

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

In the Matter of the Request of The Empire)
District Electric Company d/b/a Liberty for)
Authority to File Tariffs Increasing) **Case No. ER-2021-0312**
Rates for Electric Service Provided to)
Customers in its Missouri Service Area)

STAFF STATEMENT OF POSITIONS

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”), by and through the undersigned counsel, and for its *Statement of Positions* states:

1. Policy

4. PISA

(a) Should the Commission order Empire to file cost-benefit analyses for investments greater than \$1 million and outcome-based objective metrics (benchmarks) that include both baseline and target metrics in Case No. EO-2019-0046 by the end of the calendar year 2022?

Yes. See J Luebbert Surrebuttal pages 8-9.

(b) If so, should Empire be ordered to meet with interested parties to discuss the parameters and assumptions surrounding the filing at least twice leading up to the filing?

Yes. See J Luebbert Surrebuttal pages 8-9.

(c) Should Empire be ordered to update the studies and metrics on an annual basis as long as PISA is in place for Empire?

Yes. See J Luebbert Surrebuttal pages 8-9.

6. Empire’s Emergency Conservation Plan: Should Empire’s Emergency Conservation Plan be modified to trigger phase I of the plan when SPP wholesale market energy prices reach \$500/MWh (\$0.50/kWh) and phase II when SPP wholesale market energy prices reach \$1000/MWh (\$1.00/kWh)?

No. Staff does not support any changes to Empire's Emergency Conservation Plan that would force Empire to shed load or take any other emergency actions based solely on economic considerations. However, Staff does recommend that Empire's Emergency Conservation Plan be updated to reflect current practices.

- 7. Value of Lost Load Study:** Should Empire be required to engage with interested stakeholders at least twice for input regarding the scope, methodology, questions and goals of a value of lost load study to be conducted in calendar year 2022 before the cold weather season by an independent third party retained by Empire for purposes of recommending changes to Empire's Emergency Conservation Plan embodied in its tariff?

Staff takes no position on this issue, but reserves the right to take a position on this issue at a later time, based upon the evidence presented at the evidentiary hearing.

8. Low-Income Programs

- (a) Should the LIPP continue?

No. See the Direct and Rebuttal Testimony of Kory Boustead.

- (b) If so, what, if any, modifications should be made?

Staff finds the Office of the Public Counsel's recommendations reasonable. See the Direct and Rebuttal Testimony of Kory Boustead.

- (c) Should the Commission order Empire to implement a Keeping Current and Keeping Cool-like bill assistance program?

Yes. See the Direct and Rebuttal Testimony of Kory Boustead.

- (d) If so, should the Commission order Empire to provide shareholder funding of \$750,000 annually?

Yes. See the Direct and Rebuttal Testimony of Kory Boustead.

- (e) Should the Commission order Empire to create a Critical Needs Program consistent with the Critical Needs Program the Commission approved in Case Nos: GR-2021-0108 and ER-2021-0240?

Yes. See the Direct and Rebuttal Testimony of Kory Boustead.

- (f) If so, should the Commission order annual funding of \$200,000, with funding split 50/50 between customers and shareholders, and with unspent funding allocated to Empire's bill assistance program?

Yes. See the Direct and Rebuttal Testimony of Kory Boustead.

- (g) Should the Commission order Empire to fund a one-time independent 3rd party needs assessment study that should not exceed \$100,000 in funding from Empire's bill assistance program?

Yes. See the Direct and Rebuttal Testimony of Kory Boustead.

- 9. Late Fee:** Should Empire's late fee be reduced from 0.5% to 0.25%?

Staff takes no position on this issue, but reserves the right to take a position on this issue at a later time, based upon the evidence presented at the evidentiary hearing.

10. Low-Income Weatherization Program ("LIWAP")

- (a) Should the budget for the LIWAP program be increased by \$500,000?

Yes. See the Direct and Rebuttal Testimony of Kory Boustead.

- (b) If so, should Empire be ordered to provide shareholder funding for this amount?

Empire shareholders should contribute \$500,000 annually for weatherization assistance to fulfill the corporate social responsibility obligation it agreed to in Case No. EM-2016-0213. This would set total funding at \$750,000 annually, but would not result in a revenue requirement increase. See the Direct and Rebuttal Testimony of Kory Boustead.

- (c) Should the Commission order Empire to give the three agencies—Economic Security Corporation, Ozark Area Community Action Corporation, and West Central Missouri Community Action Agency—more discretion in how they may utilize funds from Empire?

The Community Action Agencies ("CAAs") should have increased discretion with the funds Empire provides. According to Dr. Marke, this funding should be used to incentivize and retain employees by awarding bonuses, create marketing products, and initiate a reasonable "pass-over" measure related to health and safety to ensure projects are completed. See the Direct and Rebuttal Testimony of Kory Boustead.

- (d) Should the Commission order Empire's Annual Low-Income meetings to continue to occur?

The CAAs should be encouraged to report their use of the funding at the Empire Annual Low-Income meetings. See the Direct and Rebuttal Testimony of Kory Boustead.

11. J.D. Power Customer Satisfaction Reports: Should Empire be required to file its future annual company-specific J.D. Power Reports (not just the scores) in this docket together with memoranda that detail how Empire is improving its relationships with its customers in light of the J.D. Power Report scores of Empire relative to its peers, as well as its relative rank across the United States, and specifically as it pertains to its cost of service?

Staff takes no position on this issue, but reserves the right to take a position on this issue at a later time, based upon the evidence presented at the evidentiary hearing.

14. Rate Base Issue: What are the appropriate Cash Working Capital expense lag days for Asbury?

Staff takes no position on this issue, but reserves the right to take a position on this issue at a later time, based upon the evidence presented at the evidentiary hearing.

15. Income Statement Issue: Should credit rating agency fees in the amount of \$431,779 be included in the cost of service?

Staff takes no position on this issue, but reserves the right to take a position on this issue at a later time, based upon the evidence presented at the evidentiary hearing.

16. Wind Projects

- (a) Should rate base be reduced based on test generation wind revenue?
- (b) Should the amount of the rate base addition of the wind projects include reductions by the net revenues, RECs, and PTCs generated by the wind projects (including for test power) until the date new rates from this case become effective?
- (c) Should the amount of the rate base addition of the wind projects include reductions for the payments to Tenaska pursuant to the Purchase and Sale Agreement when it elected to terminate its role as contractor for two of the wind projects?

Staff takes no position on issues (a), (e), and (f) but reserves the right to take a position on these issues at a later time, based upon the evidence presented at the evidentiary hearing.

17. PAYGO

(a) Should Paygo be included as an FAC revenue?

Yes. Provided in Staff's Direct Class Cost of Service Report, Appendix 2 is Staff's base factor calculation and list of Subaccounts included and excluded for the FAC. This includes subaccount 456260 "Wind- PAYGO- FAC". However there is no amount of Paygo included in the calculation of the FAC base factor.

(b) Should Paygo be included in the general revenue requirement?

Staff has proposed to include the Paygo revenues in the FAC; however, if the Commission decides that the Paygo revenues should not be included in the FAC, then the revenues should be included in the general revenue requirement.

Bolin Rebuttal, pg 12-13.

(c) Should an estimated amount of Paygo be included in revenue requirement and the balance tracked and adjusted in the next general rate case?

If the Commission determines that the Paygo revenues should be included in the general revenue requirement instead of the FAC, then the actual levels of Paygo revenues should be tracked against the amount of Paygo revenues included in the revenue requirement.

Bolin Rebuttal, pg 12-13.

18. Market Price Protection Mechanism ("MPPM")

(a) Is it necessary and appropriate for the Commission to make changes to the MPPM in this case?

It is not necessary to make changes to the MPPM in this case; however, Staff is not opposed to working with the parties to clarify the terms of the MPPM. Staff is not agreeable to changing major elements of the MPPM as set out in the Non-Unanimous Stipulation and Agreement field in Case No. EA-2019-0010.

Bolin Surrebuttal pgs 3-5.

(b) If so,

- i. Should the rate base revenue requirement component remain formulaic or only change with the effective dates of new rates?

The MPPM does not clearly spell out if the rate base amount changes annually or when new rates go into effect. If the other parties agree this value should not be changed annually, Staff is not opposed to clarifying that the rate base amount changes only when new rates go into effect.

Bolin Surrebuttal pgs 3-5.

- ii. What costs should be included?

In this case, Staff recommends that all of the expenses listed in Empire witness Tisha Sanderson's direct workpaper titled "Wind Consistent Model" (tab F-2WindHoldo Op Inc).

- iii. What revenues should be included?

In this case, Staff recommend all SPP market revenues associated with the wind farms should be included.

- iv. How should the PPA replacement value be calculated?

If the Commission determines that clarification of the calculation methodology for the PPA replacement value is necessary within the context of this case given the ambiguity of the EA-2019-0010 Stipulation and Agreement, an order describing the methodology may be appropriate. However, the MPPM will not be finally calculated and included in rates until the end of guarantee period, a period of ten years. It is possible that the Commission would have the benefit of a more substantially complete record upon which to make a decision regarding the issue of the PPA replacement value by abstaining from a decision in this case. See Surrebuttal Testimony of J Luebbert, page 7.

- v. When should a jurisdictional allocation factor be applied?

The Stipulation and Agreement in Case No. EA-2019-0010 states that the actual jurisdictional percentage will be based on the prior rate case's jurisdictional allocation ratios.

- vi. Should the MPPM include interest on the cumulative costs/gains?

The Stipulation and Agreement in Case No. EA-2019-0010 does not address if interest should be applied on the cumulative costs/gains.

- vii. If the cumulative value at the end of ten years is a net cost, how should the net cost be shared between customers and Empire?

The Stipulation and Agreement in Case No. EA-2019-0010 states if the sum of the annual sharing value exceeds the Guarantee amount of \$52,500,000 (Missouri Jurisdictional) at the end of the 10 years, the treatment of any amounts above the Guarantee shall be determined in the first rate case after the end of the Guarantee Period. At that time, parties are not bound to any position regarding sharing, and may argue amounts above \$52,500,000 should be fully allocated to Empire, customers, or divided in some way.

- (c) How should the components in Empire's MPPM be tracked?

Staff is not opposed to tracking any of the components in Empire's MPPM.

19. Fuel Adjustment Clause ("FAC")

- (a) Should the revised FAC subaccount testimony schedule submitted by Empire be adopted?

No. See Direct, Rebuttal and Surrebuttal Testimony of Brooke Mastrogiannis.

- (b) Which FERC subaccounts, if any, should be added to Empire's FAC?

The FERC subaccounts that should be added to Empire's FAC are provided in Staff witness Brooke Mastrogiannis surrebuttal testimony Schedule BMM-s1.

- (c) Which FERC subaccounts, if any, should be removed from Empire's FAC?

The FERC subaccounts that should be removed from Empire's FAC are provided in Staff witness Brooke Mastrogiannis surrebuttal testimony Schedule BMM-s1.

- (d) What should be included in the FAC base factor for this case?

The FAC base factor for this case should be what is included in Staff's calculated base factor in Staff's Direct Class Cost of Service Report, Appendix 2, with an updated REC revenue amount provided below in subsection (i).

- (e) What is the percentage of SPP and MISO transmission expense that should be recovered through the FAC?

As stated in Staff's Direct Class Cost of Service Report, page 30, the percentage for SPP transmission costs should be 19.39% and the percentage for MISO transmission expense should remain 50%. The SPP transmission expense is further discussed in Staff witness Brooke Mastrogiannis' rebuttal testimony pages 2-7.

- (f) What percentage of the SPP transmission revenues should be included in the FAC? What is the amount of transmission revenues that should be included in the FAC base factor calculation?

None. This was explained in Staff witness Brooke Mastrogiannis' rebuttal testimony on page 6.

- (g) What amount of REC revenues from the Wind Projects shall be included in the FAC base factor calculation?

*Staff witness Brooke Mastrogiannis provided in surrebuttal testimony on page 6, the amount of REC revenues from the Wind Projects included in the FAC base factor calculation should be updated based on approximately ** [REDACTED] ** instead of ** [REDACTED] **.*

- (h) Should the wind project costs that Empire calls hedging costs/gains be included in the FAC?
- i. If yes, what amount of costs/gains should be included in the calculation of the FAC base factor?

No. Provided in Staff witness Brooke Mastrogiannis' surrebuttal testimony on page 7, Staff states reasons for not included hedging costs/gains in the FAC. Mastrogiannis also updated Schedule BMM-s1 to not include the wind hedging account 555501 in the FAC.

- (i) Should the paygo component of the wind project contracts be included in the FAC?

- i. If yes, what amount of paygo should be included in the calculation of the FAC base factor?

Yes. Provided in Staff's Direct Class Cost of Service Report, Appendix 2 is Staff's base factor calculation and list of subaccounts included and excluded for the FAC. This includes subaccount 456260 "Wind- PAYGO- FAC". However there is no amount of paygo included in the calculation of the FAC base factor.

- (j) Should the value of the wind project production tax credits transferred to Empire be included in the FAC?

*Yes. Provided in Staff's Direct Class Cost of Service Report Appendix 2 is Staff's base factor calculation and list of subaccounts included and excluded for the FAC. This includes ** \$607,568 ** in revenues for the wind project production tax credits and subaccount 409115 "Prov-Red Inc- PTC".*

- (k) What additional FAC reporting requirements should the Commission require of Empire?

As stated in Brooke Mastrogiannis' surrebuttal testimony on page 8 and 9, Staff agreed with Ms. Mantle's proposal that the OPC and other parties to this case should also receive the notices and be provided with a copy of this additional

reported information. Along with Ms. Mantle's recommendation that the Commission set a deadline for the quarterly FAC surveillance reports. These deadlines are provided in Staff Mastrogiannis surrebuttal testimony on page 9.

- (l) How should the FAC tariff sheets be revised?
- i. Should the FAC tariff sheets include language that allows the Commission to allow a variance from any provision of the FAC?

Staff takes no position on this issue, but reserves the right to take a position on this issue at a later time, based upon the evidence presented at the evidentiary hearing.

- ii. Should the FAC tariff sheets include language that would allow for extended recovery periods?

Yes. As stated in Brooke Mastrogiannis' rebuttal testimony on page 11, Staff agreed with Ms. Mantle's proposal in the FAC tariff sheets to include language in the FAC tariff sheets that would allow the mitigation of the impact of extraordinary net fuel and purchased power costs. In addition, Staff recommended that another sentence be added onto Ms. Mantle's proposed language that would state, "However, this language does not preclude Empire or any other party from requesting in a case before the Commission different treatment for deferring extraordinary costs in a liability account for future recovery."

- iii. Should the FAC tariff sheets explicitly prohibit recovery of retirement and/or decommissioning costs related to the retirement of a generation plant? If so, what language should be adopted?

Yes. As stated in Brooke Mastrogiannis' rebuttal testimony on page 11 Staff agreed with Ms. Mantle's proposal in the FAC tariff sheets to explicitly prohibit recovery of retirement and/or decommissioning costs related to the retirement of a generation plant.

- iv. Should the FAC tariff sheets explicitly prohibit recovery of fuel and purchased power costs for research and development? If so, what language should be adopted?

Yes. As stated in Brooke Mastrogiannis' rebuttal testimony on page 11 Staff agreed with Ms. Mantle's proposal in the FAC tariff sheets to explicitly prohibit recovery of fuel and purchased power costs for research and development.

20. Transmission Tracker: If Empire is not authorized to include transmission revenues and expenses in the FAC, should Empire be granted a transmission tracker to track transmission revenues and expenses between rate cases?

No. Staff has included a normalized level of transmission expense and revenues in its cost of service, there is no need to authorize a transmission tracker. These are recurring costs and revenues that are not abnormal or significantly different from the ordinary and typical activities of Empire.

Bolin Rebuttal, pgs 14-15.

21. Rate of Return; Return on Equity; Capital Structure; Cost of Debt

- (a) What return on common equity should be used for determining the rate of return?

Staff recommends that Empire be authorized an ROE of 9.5%, the midpoint of Staff's recommended ROE range of 9.25% to 9.75%, in determining Empire's rate of return.

Staff Report – Cost of Service, pages 4 – 26.

Chari Rebuttal, all.

Won Surrebuttal, all.

- (b) What capital structure should be used for determining the rate of return?

Staff recommends that Empire's pro forma capital structure as of March 31, 2021 should be used to set rates, constituting 47.56% long-term debt and 52.44% common equity.

Staff Report – Cost of Service, pages 4 – 26.

Chari Rebuttal, all.

Won Surrebuttal, all.

- (c) What cost of debt should be used for determining rate of return?

The cost of debt used in determining rate of return should be Empire's cost of debt of 3.76% as of March 31, 2021.

Staff Report – Cost of Service, pages 4 – 26.

Chari Rebuttal, all.

Won Surrebuttal, all.

22. Allowance for Funds Used During Construction: What metric should be used for Empire's carrying cost rate for funds it uses during construction that are capitalized?

Staff takes no position on this issue, but reserves the right to take a position on this issue at a later time, based upon the evidence presented at the evidentiary hearing.

23. Class Cost of Service and Rate Design: How should Empire's revenue requirement be allocated amongst Empire's customer rate classes (class revenues responsibilities)?

Due to the predominance of Staff's objective of modernizing Empire's rate structure and mitigating the customer impact of those structural changes, Staff recommends that the non-pre-MEEIA revenue requirements of each existing rate schedule be increased on an equal percentage basis to determine the revenue responsibility of the classes and consolidated classes at the conclusion of this case. (CCoS Report pages 1-2) Further, the data used to derive the allocators relied upon by Empire and other parties are not robustly reliable. The direct-filed studies are based on the Empire Cost of Service as it existed at the time of direct filing, which reflected – among other things - Empire's requested return on equity, cost of debt, capital structure, income taxes, property taxes, fuel expense, purchased power expense, and market energy revenues. These revenue requirement components are not allocated to the classes equally, and it is not a simple matter to adjust a concluded CCOS Study to align to a differently-constituted revenue requirement. (Lange Rebuttal at pages 3, 17-23). Some, but not all, of these factors have been updated in the results presented in Timothy Lyons's Surrebuttal testimony, which notably continues to reflect the Company's requested RoE as "1" in its indexed class RoE table at page 10.

24. Depreciation Issue: Should the Commission allow Empire to book assets for general plant in accordance with the Federal Energy Regulatory Commission Accounting Release 15?

Staff takes no position on this issue, but reserves the right to take a position on this issue at a later time, based upon the evidence presented at the evidentiary hearing.

25. Retiree Issue: Is Empire meeting the merger stipulation employee benefit obligations to its retired employees?

Yes.

26. Asbury

(a) Should the \$122.4 million of net book value of Empire's 2015 AQCS investment in Asbury that remained when Empire retired Asbury be included in Empire's cost-of-service through the Asbury AAO or otherwise?

All of the remaining unrecovered net book value of Empire's investment in Asbury as of the date of its retirement, including the AQCS investment, should be recovered in rates by Empire through a 13-year amortization. However, the unamortized balance of the remaining Asbury net book value should not be included in rate base.

Staff Cost of Service Report, pages 134 - 138

Oligschlaeger Rebuttal, all

Oligschlaeger Surrebuttal, all

(b) What is the retirement date for Asbury?

The appropriate retirement date for Asbury is January 1, 2020, which is the beginning of the month following the last time Asbury generated power and the starting date of the AAO ordered in the last rate case. See Staff's Cost of Service Report page 138, Amanda McMellen Rebuttal page 3, lines 12-14; and Amanda McMellen Surrebuttal page 2, lines 11-22.

(c) What balances should be included in the Asbury AAO regulatory asset?

Staff has included \$1,297,499 as an addition to rate base for amounts included in the Asbury regulatory asset not associated with the Asbury unrecovered value. See Staff's Cost of Service Report page 139.

(d) What balances should be included in the Asbury AAO regulatory liability?

Staff's position in Direct and Rebuttal was that Staff has included as a reduction to rate base \$44,526,314 for the Asbury regulatory liability balance. This balance has been updated to a reduction to rate base of \$46,810,043 to reflect the correct balances for the liability balance with a starting date of January 1, 2020. See Staff's Cost of Service Report page 139 and Amanda McMellen Surrebuttal page 2, lines 19-22.

27. Resource Adequacy: Do Empire's current resources provide adequate electricity to meet its customers' load requirements?

Staff reviewed Liberty- Empires Energy Resources after OPC raised an issue that they were lacking resource adequacy. Staff has no concerns with Liberty Empires resource adequacy at this time. See Rebuttal Testimony of Jordan Hull.

28. Storm Uri

(a) What is the amount of Empire's prudently incurred extraordinary Storm Uri costs?

Staff did not include any Storm Uri costs in its revenue requirement. It is Staff's understanding that Empire is no longer pursuing recovery of Winter Storm Uri in this case.

Bolin Surrebuttal pgs 5-6.

- (b) Over what time should Empire's prudently incurred extraordinary Storm Uri costs be amortized?

Staff did not include any Storm Uri costs in its revenue requirement. It is Staff's understanding that Empire is no longer pursuing recovery of Winter Storm Uri in this case.

Bolin Surrebuttal pgs 5-6

- (c) What carrying costs should apply?

Staff did not include any Storm Uri costs in its revenue requirement. It is Staff's understanding that Empire is no longer pursuing recovery of Winter Storm Uri in this case.

Bolin Surrebuttal pgs 5-6.

- (d) Should Empire collect a return on Empire's prudently incurred Storm Uri costs?

Staff did not include any Storm Uri costs in its revenue requirement. It is Staff's understanding that Empire is no longer pursuing recovery of Winter Storm Uri in this case.

Bolin Surrebuttal pgs 5-6.

Respectfully submitted,

/s/ Nicole Mers

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Missouri Public Service Commission**

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been electronically mailed this 31st day of January, 2022 to all counsel of record in this proceeding.

/s/ Nicole Mers