

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

In the Matter of The Empire District Electric)
Company’s Fuel Costs Related to the Extraordinary) Case No. EU-2021-0274
Weather Event of February 2021)

EMPIRE’S RESPONSE TO ORDER DIRECTING FILING

COMES NOW The Empire District Electric Company (“Empire” or “Company”), and for Empire’s Response to Order Directing Filing regarding the Company’s Application for an Accounting Authority Order (“AAO”) regarding the extreme weather event of February of 2021 (“Storm Uri”), respectfully states as follows to the Missouri Public Service Commission (the “Commission”):

1. Empire initiated a general rate case on May 28, 2021 (Case No. ER-2021-0312). As part of that filing, Empire proposes a recovery period of 13 years for its prudently incurred Storm Uri costs. The Company, however, seeks to remove the Storm Uri costs from its rate case and, instead, pursue securitization of those costs in Case No. EO-2022-0040. In conjunction with the general rate case and securitization dockets, Empire seeks an AAO in this proceeding.

2. The Staff of the Commission (“Staff”) recommended “that the Commission approve Empire’s request for an AAO, but that any ratemaking decisions, including the amount of recovery from customers and application of carrying costs, be determined in a future general rate or securitization proceeding.” Staff Recommendation, October 8, 2021, para. 2.

3. The Office of the Public Counsel (“OPC”) moved to dismiss Empire’s AAO Application on the basis that there is no “reason why the expense to be deferred could not be immediately included for recovery in a rate case.”

4. On October 22, 2021, the Commission issued an *Order Directing Filing*, providing as follows: (1) no later than November 5, 2021, the Commission Staff shall file a pleading clarifying its recommendations; (2) no later than November 12, 2021, the Office of Public Counsel shall file

a pleading clarifying its position on dismissal and stating its objections or responses to the application or Staff's recommendations; and (3) no later than November 19, 2021, Liberty and any other party wishing to do so shall file any objections or replies to pleadings filed by Staff or OPC responsive to this order.

Deferral of Carrying Costs

5. With the Staff Clarification filed November 5, 2021, Staff stated it "is opposed to including the carrying costs in the deferral at this time; however, if the Commission orders the carrying costs to be deferred, then any recovery of such costs should be determined in the next rate case proceeding."

6. The Company is in agreement with Staff that any ratemaking decisions, including the amount of recovery from customers and application of carrying costs, should be determined in a future general rate case or securitization proceeding. The Company, however, submits that the AAO should authorize the Company to track and defer: (1) the remaining 5% of fuel and purchased power costs from February, 2021 (those not already deferred through the FAC process); (2) carrying costs on the total February 2021 fuel and purchased power expenditures at the Company's weighted average cost of capital; and (3) all other costs specifically related to Winter Storm Uri, including outside legal fees.

7. The securitization statute specifically provides for carrying costs to be included with the securitization of extraordinary costs. RSMo. §393.1700.¹ Additionally, the Commission has repeatedly noted that an AAO is not a ratemaking decision and that an AAO defers a final decision on extraordinary costs until a rate case is in order; and, in paragraph seven of its Verified Winter

¹ "Qualified extraordinary costs" includes "costs incurred prudently before, on, or after August 28, 2021, of an extraordinary nature which would cause extreme customer rate impacts if reflected in retail customer rates recovered through customary ratemaking, such as but not limited to those related to purchases of fuel or power, inclusive of carrying charges, during anomalous weather events." RSMo. §393.1700.1(13).

Storm Uri AAO Application, filed herein on June 2, 2021, Empire noted that it “will segregate all deferred costs by detailed cost category and provide enough detail for the Commission to perform a subsequent review for prudence and reasonableness.” As such, the issuance of the AAO in this proceeding should not preclude the possibility of the future recovery of carrying costs associated with the Storm Uri deferrals, but, instead, should allow for the deferral of all Storm Uri costs.²

Empire’s General Rate Case, the AAO, and Securitization

8. On November 12, 2021, OPC made a filing stating that OPC “not only opposes ordering carrying costs on amounts deferred on Liberty’s books by any Storm Uri cost accounting authority order,” but also “continues to move the Commission to dismiss Liberty’s application for authority to employ exceptional accounting to defer on its books costs it incurred due to Storm Uri.”

9. As noted, Empire has a general rate case pending before the Commission (Case No. ER-2021-0312), and Storm Uri occurred during the updated test year for that case. As also noted, Empire’s preference is to securitize the Storm Uri costs (Case No. EO-2022-0040), but there is a timing issue related to the processing of the general rate case and the possible securitization of the Storm Uri costs.

10. The Company looks forward to working with the Commission and all stakeholders in Case No. EO-2022-0040, with the goal being the issuance of a financing order authorizing the securitization of all Storm Uri costs and the issuance of rate reduction bonds pursuant to RSMo. §393.1700. Unfortunately, however, there is no guaranty that this goal will be achieved, and the Company cannot wait to remove the storm costs from the pending general rate case until after the Commission renders a decision on securitization.

² See *Office of Public Counsel v. MoPSC*, 858 S.W.2d 806, 808-12 (Mo. App. W.D. 1993) (Commission properly approved the deferral of carrying and other costs until amount of deferred costs to be recovered as well as other ratemaking issues could be determined in a later rate case).

11. The timely issuance of the requested AAO will allow the Company to remove the Storm Uri costs from the pending general rate case and seek securitization, and then, in the unlikely event that a financing order and rate reduction bonds are not issued pursuant to RSMo. §393.1700, seek recovery of its prudently incurred Storm Uri costs in a *future* rate case proceeding.

12. Without the timely issuance of the requested AAO, the Company will be forced to seek recovery of all Storm Uri costs in the *current* rate case, as the Company cannot accept the risk that would be involved with removing the costs from the current rate case and seeking securitization without any guaranty that the Commission will issue a financing order authorizing the securitization of all Storm Uri costs pursuant to RSMo. §393.1700.

WHEREFORE, Empire submits this Response to Commission Order and seeks an order of the Commission denying OPC's Motion to Dismiss and authorizing the Company to track and defer, to a regulatory asset, the costs associated with Storm Uri, including carrying costs. Empire seeks such additional 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 18th day of November, 2021, with notification of the same sent to all counsel of record. This Response was also sent by electronic transmission to all counsel of record.

/s/ Diana C. Carter