

4. Staff does recommend that the Commission condition this waiver under the following requirements:

- a. The Commission should order Empire to keep Staff, interested stakeholders and the Commission apprised of any new corporate name and/or logo once adopted, including making a presentation to Staff and the Commission regarding its new brand and customer communication plan if applicable; and
- b. That Empire internally “track” (i.e., maintain side accounting records) all costs incurred as a result of the branding change.

WHEREFORE, Staff respectfully submits this *Staff Recommendation* for the Commission’s information and consideration, having no objection to the Commission granting Empire’s request for relief by waiving the five year requirement to operate their businesses under the “Empire District” brand or a co-branding designation including the name “Liberty Utilities,” subject to Staff’s recommended conditions.

Respectfully Submitted,

/s/ Travis J. Pringle

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand delivered, transmitted by facsimile or electronically mailed to all counsel of record this 2nd day of March, 2020.

/s/ Travis J. Pringle

MEMORANDUM

TO: Missouri Public Service Commission Official Case File
Case No. AO-2020-0184, In the Matter of The Empire District Electric Company and The Empire District Gas Company for Waiver of a Dual Branding Requirement Regarding the Continued Use of the Empire District Name for Electric, Gas, and Water Operations

FROM: Contessa King, Customer Experience Department
Kimberly Bolin, Auditing Department

/s/ Mark Oligschlaeger / 03-02-2020 /s/ Travis Pringle / 03-02-2020
Financial and Business Analysis / Date Staff Counsel’s Office / Date

SUBJECT: Staff Recommendation on The Empire District Electric Company and The Empire District Gas Company, both Liberty Utilities’ companies, Motion for Waiver of a Branding Requirement.

DATE: March 02, 2020

RECOMMENDATION

Staff has reviewed The Empire District Electric Company (“EDE”) and The Empire District Gas Company (“EDG”) (collectively “Empire”), both Liberty Utilities’ companies, request for relief from the branding requirement pursuant to Section 6.06(e) of the Agreement and Plan of Merger in Commission Case No. EM-2016-0213. Staff has no objection to Empire’s request for relief by waiving the five (5) year requirement to operate their businesses under the “Empire District” brand or a co-branding designation including the name Liberty Utilities. However, Staff does recommend that the Commission condition the waiver by (1) ordering Empire to keep Staff, interested stakeholders and the Commission apprised of any new cooperate name and/or logo once adopted, including making a presentation to Staff and the Commission regarding its new brand and customer communication plan if applicable, and (2) requiring Empire to internally track (i.e., maintain side accounting records) all costs incurred as a result of Empire’s branding change.

BACKGROUND

The Empire District Electric Company entered into an agreement regarding the branding of its operations and those of its subsidiaries as part of the Agreement and Plan of Merger dated February 9, 2016 (“Agreement”), which was executed by EDE, Liberty Utilities (Central) Co., and Liberty Sub Corp. The Agreement was included as Appendix B in the *Joint Application Of The Empire District Electric Company, Liberty Utilities (Central) Co., and Liberty Sub Corp. and Contingent Request for Waiver*, Commission Case No. EM-2016-0213, filed on March 16, 2016. Section 6.06(e) of the Agreement requires EDE and EDG to operate their businesses under the “Empire District” brand or a co-branding designation, including the name Liberty Utilities, until January 1, 2022.

On December 23, 2019, Empire filed a *Motion for Waivers* to request waiver from the five (5) year branding requirement per the Stipulation and Agreement in Case No. EM-2016-0213 approved by the Commission’s *Order Approving Stipulations and Agreements and Authorizing Merger Transaction* (“Order”), issued on September 7, 2016, effective October 7, 2016.

According to Empire’s Motion, in the first quarter of 2020, corporate parent Algonquin Power & Utilities Corp. (“APUC”) will undergo a corporate-wide rebranding of its “Liberty Utilities” and “Liberty Power” business. Liberty Utilities and APUC aspire to achieve rebranding goals without the limitation set forth in the Agreement approved by Commission Order on September 7, 2016.

STAFF REVIEW

Staff submitted several data requests (DR) to inquire about Empire’s marketing strategy to promote the branding change, communications plan and all incremental costs associated with the change. Empire indicated that there would be minimal costs associated with removing “Empire District” from its branding. In response to Staff DR 0004, Empire states that the charge to update messages for the Empire Contact Center IVR (“Interactive Voice Response”) will be approximately \$600.00.

If the Commission grants relief from the branding requirement, Empire is not planning additional communications to customers. It is Empire’s position that customers are familiar with Liberty Utilities given current co-branding efforts. Staff agrees with Empire’s assessment that

customers are already familiar with the Liberty Utilities brand, considering customers see the co-branding logo and branding names “Liberty Utilities-Empire District” or “Liberty Utilities” on bills, signage, company vehicles, the website and social media.

Customers were introduced to the “Liberty Utilities” brand when Empire updated the logo and other communications after the effective date of the acquisition that transpired on January 1, 2017. For three (3) years, Empire customers have consistently experienced and interacted with the “Liberty Utilities” brand. The removal of “Empire District” from the operating name should not cause significant customer confusion.

Staff has no objection to Empire’s request to waive a portion of the Stipulation and Agreement approved by the Commission in Case No. EM-2016-0213, requiring Empire to operate under the “Empire District” brand or co-branding. However, as a conditions to the waiver, Staff recommends that the Commission (1) order Empire to keep Staff, interested stakeholders and the Commission apprised of any new cooperate name and/or logo once adopted, including making a presentation to Staff and the Commission regarding its new brand and customer communication plan if applicable, and (2) require Empire to internally “track” (i.e. maintain side accounting records) all incurred costs related to the change in Empire’s company branding.

Staff has verified that Empire has filed its annual report and is not delinquent on any assessment. Empire is current on its submission of its Surveillance Monitoring reports as required in 20 CSR 4240-20.090(6), and its periodic reports as required by 20 CSR 4240-20.090(5). Staff is not aware of any other matter before the Commission that affects or is affected by this filing.

