

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

In the Matter of the Empire District Electric Company,)
Liberty Utilities (Central) Co., and Liberty Sub Corp.)
Concerning an Agreement and Plan of Merger and)
Certain Related Transactions)

Case No. EM-2016-0213

STAFF’S OBJECTION TO NON-UNANIMOUS STIPULATION AND AGREEMENT

COMES NOW the Staff of the Missouri Public Service Commission, by and through counsel, and, pursuant to Commission Rule 4 CSR 240-2.115(2), and files its objection to the *Stipulation and Agreement As To Division of Energy and Renew Missouri* (“Stipulation”) filed on July 19, 2016, by the Empire District Electric Company, Empire District Gas Company, Liberty Utilities (Central) Co., Liberty Sub Corp. (collectively “Applicants”), Renew Missouri, and the Missouri Division of Energy (“DE”). In support of its objection, Staff states:

1. Commission Rule 4 CSR 240-2.115(2)(D) requires that “A non-unanimous stipulation and agreement to which a timely objection has been filed shall be considered to be merely a position of the signatory parties to the stipulated position, except that no party shall be bound by it. All issues shall remain for determination after hearing.”

2. Staff now objects to the *Stipulation and Agreement As To Division of Energy and Renew Missouri* for these reasons:

- a. The Stipulation requires Empire to develop and submit an application for approval of a portfolio of Demand Side Management (“DSM”) programs under the Missouri Energy Efficiency Act (“MEEIA”). Staff has concerns with this condition as any MEEIA programs and Demand Side Investment

Mechanism (“DSIM”) must comply with the MEEIA rules and statute, and must be part of the adopted preferred resource plan. (Chapter 22). Any portfolio of DSM programs and DSIM must be cost-effective and must provide benefits to all customers in the customer class in which the programs are proposed when considering all costs including the cost of throughput disincentive and earnings opportunity.

- b. Based on Empire’s 2016 Annual Renewable Energy Standard (“RES”) Compliance Plan filed in Case No. EO-2016-0279, the rate impact of the use of the Ozark Beach facility for compliance with the RES is generally known. Staff believes an additional study assessing the rate impact of eliminating or phasing-out reliance on Empire’s Ozark Beach facility for compliance with the RES is not necessary.
- c. Staff believes the scope of the outreach survey report of potential Combined Heat and Power (“CHP”) for customers within Empire’s gas service territory is unclear. It appears to require that a list of possible CHP facilities be developed but the level of outreach and surveying of these potential CHP customers is not clear.
- d. The provision authorizing Empire to “defer and record on its books, consistent with the terms of its existing demand side management deferral mechanism, any third party costs associated with the Hydroelectric Rate Impact assessment and the Combined Heat and Power survey” raises several concerns.

3. Staff will provide further explanation of its concerns in its surrebuttal testimony.

WHEREFORE, Staff respectfully files its objection to the *Stipulation As To Division of Energy and Renew Missouri* filed on July 19, 2016, as provided by Commission Rule.

Respectfully Submitted,

/s/ Mark Johnson

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CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing were served electronically to all counsel of record this 26th day of July, 2016.

/s/ Mark Johnson