

**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 OPC’S MOTION TO DISMISS

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

1. In paragraph 7 of its Verified Winter Storm Uri AAO Application, filed herein on June 2, 2021, Empire requested “an AAO from the Commission authorizing the Company to track and defer, beginning February of 2021, in a regulatory asset, the remaining impact of Winter Storm Uri. Costs to be deferred to a regulatory asset should include: (1) the remaining 5% of fuel and purchased power costs from February, 2021; (2) carrying costs on the total February 2021 fuel and purchased power expenditures at the Company’s weighted average cost of capital; and (3) other costs specifically related to Winter Storm Uri, including outside legal fees. Empire 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.”

2. The Office of the Public Counsel (“OPC”) has 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.” As noted by OPC, Empire has a general rate case pending before the Commission (Case No. ER-2021-0312) and is requesting that the Commission order a test year of the twelve months ended September 30, 2020, updated through

June 30, 2021. As also noted by OPC, however, this suggestion has not yet been accepted by the Commission.

3. Additionally, although Winter Storm Uri fell within Empire's requested updated test year, not all costs specifically related to Winter Storm Uri were incurred within the requested updated test year. In fact, some costs specifically related to Winter Storm Uri are not yet known and measurable. Based on the recent issuing of the S120 (re-settlement statements from the Southwest Power Pool ("SPP")) in the middle of June 2021, and the expectation of disputes filed by Empire and other entities impacted by the storm, the resolution of that process will fall outside of the requested updated test year. With the potential for filings at FERC relating to Winter Storm Uri and SPP's handling of settlements, the Company does not expect a complete resolution on costs specifically related to Winter Storm Uri for months from now, if not longer.

4. Lastly, as was noted in Empire's general rate case filing and in its AAO Application herein, Empire plans to seek securitization of the Winter Storm Uri costs under the newly enacted legislation.

5. Given that the test year period for Empire's rate case has not yet been established by the Commission, the fact that some costs specifically related to Winter Storm Uri are not yet known and measurable, and the fact that the securitization legislation was just signed into law on July 6 and does not take effect until August 28, 2021, the requested AAO is still needed.

WHEREFORE, Empire 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 Winter Storm Uri. Empire seeks such additional relief as is just and proper under the circumstances.

Respectfully submitted,

/s/ Diana C. Carter
Diana C. Carter MBE #50527

428 E. Capitol Ave., Suite 303
Jefferson City, Missouri 65101
Joplin Office Phone: (417) 626-5976
Cell Phone: (573) 289-1961
E-Mail: Diana.Carter@LibertyUtilities.com

Certificate of Service

I hereby certify that the above document was filed in EFIS on this 8th day of July, 2021, with notification of the same being sent to all counsel of record. This Notice was also sent by electronic transmission to all counsel of record.

/s/ Diana C. Carter