BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Request of The Empire)
District Electric Company and The Empire)
District Gas Company for Waiver of a Dual	File No. AO-2020-0184
Branding Requirement Regarding the)
Continued Use of the Empire District Name	
for Electric, Gas, and Water Operations)

STAFF RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission ("Staff"), by and through the undersigned counsel, and for its *Staff Recommendation* respectfully states as follows:

- 1. On December 23, 2019, The Empire District Electric Company and The Empire District Gas Company (collectively, "Empire") filed a motion for waivers of a dual branding requirement. Empire requests that the Commission waive that portion of the *Stipulation and Agreement* approved by the Commission in File No. EM-2016-0213.
- 2. That portion of the *Stipulation and Agreement* required that Empire operate under the Empire District brand name, or a co-branding designation involving the name Liberty Utilities ("Liberty"), for a period of five years following its merger with Liberty.¹ Empire is requesting relief from the requirement.
- 3. Following a review of Empire's filing and responses to several data requests, and as further detailed in Staff's Memorandum, attached hereto as Appendix A, Staff has 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."

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¹ From January 1, 2017 through January 1, 2022.

- 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
 - 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 2^{nd} 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

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customers are already familiar with the Liberty Utilities brand, considering customers see the cobranding 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.

DEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Request of The Empire District)	
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Company for Waiver of Dual Branding Requirement)	Ca
Regarding the Continued Use of the Empire District)	
Name for Electric, Gas, and Water Operations)	

Case No. AO-2020-0184

AFFIDAVIT OF KIMBERLY K. BOLIN

State of Missouri)
) ss
County of Cole)

COMES NOW Kimberly K. Bolin, and on her oath declares that she is of sound mind and lawful age; that she contributed to the attached *Staff Recommendation in Memorandum form*; and that the same is true and correct according to her best knowledge and belief.

Further the Affiant sayeth not.

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 2nd day of March, 2020.

D. SÜZIE MANKIN
Notary Public - Notary Seal
State of Missouri
Commissioned for Cole County
My Commission Expires December 12, 2020
Commission Number: 12412070

NOTARY PUBLIC

OF THE STATE OF MISSOURI

In the Matter of the Request of The Empire District)	
Electric Company and The Empire District Gas)	
Company for Waiver of Dual Branding Requirement)	Case No. AO-2020-0184
Regarding the Continued Use of the Empire District)	
Name for Electric, Gas, and Water Operations)	

AFFIDAVIT OF CONTESSA KING

State of Missouri)
) ss
County of Cole)

COMES NOW Contessa King, and on her oath declares that she is of sound mind and lawful age; that she contributed to the attached *Staff Recommendation in Memorandum form*; and that the same is true and correct according to her best knowledge and belief.

Further the Affiant sayeth not.

<u>JURAT</u>

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 27+1 day of February, 2020.

DIANNA L. VAUGHT
Notary Public - Notary Seal
State of Missourt
Commissioned for Cole County
My Commission Expires: July 18, 2023
Commission Number: 15207377

NOTARY PUBLIC