

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held by telephone and internet audio conference on the 24th day of November, 2020.

In the Matter of Empire District Electric)	
Company d/b/a Liberty (Empire) for)	
Authority to Implement Rate Adjustments)	<u>File No. ER-2021-0097</u>
Related to the Company's Fuel and)	Tariff No. JE-2021-0092
Purchase Power Adjustment (FAC))	
Required in 20 CSR 4240-20.090)	

**ORDER APPROVING STIPULATION AND AGREEMENT AND NOTICE
THAT TARIFF WILL BE ALLOWED TO BECOME EFFECTIVE**

Issue Date: November 24, 2020

Effective Date: December 4, 2020

On October 1, 2020, The Empire District Electric Company d/b/a Liberty (Empire) filed tariff sheets and testimony designed to implement adjustments under its Fuel Adjustment Clause (FAC). Empire requested that the Commission approve its revised FAC tariff sheet, Tariff No. JE-2021-0092, to implement those adjustments. The tariff sheet, as substituted October 22, 2020, bears an effective date of December 1, 2020. Along with its FAC tariff filing, Empire also submitted its *Motion for Variance and Notice of New FAC Charge Types*. The motion requested a waiver of Commission Rule 20 CSR 4240-20.090(8)(D)1A, which provides that the party proposing the inclusion of costs or revenues covered by a new market settlement type or schedule (a new charge type) make

a filing providing notice of the new charge type at least 60 days prior to its next Fuel Adjustment Rate (FAR) adjustment filing.¹

The Commission directed notice of the filings, set an intervention deadline, and ordered its Staff (Staff) to file a recommendation. No applications to intervene were received. On October 30, 2020, Staff filed its recommendation. Staff recommended not granting the variance because Empire did not give notice of the new charge types 60 days prior to its FAR filing,² but gave notice on the same day as its FAR filing. In addition, Staff noted that Empire also has a 60-day notice provision in its tariff, from which Empire did not request a variance. Staff was unaware of any provision that would allow Empire a variance from its tariff requirement. Staff stated that while the FAC rate adjustment is in compliance with Commission Rule 20 CSR 4240-20.090 and Section 386.266 RSMo., Staff could not recommend that Empire's revised FAC adjustment tariff sheet be approved because of the 60-day notice provision in its tariff. In response, Empire filed an *Amended Motion for Variance* also requesting a variance from its tariff provision.

The Commission issued orders requesting additional information from specific parties. Empire asserted that, while changes approved by the Federal Energy Regulatory Commission appear to have created two new charge types that will be reported on the Southwest Power Pool settlement statements, Empire did not believe that the consolidation of 37 charge types into two charge types created a new market settlement type or schedule within the meaning of the Commission's Rule 20 CSR 4240-20.090(8)(D)1A, or its tariff provision. Both Staff and the Office of the Public Counsel

¹ Empire also filed its *Motion for Variance and Notice of New FAC Charge Types* in ER-2019-0374, as required by Commission Rule 20 CSR 4240-20.090(8)(D)1A. On November 6, 2020, the Commission issued notice that Empire's motion for variances shall be addressed in this file.

² An FAC adjustment tariff is a FAR filing.

(OPC) expressed belief that these changes were new charge types and therefore would require 60 days' notice. The Commission held a procedural conference on November 9, 2020, to ascertain whether there was any potential for resolution between the parties concerning the variance request, and discuss the deadline for Commission action in regard to Empire's FAC adjustment tariff sheet revision.

On November 13, 2020, Empire, Staff, and OPC (collectively "Signatories") filed their *Global Stipulation and Agreement* purporting to resolve the issues between the Signatories. Commission Rule 20 CSR 4240-20.090(17)(A), provides that parties to the most recent general rate case in which the Commission established, continued, or modified the fuel adjustment clause are also parties to subsequent rate adjustment and true-up proceedings without having to file an application for intervention. Thus, not all parties were signatories to the *Global Stipulation and Agreement*. Commission Rule 20 CSR 4240-2-115(2) says that where all parties are not signatories to a stipulation and agreement, each party shall have seven days to object to the stipulation and agreement. If no party files a timely objection to a stipulation and agreement, the Commission may treat it as a unanimous stipulation and agreement. More than seven days have passed since the stipulation and agreement was filed, and no party has objected. Therefore, the Commission will treat the stipulation and agreement as a unanimous.

The Stipulation

The Signatories request that the Commission issue an order approving the *Global Stipulation and Agreement*, and either approve Empire's revised FAC adjustment tariff sheet as substituted October 22, 2020, or allow it to become effective by operation of law.

Under the terms of the stipulation, the Signatories agree that the revised FAC adjustment tariff sheet originally filed on October 1, 2020, as substituted on October 22, 2020, shall take effect on December 1, 2020, subject to true-up and prudence reviews. Empire will withdraw its request for a variance from Commission Rule 20 CSR 4240-20.090(8)-(9) and its tariff regarding a notice of new charge types being submitted 60 days in advance of Empire's FAR filing. The Signatories agree that Empire will use the original 37 charge types for this FAR filing. With future monthly FAC submissions, Empire agrees to provide Staff and OPC with advanced notice of possible new charge types being implemented by the Southwest Power Pool, so that 60-day notice is given, even if all the details of the new or modified charges are not yet known. In addition to other general provisions, the parties agree to have the right to provide any oral explanation requested by the Commission at the Agenda meeting where approval of the *Global Stipulation and Agreement* is considered.

FAC tariff

With regard to Empire's FAC tariff filing, the proposed rate schedules are designed to recover from customers 95 percent of the company's net cost increases or decreases. The true-up amount of \$1,423,471 which Empire over-collected from its customers during the 22nd Recovery Period was approved by the Commission in File No. EO-2021-0098, and is a component of Empire's proposed FAC adjustment for Accumulation Period 24. The true-up amount is included with the over-recovery amount equal to 95 percent of the difference between Empire's actual fuel and purchased power costs plus net emissions allowance costs less off-system sales revenue and renewable energy credits revenue, and Empire's net base energy cost during Accumulation

Period 24. This equals (\$2,575,706), plus interest equal to \$(17,232), resulting in a total of (\$4,016,409) used to calculate the FARs for Accumulation Period 24.³

Due to a difference in line losses, there are different FARs for service at Primary and Secondary voltage levels resulting in proposed Accumulation Period 24 FARs of \$(0.00186)/kWh for Primary service and \$(0.00190)/kWh for Secondary service. Based on monthly usage of 1,000 kWh, the proposed FAR adjustment would decrease the FAC charge of a residential customer's monthly bill from \$.43 to \$(1.90), a decrease in the customer's bill of \$2.33 per month.

The Commission's rule regarding FACs requires the Commission to issue an order regarding the company's tariff within 60 days of its filing. If the FAC rate adjustment complies with the Commission's rule, Section 386.266, RSMo, and the FAC mechanism established in the most recent general rate proceeding, the Commission is required to approve the rate adjustment or allow the proposed tariff implementing the adjustment go into effect by operation of law. As previously stated, Staff has already determined that the rate adjustment is in compliance with Commission Rule 20 CSR 4240-20.090 and Section 386.266 RSMo.

After reviewing the *Global Stipulation and Agreement*, the Commission finds that it is a reasonable resolution of the issues contained therein and should be approved. The Commission shall make this order effective in ten days, so that the *Global Stipulation and Agreement* becomes effective contemporaneous to Empire's revised FAC adjustment tariff sheet. The Commission is providing notice that it will allow Empire's revised FAC adjustment tariff sheet to take effect on December 1, 2020, by operation of law.

³ (\$1,423,471) + (\$2,575,706) + \$(17,232) = (\$4,016,409).

THE COMMISSION ORDERS THAT:

1. The *Global Stipulation and Agreement* filed on November 13, 2020, is approved. The Signatories are ordered to comply with its terms. A copy of the *Global Stipulation and Agreement* is attached to this order and incorporated by reference.
2. This order shall be effective on December 4, 2020.

THE COMMISSION GIVES NOTICE THAT:

1. Empire's compliance tariff bearing Tariff No. JE-2021-0092, as substituted October 22, 2020, will take effect by operation of law on December 1, 2020.



BY THE COMMISSION

A handwritten signature in black ink that reads "Morris L. Woodruff". The signature is written in a cursive style.

Morris L. Woodruff
Secretary

Silvey, Chm., Kenney, Rupp, Coleman, and
Holsman CC., concur.

Clark, Senior Regulatory Law Judge