Rodriguez v. Suzuki Motor Corp.*, 936 S.W.2d 104, 110 (Mo. banc 1996), citing to, *Addington v. Texas*, 441 U.S. 418, 423, 99 S.Ct. 1804, 1808, 60 L.Ed.2d 323, 329 (1979).
[13] *Holt v. Director of Revenue, State of Mo*., 3 S.W.3d 427, 430 (Mo. App. 1999); *McNear v. Rhoades*, 992 S.W.2d 877, 885 (Mo. App. 1999*); Rodriguez v. Suzuki Motor Corp*., 936 S.W.2d 104, 109 -111 (Mo. banc 1996); *Wollen v. DePaul Health Center*, 828 S.W.2d 681, 685 (Mo. banc 1992).
[14] *State ex rel. Public Counsel v. Missouri Public Service Com'n*, 289 S.W.3d 240, 247 (Mo. App. 2009)
[15] *State ex rel. Missouri Office of Public Counsel v. Public Service Com'n of State*, 293 S.W.3d 63, 80 (Mo. App. 2009).

L. Where a decision of the Commission rests on the exercise of regulatory discretion, a reviewing court will not substitute its judgment for that of the Commission, particularly on issues within its area of expertise.[16]

III. Allocation of Empire's Rate Adjustment

How should any rate increase be allocated among Empire's customer classes?

Findings of Fact:

4. Empire's current rate structure includes base rates, a fuel adjustment clause factor, and an Energy Efficiency Cost Recovery Charge charge. The base rates include monthly customer charges, energy charges, and demand charges. For certain rate classes, the energy charges vary by season and consist of declining rate steps or blocks (the rates decrease as monthly consumption increases).[17]

5. Empire's customers are presently served under one of twelve rate classes based on type of service and load characteristics.[18]

6. Allocation consists of assigning rate base and expense items to individual rate classes based on allocators that reflect their underlying cost of service.[19] Variations in the unit cost of service support the need for separate classes.[20]

7. There is no one definitive method of allocating costs to a class based on a Class Cost of Service (CCOS) study.[21]

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[16] *State ex rel. Missouri Gas Energy v. Public Service Com'n*, 186 S.W.3d 376, 382 (Mo. App. 2005)
[17] Exhibit 36, Lyons Direct, p. 6.
[18] Exhibit 36, Lyons Direct, p. 5.
[19] Exhibit 36, Lyons Direct, p. 10.
[20] Exhibit 36, Lyons Direct, p. 13.
[21] Exhibit 201, Marke Rebuttal, p. 39.

8. The first step in developing proposed rates is to establish the overall revenue requirement to be recovered from base rates.[22]

9. Then those costs are allocated among customer classes. After that the focus is on designing the rates for appropriate cost recovery.[23]

10. If class rates are aligned, the total cost allocated to a given class represents the costs that class would pay to produce an equal rate of return compared to other classes.[24]

11. If a rate class produces a rate of return that is lower than the system rate of return, then the revenues recovered from the rate class are less than its cost of service. If a rate class produces a rate of return that is higher than the system rate of return, then the revenues recovered from the rate class are more than its cost of service.[25]

12. The amount of energy used by customers is measured in kilowatt-hours (kWh).[26]

13. Empire prepared a CCOS study.[27] MECG did not prepare a CCOS study but modified Empire's CCOS study to produce its own results.[28]

14. Empire's CCOS study:

a. Evaluated the allocation of production-related costs proposed by Staff and MECG in the prior case.

b. Revised its classification of distribution plant accounts 364 and 366 to reflect the zero-intercept study proposed by Staff.

[22] Exhibit 36, Lyons Direct, p. 31.
[23] Exhibit 201, Marke Rebuttal, p. 39.
[24] Exhibit 201, Marke Rebuttal, p. 39.
[25] Exhibit 36, Lyons Direct, p. 13.
[26] Exhibit 36, Lyons Direct, p. 7.
[27] Exhibit 36, Lyons Direct, p. 2.
[28] Exhibit 352, Maini Direct, p. 14.

c. Evaluated the allocation of primary and secondary distribution plant facilities proposed by Staff and MECG in the prior case.

d. Firmed-up interruptible revenues to properly match with cost allocation of all fixed production plant, as proposed by MECG in the prior case.[29]

15. Empire's rate classes prior to this case were:

a. RG – Residential
b. CB –Commercial
c. SH – Small Heating
d. GP – General Power
e. TS – Transmission Service
f. TEB – Total Electric Building
g. PFM – Feed Mill/Grain Elevator
h. LP – Large Power
i. MS – Miscellaneous
j. SPL – Municipal Street Lighting
k. PL – Private Lighting
l. LS – Special Lighting

16. Different classes have different costs of service.[30] The cost of service for the Residential General (RG) rate class is greater than the cost of service for the Large Power (LP) rate class. The cost of service for the RG rate class was $0.17 per kWh prior to this rate case, while the LP rate class cost of service was $0.07 per kWh.[31]

17. The unit cost of service for the RG rate class is $2,096 per customer, while the unit cost of service for the LP rate class is $1,485,782 per customer.[32]

18. The RG class represents a majority of the Company's customers with 133, 243 customers, accounting for 39.6 percent of Empire's electric sales with an average customer usage of 12,554 kWh per RG class customer.[33]

[29] Exhibit 36, Lyons Direct, p. 4.
[30] Exhibit 36, Lyons Direct, p. 12.
[31] Exhibit 36, Lyons Direct, p. 12.
[32] Exhibit 36, Lyons Direct, p. 12.
[33] Exhibit 36, Lyons Direct, p. 7.

19. The LP class consists of 43 customers and accounts for 20.7 percent of Empire's electric sales with an average customer usage of 20,370,297 kWh per LP class customer.[34]

20. The results of Empire's class cost of service study support a higher rate increase for residential customers since their current rates recover less than the cost of service.[35]

21. Empire asks the Commission to increase residential customer rates 8.3 percent, which would be a greater increase than the overall rate increase.[36]

22. MECG's results indicate that the RG and some of the lighting classes produce a rate of return below Empire's overall rate of return, and are thereby paying rates below their cost of service.[37]

23. MECG originally recommended setting class revenue requirements to eliminate 25 percent of what MECG terms the "residential subsidy" to further align the RG class with its class cost of service.[38]

24. MECG modified its request and now asks the Commission to increase residential customer's rates 9.9 percent.[39]

25. In Empire's 2014 and 2016 rate cases, File Nos. ER-2014-0351, and ER-2016-0023, the Commission took steps to realign class rates and address the "residential subsidy." However, in Empire's last rate case, File No. ER-2019-0374, the

[34] Exhibit 36, Lyons Direct, p. 7.
[35] Exhibit 37, Lyons Rebuttal, p, 17.
[36] Transcript, p. 111.
[37] Exhibit 352, Maini Direct, p. 29.
[38] Exhibit 352, Maini Direct, p. 35.
[39] Transcript, p. 54, and MECG Initial brief, filed February 25, 2022.

Commission applied the rate adjustment equally across the classes due to a lack of reliable data due to the large number of estimated bills.[40]

26. After October 15, 2022, the RG rate schedule will transition to a time variant structure. The non-time variant structure will remain available for customers who opt-out.[41]

27. MECG's witness, Kavit Maini, testified that Empire's average industrial rate is in excess of 22 percent higher than the state, regional and national averages.[42]

28. OPC agrees with MECG that large commercial and industrial customers are paying above state, regional and national averages; however, OPC's witness, Dr. Marke, states that this is true for all Empire's classes.[43]

29. Staff recommends that all customers begin to be billed in a manner that recognizes the impact of time of day on energy pricing or system resources. Staff recommends that all customers be charged rates that better align revenue recovery with cost causation, and that will provide customers with information to make choices about when to use energy that will incur lower system costs, or to bear some responsibility for when they use energy that incurs system costs.[44]

30. This general rate case, and the time variant rates approved in the partial stipulations,[45] provides an opportunity to begin to better align energy consumption with

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[40] Exhibit 352, Maini Direct, p. 31-32.
[41] Non-Unanimous Partial Stipulation and Agreement, approved in the Commission's March 9, 2022, Order Approving Stipulations and Agreements.
[42] Exhibit 352, Maini Direct, p. 9, explaining results of Edison Electric Institute data.
[43] Exhibit 201, Marke Rebuttal, p. 42.
[44] Exhibit 118, Lange Rebuttal, p. 2.
[45] Non-Unanimous Partial Stipulation and Agreement, approved in the Commission's March 9, 2022, Order Approving Stipulations and Agreements.

cost causation within the RG class by restructuring Empire's residential customers to a time variant time-of-use (ToU) rate structure.[46]

31. Staff states that Empire's customers are essentially all now equipped with Advanced Metering Infrastructure (AMI) metering, but only a brief usage history is available for most customers.[47]

32. AMI meters, often referred to as "smart meters," are digital meters with advanced features and capabilities beyond traditional electricity meters. AMI is an integrated system of meters, communications networks, and data management systems that enables two-way communication between utilities and customers.[48]

33. Empire's AMI investment will enable monthly meter reading to be conducted remotely, avoiding the need to send a technician to read each meter on premise.[49]

34. AMI improves the efficiency, quality, and range of services provided to customers by providing better data about energy usage so customers can be more informed and make choices about how they consume their energy.[50]

35. Restructuring the RG rate schedule to a ToU structure minimizes initial customer impact, and improves or creates awareness of time-variant rates and the seasonal and daily differences in energy cost causation.[51]

36. Classes are a shortcut for setting rates and, in this case, distinctions were based on annual demand and end use. With the introduction of AMI metering, billing customers by the energy they consume is now capable of providing a more meaningful

[46] Exhibit, 105 Staff Class Cost of Service Report, p. 10.
[47] Exhibit, 105 Staff Class Cost of Service Report, p. 10.
[48] Exhibit 15, Hook Direct, p. 3.
[49] Exhibit 15, Hook Direct, p. 13.
[50] Exhibit 15, Hook Direct, p. 4.
[51] Exhibit, 105 Staff Class Cost of Service Report, p. 10.

price signal than billing customers based on the rate schedule under which they are served.[52]

37. Inflation is at a 30-year high and there is a still a large degree of uncertainty surrounding the ongoing COVID-19 pandemic.[53]

38. The test year in this case included the COVID-19 pandemic, which forced business shut-downs and caused millions of people to work from home.[54] State-mandated COVID-19 business shutdowns and shelter-at-home directives had a much larger impact on test-year sales than weather; test-year residential sales were significantly higher, and non-residential sales were significantly lower than in prior years.[55]

39. The COVID-19 variables are statistically significant and explain the increase in residential usage and drop in commercial daily usage after March 15, 2020.[56]

40. Empire has not returned to pre-COVID customer facing practices.[57]

41. Empire's witness, John Reed, Chairman and Chief Executive Officer of Concentric Energy Advisors, Inc., testified about investor concerns about inflation. "Given the economic stimulus that has been provided to support the economy in response to the COVID-19 pandemic in the form of both monetary policy from the Federal Reserve and fiscal policy from the U.S. Congress, there is an increased likelihood of upward pressure on inflation over the next several years."[58]

[52] Exhibit 118, Lange Rebuttal, p. 24, 26.
[53] Exhibit 201, Marke Rebuttal, p. 42.
[54] Exhibit 32, Fox Direct, p. 4.
[55] Exhibit 32, Fox Direct, p. 7.
[56] Exhibit 32, Fox Direct, p. 13.
[57] Exhibit 39, Harrison Direct, p. 3.
[58] Exhibit 33, Reed Direct, p. 24.

42. OPC witness, Dr. Geoff Marke, credibly testified that Empire's customers have overall lower mean and median household incomes, and higher poverty rates relative to the United States and Missouri averages.[59]

43. Dr. Marke credibly testified that low-income customers, earning less than $27,000 a year, have seen employment rates decrease 24.7 percent since January 2020.[60]

44. Staff and OPC recommend the Commission allocate any rate increase as an equal percentage increase across all customer classes.[61]

Conclusions of Law:

M. Section 393.130, RSMo 2016 states;

> No … electrical corporation … shall make or grant any undue or unreasonable preference or advantage to any person, corporation or locality, or to any particular description of service in any respect whatsoever, or subject any particular person, corporation or locality or any particular description of service to any undue or unreasonable prejudice or disadvantage in any respect whatsoever."

In interpreting that statute more than 90 years ago, the Missouri Supreme Court said: "[R]ates or charges to be valid must not be unjust, unreasonable, unjustly discriminatory, or unduly preferential."[62]

N. The Commission has much discretion in determining the theory or method it uses in determining rates[63] and can make pragmatic adjustments called for by particular circumstances.[64]

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[59] Exhibit 201, Marke Direct, p. 10.
[60] Exhibit 201, Marke Direct, p. 9.
[61] Exhibit 201, Marke Rebuttal, p. 42.
[62] *State ex rel. Laundry, Inc. v. Public Service Com'n* 34 S.W.2d 37, 44, 327 Mo. 93, 109 (Mo. 1931)
[63] *State ex rel. Public Counsel v. Public Service Com'n*, 274 S.W.3d 569, 586 (Mo. App. 2009).
[64] *State ex rel. U.S. Water/Lexington v. Missouri Public Service Com'n* 795 S.W.2d 593, 597 (Mo. App. 1990)

O. Cost-allocation is a discretionary determination frequently delegated to an expert administrative agency such as the Commission. In that regard, the Missouri Court of Appeals quoted approvingly the United States Supreme Court as saying "[a]llocation of costs is not a matter for the slide-rule. It involves judgment on a myriad of facts. It has no claim to an exact science."[65]

P. For an electrical corporation that has elected to Plant-In-Service-Accounting (PISA) under Section 393.1400, RSMo, (as has Empire, File No. EO-2019-0046) Section 393.1655.6, RSMo, provides that:

> If the difference between (a) the electrical corporation's class average overall rate at any point in time while this section applies to the electrical corporation, and (b) the electrical corporation's class average overall rate as of the date rates are set in the electrical corporation's most recent general rate proceeding concluded prior to the date the electrical corporation gave notice under subsection 5 of section 393.1400, reflects a compound annual growth rate of more than two percent for the large power service rate class, the class average overall rate shall increase by an amount so that the increase shall equal a compound annual growth rate of two percent over such period for such large power service class, **with the reduced revenues arising from limiting the large power service class average overall rate increase to two percent to be allocated to all the electrical corporation's other customer classes through the application of a uniform percentage adjustment to the revenue requirement responsibility of all the other customer classes.** (Emphasis added)

This statute does not have any direct impact on this rate case because the cap it imposes has not yet been met. But it does mean that in a future rate case the Residential rate class, as well as Empire's other rate classes, could be statutorily required to subsidize the Large Power Service class. It also means that the legislature has recognized that

[65] *Spire Missouri, Inc. v. Missouri Public Service Com'n* 607 S.W.3d 759, 771 (Mo. App. 2020), *quoting National Ass'n of Greeting Card Publishers v. U.S. Postal Service*, 462 U.S. 810, 103 S.Ct 2727, 77 L.Ed. 2d 195 (1983). That decision was quoting an earlier United State Supreme Court decision, *Colorado Interstate Gas Co. v. Federal Power Commission,* 324 U.S. 581, 589, 65 S.Ct. 829, 833, 89 L.Ed. 1206 (1945).

class cost of service decisions can be based on consideration of public policy interests rather than a strict mathematical calculation.

IV. Decision:

The Commission has broad discretion when designing rates. The Commission looks to the CCOS study as one factor, but also considers other factors when determining an appropriate class rate allocation. In this case, the Commission finds the arguments of OPC and Staff persuasive. This is not the appropriate time to allocate Empire's rate adjustment other than by allocating an equal percentage of the rate increase to each customer class. There are a number of factors that support the Commission's decision.

Both Empire and MECG urge the Commission to allocate rates to move the residential class more toward its cost of service. In both 2014 and 2016 the Commission allocated rates to shift classes closer to paying their relative costs of service. Still, in Empire's most recent rate case, File No. ER-2019-0374, uncertain data from a large number of estimated bills, persuaded the Commission to not move the classes closer to their relative costs of service at that time. The Commission was not convinced of the accuracy of any of the CCOS studies in that case. The COVID-19 pandemic also began in Missouri during that prior rate case with Missouri's Governor declaring a state of emergency due to the COVID-19 pandemic prior to the Commission issuing its Report and Order in that case.[66]

Empire prepared a CCOS study in this case, which was modified by MECG. The Commission is not addressing the validity of Empire's CCOS study, because the CCOS study, and MECG modified study, presented in this case are not the primary factor driving the Commission's decision. Empire and MECG's analysis show that the residential class

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[66] Missouri, Executive order 20-02, issued March 13, 2020.

is paying somewhat less than its cost-of-service. Yet, Empire is not losing money by providing electric service to the residential class, though Empire is earning less of a return from the residential class than from other classes. This is not surprising because the residential class is the most numerous class and accordingly has a higher cost of service relative to other classes. Staff questions the validity of the CCOS study and modification presented, and urges the Commission not to make any class responsibility shifts at this time. Instead, Staff recommends delaying any class responsibility shifts until Empire's next rate case when those changes can be premised on more reliable studies due to better data being available from AMI meters.

Empire's residential customer class contains some of the most economically challenged customers in Missouri with lower overall mean and median household incomes, and higher poverty rates relative to the United States and Missouri averages. OPC points out that low-income customers, earning less than $27,000 a year, have experienced an employment rate decrease of 24.7 percent since January 2020. Currently inflation is at a thirty year high and there is continued uncertainty about the COVID-19 pandemic and recovery. While these factors affect commercial and industrial customers, the impact on residential customers is more significant given the economic challenges facing those customers.

Empire has gone through several changes leading up to, and as a consequence of, this rate case. Several customer classes are being consolidated as part of agreements approved by the Commission in this case. Time variant rates will be introduced or expanded for certain classes, allowing customers to have greater control of their energy costs. AMI metering is now available to almost all of Empire's customers, and with the advent of AMI more meaningful data will be available for a future Commission to consider in Liberty's next rate case. AMI also brings efficiencies that will save on costs such as meter reading, which is by sheer number a relatively large expense of the residential class.

The Commission continues to believe that rates based upon costs is appropriate. The Commission may, in a future rate case, transition all the classes more toward their costs of service. However, the Commission determines that making changes in the way rates are allocated among the classes is not appropriate at this time. Better customer usage data, more certainty about the COVID-19 pandemic and recovery, and potentially lower inflation all make a future rate case a better vehicle to bring rates and costs more into parity. The Commission will order that the increase approved in this rate case be allocated as an equal percentage to each customer class.

So that Empire may expeditiously implement the allocations approved herein and the rate adjustments approved in the Commission's March 9, 2022, *Order Approving Stipulations and Agreements*, the Commission finds it reasonable to make this order effective in less than 30 days.

THE COMMISSION ORDERS THAT:

1. The tariff sheets submitted on May 28, 2021, by Empire, assigned Tariff No. JE-2021-0211 are rejected.

2. Empire is authorized to file tariff sheets sufficient to recover revenues approved in compliance with this Report and Order and the Commission's March 9, 2022, *Order Approving Stipulations and Agreements*.

3. The starting rate base amount agreed to by the parties, and approved by the Commission in its March 9, 2022, *Order Approving Stipulations and Agreements* is $2,029,632,599.

4. Empire shall file any information required by Section 393.275.1, RSMo, and Commission Rule 20 CSR 4240-10.060 no later than May 2, 2022.

5. This Report and Order shall become effective on April 16, 2022.

BY THE COMMISSION

Morris L. Woodruff
Secretary

Silvey, Chm., Coleman, Holsman, and
Kolkmeyer CC., concur.
Rupp, C., dissents.

Clark, Senior Regulatory Law Judge

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 6th day of April, 2022.

Morris L Woodruff

Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

April 6, 2022

File/Case No. ER-2021-0312

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Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,

Morris L Woodruff

Morris L. Woodruff
Secretary

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.