

BEFORE THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

In the Matter of the Application of The Empire                     )  
District Electric Company for Approval of the                     )  
Commission to Make Certain Changes in its                     )                     Docket No. 19-EPDE-223-RTS  
Charges for Electric Service.                     )

**MOTION**

The Empire District Electric Company (Liberty-Empire) submits the following motion to the Kansas Corporation Commission (Commission).

1.       Liberty-Empire is a corporation duly organized and existing under the laws of the State of Kansas and is engaged in doing business in said state, and is duly qualified to do and is also doing business in the states of Missouri, Arkansas and Oklahoma. Liberty-Empire is a holder of a Certificate of Convenience and Necessity from the Commission to conduct the business of an electric utility in Kansas.

2.       On July 30, 2019, the Commission issued its Order in Liberty-Empire's most recent general rate case filing in Docket No. 19-EPDE-223-RTS (223 Docket). The Commission approved the unanimous settlement agreement filed by Liberty-Empire, the Commission Staff (Staff) and the Citizens' Utility Ratepayer Board (CURB) (223 Docket Settlement).

3.       As part of the 223 Docket Settlement, Liberty-Empire agreed to notify the Commission, Staff and CURB within 30 days of Liberty-Empire's definitive decision to retire its Asbury coal plant (Asbury). Liberty-Empire also agreed to file an application with the Commission within 180 days of the definitive decision to retire Asbury setting forth in detail the impact that the retirement of Asbury will have on Liberty-Empire's Kansas revenue requirement. Finally, Liberty-Empire agreed to establish a regulatory account (asset/liability) beginning on the date Asbury is retired for the purpose

of capturing the impact on the revenue requirement of retiring Asbury.

4. On August 20, 2019, Liberty-Empire notified the Commission, Staff and CURB that it had made its definitive decision to retire Asbury on August 9, 2019 and expected to retire Asbury by no later than June, 2020. Pursuant to the 223 Docket Settlement, Liberty-Empire indicated that it would file an application with the Commission by no later than February 5, 2020, that set forth in detail the impact the retirement of Asbury would have on Liberty-Empire's Kansas revenue requirement (February 5 Filing).

5. On November 13, 2019, Liberty-Empire filed an update and notified the Commission, Staff and CURB that it expected to retire Asbury no later than March 2020.

6. On January 21, 2020, Liberty-Empire met with Staff and CURB to discuss the February 5 Filing. Based upon those discussions, Liberty-Empire, Staff and CURB reached an agreement whereby Liberty-Empire would file this motion with the Commission to request permission from the Commission on the procedural matters set forth in this paragraph. Liberty-Empire's motion would set forth the reasons why Liberty-Empire, Staff and CURB believed the requests were reasonable. Staff and CURB indicated that Liberty-Empire could inform the Commission in its motion that Staff and CURB agree with the requests included in the motion and the reasons why such requests were reasonable. The procedural matters agreed to by Liberty-Empire, Staff and CURB and are the subject matter of this motion are as follows:

- a. Liberty-Empire shall request an extension of time to make its February 5 Filing.
- b. Liberty-Empire shall confirm its agreement from the 223 Docket Settlement to establish a regulatory (asset/liability) account beginning on the date Asbury is retired for the purpose of capturing the impact on the revenue requirement of retiring Asbury so that when

the Commission ultimately determines the revenue requirement impact of the Asbury retirement that determination will apply back to the date Asbury is retired. Liberty-Empire shall provide Staff and CURB evidence that it has established the regulatory (asset/liability) account.

c. Liberty-Empire shall request permission from the Commission to file an abbreviated rate case pursuant to K.A.R. 82-1-231(b)(3). The abbreviated rate case filing shall be limited only to capturing the revenue requirement impact (rate base and income statement) relating to (1) the retirement of Asbury and (2) the acquisition of the Neosho Ridge, North Fork Ridge and Kings Point wind farms (Wind Farms), which are scheduled to be acquired in early 2021 and the non-growth plant, accumulated depreciation and accumulated deferred income tax balances as of the end of the test year ending June 30, 2020. The February 5 Filing shall be part of the abbreviated rate case filing. Pursuant to K.A.R. 82-1-231(b)(3), Liberty-Empire agrees to use and apply the carrying charge (gross of tax) percentage contained in the 223 Docket Settlement as it relates to Asbury and the Wind Farms. In addition, pursuant to K.A.R. 82-1-231(i), Liberty-Empire shall request a waiver from the Commission to file the abbreviated rate case under the schedule set forth below in part (d) of this paragraph and agreed to by Staff and CURB and agree to an extension of the 240-day statutory deadline under K. S.A. 66-117 to accommodate said schedule.

d. Liberty-Empire, Staff and CURB have agreed to the following schedule with respect to the abbreviated rate case filing<sup>1</sup>:

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<sup>1</sup>In the event Liberty-Empire is able to file the Wind Farm portion of the abbreviated rate case by June 1, 2020, and the remaining portion of the abbreviated rate case filing by October 1, 2020, instead of July 1, 2020 and November 2, 2020, respectively, then all of the scheduled dates set forth herein would be moved up by approximately thirty days so the Commission's Order would be issued no later than June 30, 2021 instead of July 30, 2021.

- |      |                    |   |
|------|--------------------|---|
| (1)  | June 1, 2020:      | Notice of Filing of Abbreviated Rate Case.  |
| (2)  | July 1, 2020:      | Wind Farms Portion of the Abbreviated Rate Case Filing.                                 |
| (3)  | November 2, 2020:  | Remaining Portion of the Abbreviated Rate Case Filing. (Test Year Ended June 30, 2020). |
| (4)  | February 15, 2021: | Liberty-Empire shall file Near Final Acquisition Costs on Wind Farms.                   |
| (5)  | April 15, 2021:    | Staff and CURB shall file Testimony.  |
| (6)  | April 26, 2021:    | Cross Testimony.  |
| (7)  | May 14, 2021:      | Liberty-Empire shall file Rebuttal Testimony.   |
| (8)  | May 19, 2021:      | Settlement Conference.  |
| (9)  | May 25, 2021:      | Deadline for Filing Settlement.   |
| (10) | May 28, 2021:      | Prehearing Conference.  |
| (11) | June 8-10, 2021:   | Evidentiary Hearing.  |
| (12) | June 30, 2021:     | Simultaneous Briefs.  |
| (13) | July 30, 2021:     | Commission Decision.  |

7. Based upon the discussions and agreement reached between Liberty-Empire, Staff and CURB, Liberty-Empire requests an extension of time to make its February 5 Filing to November 2, 2020, as part of its abbreviated rate case filing.

8. As part of this motion, Liberty-Empire confirms its agreement from the 223 Docket Settlement to establish a regulatory (asset/liability) account beginning on the date Asbury is retired for the purpose of capturing the impact on the revenue requirement of retiring Asbury so that when the Commission ultimately determines the revenue requirement impact of the Asbury retirement that determination will apply back to the date Asbury is retired. Liberty-Empire shall provide Staff and

CURB evidence that it has established the regulatory (asset/liability) account.

9. Liberty-Empire also requests permission from the Commission to file an abbreviated rate case pursuant to K.A.R. 82-1-231(b)(3). The abbreviated rate case filing shall be limited only to capturing the revenue requirement impact (rate base and income statement) relating to (1) the retirement of Asbury and (2) the acquisition of the Neosho Ridge, North Fork Ridge and Kings Point wind farms (Wind Farms), which are scheduled to be acquired in early 2021 and the non-growth plant, accumulated depreciation and accumulated deferred income tax balances as of the end of the test year ending June 30, 2020. The February 5 Filing shall be part of the abbreviated rate case filing. Pursuant to K.A.R. 82-1-231(b)(3), Liberty-Empire agrees to use the carrying charge (gross of tax) percentage contained in the 223 Docket Settlement as it relates to Asbury and the Wind Farms. In addition, pursuant to K.A.R. 82-1-231(i), Liberty-Empire requests a waiver from the Commission to file the abbreviated rate case under the schedule set forth in this motion and agreed to by Staff and CURB and an extension of the 240-day statutory deadline under K.S.A. 66-117 so the Commission can issue its order in the abbreviated rate case no later than July 30, 2021.

10. Staff and CURB have indicated to Liberty-Empire that they support the requests being made by Liberty-Empire in this motion provided that the Commission also approves the following procedural schedule (subject to the Commission's calendar having said hearing dates available and subject to changing the schedule pursuant to Footnote 1 of this Motion) for the abbreviated rate case:

- |     |                   |   |
|-----|-------------------|---|
| (1) | June 1, 2020:     | Notice of Filing of Abbreviated Rate Case.  |
| (2) | July 1, 2020:     | Wind Farms Portion of the Abbreviated Rate Case Filing.                                 |
| (3) | November 2, 2020: | Remaining Portion of the Abbreviated Rate Case Filing. (Test Year Ended June 30, 2020). |

- (4) February 15, 2021: Liberty-Empire shall file Near Final Acquisition Costs on Wind Farms.
- (5) April 15, 2021: Staff and CURB shall file Testimony.
- (6) April 26, 2021: Cross Testimony.
- (7) May 14, 2021: Liberty-Empire shall file Rebuttal Testimony.
- (8) May 19, 2021: Settlement Conference.
- (9) May 25, 2021: Deadline for Filing Settlement.
- (10) May 28, 2021: Prehearing Conference.
- (11) June 8-10, 2021: Evidentiary Hearing.
- (12) June 30, 2021: Simultaneous Briefs.
- (13) July 30, 2021: Commission Decision.

11. The requests contained in this Motion are reasonable. The use of the abbreviated rate case procedure will result in administrative economy by significantly reducing the time and cost incurred relating to the review and ultimate determination of the revenue requirement impact of the retirement of Asbury and the addition of the Wind Farms. It will allow the parties and the Commission to focus on only those two issues as opposed to the many other issues contained in a general rate case filing. Liberty-Empire's Kansas cost of service was recently reviewed by the Commission, Staff and CURB in the 223 Docket. Such a review is recent enough in time to where another general rate case filing and the time and cost relating to such a filing are not warranted. By Liberty-Empire accepting the decisions made by the Commission in the 223 Docket for such items as the carrying charge (gross of tax) percentage, the parties and the Commission can focus their time and effort on these two issues. Liberty-Empire's request for a waiver of the provisions of the abbreviated rate case regulation to allow it to file the abbreviated rate case 15 months after the final

order was issued in its last general rate case in the 223 Docket (instead of the 12 months allowed by the regulation) will not be prejudicial to the parties or the process and has been agreed to by Staff and CURB. The waiver is necessary to allow Liberty-Empire sufficient time to make the abbreviated rate case filing.

12. With respect to the retirement of Asbury, Liberty-Empire is currently having a decommissioning study on the plant performed by an independent engineering firm and an internal study performed to determine whether any of the existing Asbury plant can be re-purposed so it can continue to be used to provide service to customers. Those studies are not scheduled to be completed until June 2020, which means the February 5 Filing would remain incomplete until those studies have been finished. By allowing Liberty-Empire to include the February 5 Filing in the abbreviated rate case, it will provide the utility sufficient time to complete those studies so the Commission will have the advantage of being able to review those studies. In addition, by Liberty-Empire confirming in this Motion its agreement to establish a regulatory (asset/liability) account effective on the date Asbury is retired and to provide evidence to Staff and CURB that said regulatory account has been established, the revenue requirement impact ultimately decided by the Commission will relate back to the date Asbury is retired without any violation of the prohibition against retroactive ratemaking, thus protecting the rights of the utility and its customers.

13. With respect to the Wind Farms, the proposed procedural schedule outlined in this Motion and agreed to by Liberty-Empire, Staff and CURB, will provide the parties and the Commission sufficient time to address the rate impact of both the retirement of Asbury and the acquisition and operation of the Wind Farms. Liberty-Empire will still be required to provide Staff and CURB the information relating to the Wind Farms four months prior to the filing of the

abbreviated rate case filing. Liberty-Empire has agreed to provide Staff and CURB the near final acquisition costs of the Wind Farms 60 days prior to Staff and CURB having to file their testimony. Finally, Liberty-Empire has agree to extend the 240-day statutory deadline under K.S.A. 66-117, to July 30, 2021, to provide the Commission additional time to make its decision in the abbreviated rate case.

WHEREFORE, based upon the reasons set forth herein, Liberty-Empire requests that the Commission issue an order granting this Motion and approving the following:

- a. Liberty-Empire shall be allowed an extension of time to make its February 5 Filing as set forth in its Motion.
- b. Liberty-Empire shall confirm its agreement from the 223 Docket Settlement to establish a regulatory (asset/liability) account beginning on the date Asbury is retired for the purpose of capturing the impact on the revenue requirement of retiring Asbury so that when the Commission ultimately determines the revenue requirement impact of the Asbury retirement that determination will apply back to the date Asbury is retired. Liberty-Empire shall provide Staff and CURB evidence that it has established the regulatory (asset/liability) account.
- c. Liberty-Empire shall be allowed to file an abbreviated rate case pursuant to K.A.R. 82-1-231(b)(3). The abbreviated rate case filing shall be limited only to capturing the revenue requirement impact (rate base and income statement) relating to (1) the retirement of Asbury and (2) the acquisition of the Neosho Ridge, North Fork Ridge and Kings Point wind farms (Wind Farms), which are scheduled to be acquired in early 2021 and the non-growth plant, accumulated depreciation and accumulated deferred income tax balances as of the end



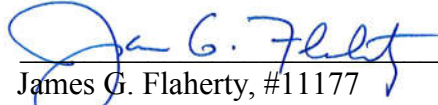
of the test year ending June 30, 2020. The February 5 Filing shall be part of the abbreviated rate case filing. Pursuant to K.A.R. 82-1-231(b)(3), Liberty-Empire shall use and apply the carrying charge (gross of tax) percentage contained in the 223 Docket Settlement as it relates to Asbury and the Wind Farms. In addition, pursuant to K.A.R. 82-1-231(i), Liberty-Empire's request for a waiver from the Commission to file the abbreviated rate case under the schedule set forth below in part (d) and agreed to by Staff and CURB shall be approved and its agreement to extend the 240-day statutory deadline under K.S.A. 66-117 shall be accepted.

d. Subject to the Commission confirming that its schedule will allow for the hearing dates set forth below, the Commission accepts the following schedule with respect to the abbreviated rate case filing:

- (1) June 1, 2020: Notice of Filing of Abbreviated Rate Case.
- (2) July 1, 2020: Wind Farms Portion of the Abbreviated Rate Case Filing.
- (3) November 2, 2020: Remaining Portion of the Abbreviated Rate Case Filing. (Test Year Ended June 30, 2020).
- (4) February 15, 2021: Liberty-Empire shall file Near Final Acquisition Costs on Wind Farms.
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Respectfully submitted,

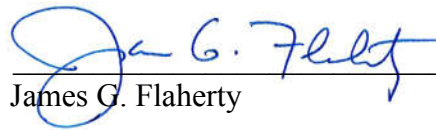


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### VERIFICATION

STATE OF KANSAS, COUNTY OF FRANKLIN, ss:

James G. Flaherty, of lawful age, being first duly sworn on oath, deposes and says he is attorney for The Empire District Electric Company above named; that he has read the above and foregoing Motion; and the statements contained therein are true.

  
James G. Flaherty

SUBSCRIBED AND SWORN to before me this 5<sup>th</sup> day of February, 2020.



Notary Public

Appointment/Commission Expires:

## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the above and foregoing was sent via electronic mail this 5<sup>th</sup> day of February, 2020, addressed to:

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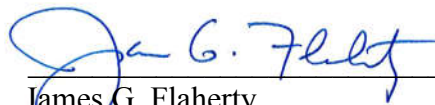
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