

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

In the Matter of the Petition of The Empire)
District Electric Company d/b/a Liberty to)
Obtain a Financing Order that Authorizes) **Case No. EO-2022-0040**
the Issuance of Securitized Utility Tariff)
Bonds for Qualified Extraordinary Costs)

In the Matter of the Petition of The Empire)
District Electric Company d/b/a Liberty to)
Obtain a Financing Order that Authorizes) **Case No. EO-2022-0193**
the Issuance of Securitized Utility Tariff)
Bonds for Energy Transition Costs Related)
to the Asbury Plant)

STAFF RESPONSE IN SUPPORT OF MOTION TO CONSOLIDATE

COMES NOW Staff of the Missouri Public Service Commission (Staff) in support of the Motion to Consolidate (Motion) filed by The Empire District Electric Company d/b/a Liberty (Liberty), and asks the Commission to grant Liberty’s Motion for the reasons stated in Liberty’s Motion and for the following reasons:

1. The Commission is authorized to consolidate cases, and to make “other orders concerning cases before it to avoid unnecessary costs....”¹ The Commission’s procedural rule on consolidation is expressly authorized by Missouri statute.² The Commission has exercised its discretion to consolidate cases in the past with little to no opposition or concern.³

2. In addition, consolidating cases EO-2022-0040 and EO-2022-0193 will lower financing costs, and therefore will more likely result in lower securitized utility tariff

¹ 20 CSR 4240-2.110(3). The Commission’s
² § 386.410, RSMo (2016) (“All hearings before the commission or a commissioner shall be governed by rules to be adopted and prescribed by the commission.”).
³ *E.g., Spire Mo., Inc. v. Pub. Serv. Comm’n*, 618 S.W.3d 225, 228 (Mo. banc 2021) (noting without concern the consolidation of rate cases filed for two separate service territories).

charges than if the cases proceeded separately. Consolidation is therefore consistent with the purpose of the securitization statute, as reflected in its plain language, to “provide quantifiable net present value benefits to customers as compared to recovery of the components of securitized utility tariff costs that would have been incurred absent the issuance of securitized utility tariff bonds.”⁴ To this end, recovery of securitized utility costs must be just and reasonable and in the public interest,⁵ and the structuring and pricing of securitized utility tariff bonds must be expected to result in the “lowest securitized utility tariff charges....”⁶ Securitized utility tariff charges include charges both for energy transition costs at issue in EO-2022-0193 and for qualified extraordinary costs at issue in EO-2022-0040, as well as financing costs.⁷

3. Consolidating Cases EO-2022-0040 and EO-2022-0193 will avoid unnecessary financing costs, will more likely result in lower securitized utility tariff costs, and will therefore more likely result in lower securitized utility tariff charges for Empire’s customers than if the cases proceeded separately. The Commission should therefore consolidate Cases EO-2022-0040 and EO-2022-0193 at least for purposes of hearing and to designate EO-2022-0040 as the lead case in which all motions, pre-filed testimony, and other filings be made. The Commission should likewise order that the procedural schedule already issued in EO-2022-0040 also be applied to EO-2022-0193 as a result of the consolidation. While the procedural schedule in EO-2022-0193 would be somewhat more expedited than it would be without consolidation, the parties have already developed discovery and litigation positions on what Liberty should be allowed to recover

⁴ § 393.1700.2(3)(c)b, RSMo (Supp. 2021).

⁵ § 393.1700.2(3)(c)a–b, RSMo (Supp. 2021).

⁶ § 393.1700.2(3)(c)c, RSMo (Supp. 2021).

⁷ § 393.1700.1(16), RSMo (Supp. 2021).

in relation to the Asbury plant in previous litigation, and the parties should be prepared to pursue that issue at the time of the hearing in the EO-2022-0040 case.

4. Finally, it is in the Commission's discretion to consolidate these cases for hearing purposes only or for all purposes. Therefore, while the Commission definitely should consolidate the cases for purposes of hearing, it may wish to reserve for future decision whether it will issue a single financing order for both cases or two financing orders in each separate case, and make that decision after the parties have had an opportunity to adduce evidence on the potential impact on financing costs associated with issuing one financing order or two separate financing orders.

5. In sum, because consolidating cases EO-2022-0040 and EO-2022-0193 will avoid duplicative financing charges, consolidation will therefore allow for lower securitized utility tariff charges to Empire's customers than if both cases proceeded separately.

WHEREFORE, Staff respectfully requests the Commission grant Liberty's Motion to Consolidate Case Numbers EO-2022-0040 and EO-2022-0193, to consolidate the records in the cases with EO-2022-0040 designated as the lead case, to consolidate the cases for purposes of hearing, and to order that the procedural schedule issued in EO-2022-0040 shall apply to EO-2022-0193 as a result of the consolidation, while at the same time reserving future decision whether to issue one financing order for both cases or to issue two financing orders for each case separately, and for such other and further relief as the Commission finds just and reasonable under the circumstances.

Respectfully submitted,

/s/ Curt Stokes

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic mail, or First Class United States Postal Mail, postage prepaid, on this 22nd day of April, 2022, to all parties and/or counsels of records.

/s/ Curt Stokes