

Exhibit No.  
Issues: Revenue Requirement, Tax Reform,  
Acquisition Stipulation Compliance  
Witness: Jill Schwartz  
Type of Exhibit: Direct Testimony  
Sponsoring Party: The Empire District  
Electric Company  
Docket No.: 19-EPDE-223-RTS  
Date: December 2018

**Before the Kansas Corporation Commission**

**Direct Testimony**

**Of**

**Jill Schwartz**

**December 2018**



DIRECT TESTIMONY  
OF  
JILL SCHWARTZ  
ON BEHALF OF  
THE EMPIRE DISTRICT ELECTRIC COMPANY  
BEFORE THE  
KANSAS CORPORATION COMMISSION  
DOCKET NO. 19-EPDE-\_\_-RTS

**TABLE OF CONTENTS**

1	I.	INTRODUCTION .....	1
2	II.	SUMMARY OF TESTIMONY.....	2
3	III.	MINIMUM FILING REQUIREMENTS .....	7
4	IV.	RATE BASE ADJUSTMENTS .....	18
5	V.	INCOME STATEMENT ADJUSTMENTS.....	19
6	VI.	OTHER ADJUSTMENTS.....	21
7	VII.	TAX REFORM.....	22
8	VIII.	LED TRACKER.....	27
9	IX.	MERGER STIPULATION COMPLIANCE.....	28
10	A.	GENERAL PROVISIONS.....	28
11	B.	RATEMAKING AND RELATED ISSUES.....	29
12	C.	SEGREGATION OF ASSETS .....	35
13	D.	ACCOUNTING STANDARDS .....	36
14	E.	BOOKS AND RECORDS .....	37
15	F.	CUSTOMER SERVICE AND CUSTOMER NOTIFICATION .....	38
16	G.	OTHER.....	42
17	H.	FINANCING.....	42
18	I.	ACCESS TO RECORDS.....	43
19	J.	MISCELLANEOUS PROVISIONS .....	45
20	K.	REPORTING REQUIREMENTS .....	45
21	X.	CONCLUSION.....	45

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1 **I. INTRODUCTION**

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A. My name is Jill Schwartz and my business address is 602 South Joplin Avenue in Joplin,  
4 Missouri.

5 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPCITY?**

6 A. I am employed by Liberty Utilities Service Corp. as the Senior Manager of Rates and  
7 Regulatory Affairs for Liberty Utilities Central Region, which includes The Empire  
8 District Electric Company, The Empire District Gas Company, Liberty Utilities (Midstates  
9 Natural Gas) Corp., Liberty Utilities (Missouri Water) LLC, Liberty Utilities (Pine Bluff  
10 Water) Inc., and other non-regulated water and sewer utilities.

11 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING IN THIS PROCEEDING?**

12 A. I am testifying on behalf of The Empire District Electric Company (“Empire” or  
13 “Company”).

14 **Q. PLEASE SUMMARIZE YOUR EDUCATIONAL AND PROFESSIONAL**  
15 **BACKGROUND.**

1 A. In 2001, I completed my Bachelor of Science in Accounting from the John E. Simon  
2 School of Business at Maryville University in St. Louis, Missouri. Before working for  
3 Liberty Utilities, I was employed by The Boeing Company for approximately fourteen  
4 years in a variety of accounting capacities, ensuring compliance with the Federal  
5 Acquisition Regulation Mandatory Disclosure rule and developing and delivering labor  
6 compliance training for all Boeing employees.

7 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THIS OR ANY OTHER STATE**  
8 **REGULATORY COMMISSIONS?**

9 A. Yes. I have filed testimony before the Kansas Corporation Commission (“Commission”),  
10 Missouri Public Service Commission, Arkansas Public Service Commission, Illinois  
11 Commerce Commission and the Iowa Utilities Board.

12 **II. SUMMARY OF TESTIMONY**

13 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

14 A. My Direct Testimony serves many purposes. First, I provide and explain the basis for the  
15 Company’s revenue requirement and cost to serve its retail electric customers in Kansas. I  
16 present the Minimum Filing Requirements, pursuant to Kansas Administrative Regulations  
17 (“K..A..R.”) 82-1-231, including the proposed adjustments, as well as the Company’s  
18 proposal to move costs currently collected through the Ad Valorem Tax Surcharge  
19 (“AVTS”) and Asbury and Environmental Cost Recover Rider (“AERR”) to base rates.  
20 Second, my testimony explains how this filing incorporates the effects of the Tax Cuts and  
21 Jobs Act (“TCJA”) signed into law by the President of the United States on December 22,

1 2017. Additionally, I address the Company's proposal to track the costs incurred by  
2 Empire in connection with the LED Municipal Street Lighting tariff. Finally, my Direct  
3 Testimony describes the Company's compliance with the Merger Stipulation and  
4 Agreement ("Agreement") in KCC Docket No. 16-EPDE-410-ACQ ("410 Docket").

5 **Q. PLEASE SUMMARIZE THE RATE RELIEF THE COMPANY IS SEEKING IN**  
6 **THIS PROCEEDING.**

7 A. The Company is seeking to recover an annual revenue deficiency of \$1,689,900 based on a  
8 rate base of \$63,773,350, which represents a 10.03% increase in total base rate operating  
9 revenue. This request is based on a test year ending June 30, 2018. Adjustments have  
10 been proposed for known and measurable changes to the test year and to normalize  
11 operating results. The schedules, as presented, contain all expense items except fuel,  
12 transmission and purchased power energy costs included in base rates. While fuel and  
13 purchased power energy costs will still be recovered through the Energy Cost Adjustment  
14 ("ECA"), the Company is proposing to recover its transmission expense through a  
15 Transmission Delivery Charge (TDC) Rider which seeks to recover an initial revenue  
16 requirement of \$ 3,166,367. While the total combined gross revenue increase is  
17 \$4,856,267, the Company is already recovering \$2,350,273 annually through the AERR  
18 and AVTS. The net incremental increase in revenue requested in this case is \$2,505,994.

19 **Q. WHAT ARE THE PRIMARY DRIVERS OF THE COMPANY'S NEED FOR AN**  
20 **INCREASE IN ITS BASE DISTRIBUTION RATES?**

1 A. As discussed in the testimony of Blake Mertens, Empire has not adjusted base rates since  
2 January 2012. Since 2011, capital investments were made for system improvements, new  
3 generation, and upgrades to existing generation. In addition, the Company agreed in the  
4 stipulation filed in Docket No. 18-GIMX-248-GIV to file a rate case no later than  
5 December 9, 2018.

6 **Q. DOES THE COMPANY PROPOSE THE CONTINUATION OF THE AERR?**

7 A. No. As reflected in the MFRs presented by the Company in this case, Empire proposes to  
8 incorporate into its base rates the costs currently recovered through the AERR. Once the  
9 costs associated and recovered through the AERR are rebased into Empire's base rates, the  
10 AERR will no longer be necessary and can be discontinued.

11 **Q. DOES THE COMPANY PROPOSE TO REBASE COSTS CURRENTLY BEING**  
12 **RECOVERED THROUGH OTHER RIDER MECHANISMS?**

13 A. Yes. The Company is also proposing to rebase the amount of property taxes included in its  
14 base rates to reflect the costs currently being recovered through the AVTS. However,  
15 unlike the AERR, the Company seeks to continue the AVTS in order to track and  
16 appropriately recover or refund the difference between the amount of property taxes  
17 actually incurred by the Company and the amount of property taxes included in base rates  
18 following the decision in this general rate case.

19 **Q. PLEASE IDENTIFY THE TEST PERIOD PRO FORMA ADJUSTMENTS AND**  
20 **THE WITNESS WHO IS SPONSORING EACH ADJUSTMENT.**

JILL SCHWARTZ  
DIRECT TESTIMONY

1 A. Listed below in Table JMS-1 is each of the pro forma adjustments included in the  
2 Company's revenue requirement, the section the adjustment affects, the amount of the  
3 adjustment, and the associated Company witness sponsoring the adjustment:

4

Table JMS-1				
Section	Adj. No.	Description	Increase / (Decrease) to Rate Base (\$)	Sponsoring Witness
4	ADJ 1	Iatan and Plum Point-Disallowance <sup>1</sup>	(59,404)	Jill Schwartz
4	ADJ 5	Plant Additions (CWIP)	259,487	Tim Wilson and Jeff Westfall
4	ADJ 2	Common Gas Property	(109,200)	Jill Schwartz
4	ADJ 16	Capitalized Payroll Wage Increase	19,951	Jill Schwartz
4,5,6	ADJ 17	Transmission Delivery Charge Rider - Rate Base	(11,257,504)	Jill Schwartz
5	ADJ 1	Iatan and Plum Point-Disallowance <sup>2</sup>	7,488	Jill Schwartz
5	ADJ 5	Plant Additions (CWIP)	(9,872)	Tim Wilson and Jeff Westfall
5	ADJ 2	Common Gas Property	68,435	Jill Schwartz
6	ADJ 3	Reg Asset & Liabilities	(3,474,908)	Jill Schwartz
5	ADJ 16	Capitalized Payroll Wage Increase	(632)	Jill Schwartz
6	ADJ 4	Remove Water Inventory	(2,695)	Jill Schwartz
6	ADJ 5	Plant Additions (CWIP)	(622)	Jill Schwartz
6	ADJ 21	Prepayments 13 Month Average	40,780	Jill Schwartz
6	ADJ 22	Materials and Supplies 13 Month Average	(86,898)	Jill Schwartz
6	Section 6.3	Customer Deposits 13 Month Average	(5,984)	Jill Schwartz

<sup>1</sup> Order Approving Stipulation and Agreement Docket No. 11-EPDE-856-RTS Page 4 Section C. Paragraph 14.

<sup>2</sup> Order Approving Stipulation and Agreement Docket No. 11-EPDE-856-RTS Page 4, Section C. ¶ 14.

JILL SCHWARTZ  
DIRECT TESTIMONY

Section	Adj. No.	Description	Increase / (Decrease) to Operating Income (\$)	Sponsoring Witness
9	ADJ 1	Iatan and Plum Point-Disallowance Derivatives <sup>3</sup>	(1,695)	Jill Schwartz
9	ADJ 5	Plant Additions CWIP Derivative Adjustments	12,766	Jill Schwartz
9	ADJ 25	Asbury and Riverton Rider AERR	(1,794,980)	Jill Schwartz
9	ADJ 7	Current Rate Case Expense	213,730	Jill Schwartz
9	ADJ 8	Uncollectible Expense	31,082	Jill Schwartz
9	ADJ 9	Open Positions	95,246	Jill Schwartz
9	ADJ 10	KS 2009 Wind Storm Amort <sup>4</sup>	(88,307)	Jill Schwartz
9	ADJ 10	2009 KS Rate Case Adjustment <sup>5</sup>	(7,939)	Jill Schwartz
9	ADJ 12	Increase in Health, Dental and Vision Care	139,838	Jill Schwartz
9	ADJ 13	Normalize Weather	(195,088)	Jill Schwartz
9	ADJ 14	Adjustment for Demand Charge Plum Point	12,488	Jill Schwartz
9	ADJ 15	Fuel and Purchase Power	)(4,377,553)	Jill Schwartz
9	ADJ 16	Payroll Wage and Benefit Increase with Derivative Adj	57,547	Jill Schwartz
9	ADJ 17	Transmission Delivery Charge TDC Rider	(1,565,726)	Jill Schwartz
9	ADJ 6	Merger Stipulations	(249,011)	Jill Schwartz
9	ADJ 19	Non-Deductible Expenses	(275)	Jill Schwartz
9	ADJ 26	Franchise Fee Revenue	(471,195)	Jill Schwartz
9	ADJ 24	Ad Valorem Tax Surcharge	(555,293)	Jill Schwartz
9	ADJ 23	Fuel and Purchase Power Revenue	(5,119,783)	Jill Schwartz

<sup>3</sup> Order Approving Stipulation and Agreement Docket No. 11-EPDE-856-RTS Page 4, Section C. ¶ 14.

<sup>4</sup> Order Approving Stipulation and Agreement Docket No. 10-EPDE-314-RTS Page 20, ¶ 45, S&A ¶ 12

<sup>5</sup> Order Approving Stipulation and Agreement Docket No. 10-EPDE-314-RTS Page 20, ¶ 45, S&A ¶ 12



JILL SCHWARTZ  
DIRECT TESTIMONY

Section	Adj. No.	Description	Increase / (Decrease) to Operating Income (\$)	Sponsoring Witness
9	ADJ 27	Unbilled Revenues	(160,692)	Jill Schwartz
9	ADJ 28	Normalize Overtime Expense	11,146	Jill Schwartz
9	Section 12	Interest on Customer Deposit	7,062	Jill Schwartz
9	Section 11	Franchise Tax Expense Adjustment	(471,290)	Jill Schwartz
9	ADJ 3	Tax Reform	590,715	Jill Schwartz
9	Section 11	Federal and State Income Tax	1,484,134	Jill Schwartz
9	Section 10	Normalize Depreciation Expense	250,291	Jill Schwartz
9	ADJ 18	Pension and OPEB	653,136	Jill Schwartz

1

2

3 **III. MINIMUM FILING REQUIREMENTS**

4 **Q. HAS THE COMPANY SUBMITTED SCHEDULES REQUIRED BY K.A.R. 82-1-**  
5 **231?**

6 A. Yes. The Company has prepared the schedules and documents pursuant to K.A.R 82-1-  
7 231. I am sponsoring all of the schedules and adjustments with the exception of Schedule  
8 WP 6 Lead Lag Study and Schedules WP 7 Return on Equity. More specifically, I am  
9 sponsoring schedules in the following sections of the MFRs:

10 Section 3 Summary of Pro Forma Rate Base, Revenues and Expenses Supporting the  
11 Revenue Increase Requested

12 Section 4 Functional Classification of Plant in Service

13 Section 5 Functional Classification of Accumulated Depreciation and Amortization

14 Section 6 Working Capital Components

1	Section 7	Capital Structure
2	Section 8	Comparative Balance Sheets, Income Statements and Payroll Data
3	Section 9	Pro Forma Income Statement
4	Section 10	Pro Forma Depreciation and Amortization Expense
5	Section 11	Pro Forma Taxes
6	Section 12	Labor Capitalization Ratio
7	Section 13	Annual Report
8	Section 14	Additional Information
9	Section 15	Additional Information
10	Section 16	Financial Statements
11	Section 17	Summary of Revenue by General Customer Classification

12 **Q. PLEASE PROVIDE AN EXPLANATION OF SECTION 3 AND THE**  
13 **ACCOMPANYING SCHEDULES.**

14 A. Section 3 provides a summary of the Kansas jurisdictional components of the Company's  
15 Pro Forma Rate Base and the Pro Forma Revenues less Pro Forma Expenses to derive  
16 Operating Income at present rates for known and measurable changes. The Company's  
17 request for an increase in base rate revenue is based upon a rate of return of 7.54% and an  
18 adjusted Kansas jurisdictional (retail) rate base of \$63,773,350.

19 **Q. WHAT IS EMPIRE'S CALCULATED OVERALL RATE OF RETURN?**

20 A. Empire's calculated overall rate of return under current rates is 5.58%. This rate of return is  
21 calculated by taking operating income at present rates and dividing by the rate base to

1 calculate the rate of return earned under the current rates. As a result, Empire is currently  
2 underearning by 282 basis points given its last authorized return of 8.40% which was  
3 approved by the Commission in Docket No. 10-EPDE-314-RTS (“314-Docket”).

4 **Q. PLEASE EXPLAIN HOW THE REQUESTED REVENUE INCREASE WAS**  
5 **DETERMINED.**

6 A. The required rate of return is applied to Adjusted Rate Base to determine the required net  
7 operating income. Because the additional operating income is after income taxes, this  
8 amount must be grossed-up to determine the revenue deficiency. The Adjusted Rate Base  
9 on line 1 of the MFR is \$63,773,350. The Adjusted Revenues on line 2 of the MFR is  
10 \$16,843,573 less Adjusted Total Expenses (\$12,831,724) on Line 3 of the MFR results in  
11 Adjusted Operating Income Before Taxes, at present rates of \$4,011,848, as shown on line  
12 4. Line 10, the Operating Income Requirement of \$4,809,558, is compared to the  
13 Operating Income After Taxes, at present rates (reflected on Line 7) to calculate the  
14 required Additional Operating Income of \$1,250,763 as shown on Line 11. The Gross  
15 Revenue Conversion Factor is applied to the Income Deficiency to determine the required  
16 overall revenue increase of \$1,689,900, as shown on Line 13.

17 The same calculation was then performed to determine the TDC revenue  
18 requirement. The TDC Adjusted Rate Base on line 1 is \$11,365,133. The Adjusted  
19 Revenues on line 2 are \$50,184 less Adjusted Total Expenses (\$2,247,015) on Line 3  
20 results in Adjusted Operating Income Before Taxes, at present rates, of (\$2,196,831), as

1 shown on line 4. The required overall revenue increase in TDC revenue is \$3,166,367 as  
2 shown on Line 12.

3 **Q. PLEASE DESCRIBE SECTION 4.**

4 A. Section 4 reflects the details of electric Plant in Service included in Empire's rate base by  
5 functional categories. Schedule 4.1 summarizes the pro forma adjustments to Plant in  
6 Service by functional classification. This schedule summarizes by adjustment, each plant  
7 account into functional categories in columnar format under the Adjustment Name and  
8 Number and Pro Forma Adjusted Total. Schedule 4.2 presents the Plant in Service balance  
9 by the FERC Uniform System of Accounts three-digit account number and is expanded by  
10 providing comparisons for the twelve months ended December 31, 2015, 2016, 2017 and  
11 June 30, 2017. Sub-total amounts are forwarded to Schedule 4.

12 In summary, the test year Plant in Service amount on Line 9 is \$141,340,858. The  
13 total pro forma adjustments from Schedule 4.1 result in a decrease of \$18,018,018 to  
14 Empire's Plant in Service. The Company's adjusted Plant in Service is \$123,322,840.  
15 Allocations for plant are included to identify the portion of Empire Plant in Service  
16 allocated to Kansas. The Pro Forma adjusted amounts are forwarded to Schedule 3.1 and  
17 the total Pro Forma adjustment is forwarded to Schedule 3.2.

18 **Q. PLEASE DESCRIBE SECTION 5.**

19 A. Section 5, Schedule 5, displays the accumulated provision for depreciation and  
20 amortization of electric Plant in Service. The schedule summarizes each detail reserve  
21 account in functional categories. Allocations for Accumulated Depreciation are included to

1 identify the portion of Empire's Accumulated Depreciation allocated to Kansas. The  
2 Accumulated Provision of Depreciation and Amortization Ending Balance on Line 9 is  
3 \$47,247,281; Pro Forma Adjustment is a decrease of \$5,259,623; and Pro Forma Adjusted  
4 Total is \$41,987,657. The Pro Forma adjusted amounts are forwarded to Schedule 3.1 and  
5 the total Pro Forma adjustment is forwarded to Schedule 3.2.

6 Schedule 5 shows a Summary of Pro Forma Adjustments to Accumulated Provision  
7 of Depreciation and Amortization. This schedule summarizes by adjustment each reserve  
8 account into functional classes. Schedule 5.1 provides an explanation of pro forma.  
9 Schedule 5.2, provides each reserve account as prescribed by the FERC Uniform Systems  
10 of Account three-digit account. Sub-total amounts are forwarded to Schedule 5,  
11 Accumulated Depreciation. Schedule 5.3 compares the Accumulated Depreciation balance  
12 by FERC account for the twelve months ended December 31, 2015, 2016, 2017 and June  
13 30, 2017.

14 **Q. PLEASE DESCRIBE SECTION 6.**

15 A. Section 6, Working Capital, includes those items required to support the day-to-day  
16 business activities of the Company in rendering delivery service to its customers. Working  
17 capital items include materials and supplies, prepayments and gas storage inventory. This  
18 section also includes a reduction to rate base for such customer-provided capital items as  
19 accumulated deferred income tax liability ("ADIT"), customer deposits and customer  
20 advances.

1 Schedules 6.1 and 6.2 each present thirteen month averages of data for prepayments  
2 and materials and supplies. As these types of costs fluctuate monthly, a thirteen-month  
3 average is utilized to normalize the embedded cost continually supplied or advanced by the  
4 Company. WP ADJ 21 Prepayments and WP ADJ 22 Material and Supplies present  
5 thirteen months of the FERC account balances. Schedule 6.3 sets forth the total customer  
6 advances and deposits that represent an offset to rate base. Schedule 6.4 sets forth the total  
7 ADIT that represents an offset to rate base, including the allocable portion of ADIT that  
8 corresponds to corporate plant allocated to Empire in Section 4. Schedule 6.5 sets forth the  
9 total regulatory asset and regulatory liability accounts that represent an offset to rate base.  
10 Schedule 6.6 sets forth the Cash Working Capital calculation. This is further discussed in  
11 the direct testimony of Timothy S. Lyons.

12 **Q. PLEASE DESCRIBE SECTION 7.**

13 A. Section 7, Schedule 7 presents an analysis of the Company's capital structure used for  
14 ratemaking purposes. The analysis shows the ratio of each component to the total capital  
15 structure, the embedded cost rate of each component and the weighted costs from which  
16 the overall return on rate base is determined.

17 Schedule 7.1 and Schedule 7.2 present Empire's cost of debt by issuance. This  
18 information is utilized to derive an overall embedded cost of debt and is forwarded to  
19 Schedule 7, long term debt related cost rate. Schedule 7.3 presents historical interest  
20 coverage for the twelve-month periods ended December 2015, 2016, 2017 and June 30,

1 2017. Mr. Keith Magee, who is testifying on behalf of Empire, supports the capital  
2 structure components and the related capital costs.

3 **Q. PLEASE DESCRIBE SECTION 8.**

4 A. Section 8, Schedule 8 compares Empire's balance sheet for the periods ended December  
5 31, 2015, 2016, 2017 and June 30, 2017 by account number and description. Schedule 8.1  
6 presents the Company's income statement by FERC functional account and retained  
7 earnings and compares the twelve-month periods ended December 31, 2015, 2016, 2017  
8 and June 30, 2017. Schedules 8.2 and 8.3 present detailed operating revenues and expenses  
9 by FERC account and compares the twelve-month periods ended December 31, 2015,  
10 2016, 2017 and June 30, 2017. Schedule 8.4 presents the historical sales, number of  
11 customers, electric operating revenues, average annual usage per customer, average annual  
12 revenue per customer and average revenue per kilowatt-hour by broad customer  
13 classifications. This information is displayed on a total Company and Kansas  
14 jurisdictional basis for the twelve month periods ended December 31, 2015, 2016, 2017  
15 and June 30, 2017. Schedule 8.5 presents Empire's operations payroll data by FERC  
16 account and compares the twelve-month periods ended December 31, 2015, 2016, 2017  
17 and June 30, 2017. The total payroll of \$73,556,812 for the test year is displayed in  
18 Column g, and the amount allocated to the Kansas jurisdiction of \$3,098,271 is shown in  
19 Column j Line 13.

20 **Q. PLEASE DESCRIBE SECTION 9.**

1 A. Section 9, Schedule 9, presents the pro forma operating income statement. Revenues and  
2 expenses are summarized by the FERC functional categories to arrive at Operating Income  
3 under present rates. Total revenue on line 4, Year End 06/30/2018, is \$26,111,192; Pro  
4 Forma Adjustments to revenue are a decrease of \$9,267,619 resulting in Adjusted Revenue  
5 of \$16,843,573. Total expenses on line 17, Year End 06/30/2018, are \$19,670,492; Pro  
6 Forma Adjustments to expenses are a decrease of \$6,838,768 resulting in Adjusted  
7 Expenses of \$12,831,724. Net Operating Income Before Taxes on line 18, Year End  
8 06/30/2018, is \$6,440,699; Pro Forma Adjustments to Operating Income is a decrease of  
9 \$2,428,851 resulting in Adjusted Net Operating Income Before Taxes of \$4,011,848.

10 Schedule 9.1 expands the information presented on Schedule 9 to depict each pro  
11 forma adjustment proposed to normalize, annualize, include or exclude certain costs  
12 previously deferred pursuant to accounting authority orders and other adjustments.  
13 Schedule 9.2 provides an explanation of the Company's proposed pro forma adjustments.

14 **Q. PLEASE DESCRIBE SECTION 10.**

15 A. Section 10, Schedule 10, presents Pro Forma Depreciation and Amortization Expense by  
16 the FERC functional categories. Allocations for depreciation are included to identify the  
17 portion of depreciation allocated to Kansas. Total Depreciation and Amortization Expense  
18 on line 14, Amount Per Books, is \$3,885,270; Pro Forma Adjustments are an increase of  
19 \$259,763 resulting in Adjusted Depreciation and Amortization Expense of \$4,145,032.

20 Schedule 10.1 provides depreciation and amortization adjustments by functional  
21 class. The total pro forma adjustment amounts are forwarded to Schedule 10. Schedule



1 10.2 provides a summary of amortization by FERC. Allocations for amortization is  
2 included to identify the portion allocated to Kansas. Schedule 10.3 Normalized  
3 Depreciation Rates reflects the Company's pro forma depreciation expense based on  
4 current depreciation rates. It also calculates the pro forma depreciation expense bases on  
5 the Company's proposed depreciation rates derived from the depreciation study performed  
6 and submitted as part of this application by Mr. Tom Sullivan. Mr. Sullivan presents  
7 testimony in support of the September 2015 depreciation study. Section 10.4 provides a  
8 schedule indicating by primary account the existing depreciation rates with proposed.

9 **Q. PLEASE DESCRIBE SECTION 11.**

10 A. Section 11, Schedule 11 presents Taxes other than Income Taxes and Income Taxes. Total  
11 Taxes applicable to operations on line 14, Kansas Ending Balance, are \$3,678,240; Pro  
12 Forma Adjustments decrease taxes \$2,116,689 resulting in Adjusted Taxes Chargeable to  
13 Operations of \$1,561,550.

14 Schedule 11.1 presents the components of the Company's Taxes Other Than  
15 Income Taxes, such as payroll taxes, real estate and personal property taxes. Schedules  
16 11.2 through 11.6 represent the calculation of Income taxes, Deferred Investment Tax  
17 Credit and Deferred Income Tax. The schedules report a historical analysis of the charges,  
18 credits and balances of the deferred income tax accounts.

1 **Q. PLEASE DESCRIBE SECTION 12.**

2 A. Schedule 12 provides a narrative description of allocations. It further defines the bases used  
3 for allocating rate base, revenue and expenses, and the rationale for the allocation ratio, the  
4 components included in the calculation of the ratio and their source.

5 Schedule 12.1, contains a summary of the labor capitalization ratios used to determine  
6 the labor allocated to capital projects and expense accounts. Schedule 12.2 reflects the  
7 various allocations used to arrive at the jurisdictional cost of service or revenue requirement  
8 in all of Empire's various service areas including Kansas, Arkansas, Missouri, Oklahoma and  
9 wholesale. The details will show the many components of rate base, revenue and expense as  
10 they are allocated to the various jurisdictions.

11 **Q. WHAT METHOD DID EMPIRE USE TO DERIVE ITS DEMAND ALLOCATION**  
12 **FACTORS FOR THE JURISDICTIONAL ALLOCATION?**

13 A. The average of twelve monthly coincident peak demands by jurisdiction was used to  
14 jurisdictionally allocate production and transmission costs.

15 **Q. WHY HAS THE COMPANY ELECTED TO USE THIS METHOD FOR**  
16 **JURISDICTIONAL ALLOCATION?**

17 A. Empire uses this method for jurisdictional allocations in the other three jurisdictions in  
18 which it operates. Furthermore, in an effort to ensure 100 percent allocation of production  
19 and transmission costs, the Company proposes the demand allocation factor utilized in its  
20 other service territories.

21

1 **Q. PLEASE DESCRIBE SECTION 13.**

2 A. Section 13 provides the 2017 Algonquin Power & Utilities Corp. (“APUC”) Annual  
3 Report to stockholders.

4 **Q. PLEASE DESCRIBE SECTIONS 14 and 15.**

5 A. Commission regulations provide that Sections 14 and 15 of the MFRs can be used to  
6 present additional evidence not provided elsewhere in the application. However, the  
7 Company does not have any additional evidence to present in these sections, and thus they  
8 are not included in the filing.

9 **Q. PLEASE DESCRIBE SECTION 16.**

10 A. Section 16 calls for the Company’s most recent audited financial statements.

11 **Q. PLEASE DESCRIBE SECTION 17.**

12 A. Schedule 17 presents a Summary of Revenue by General Customer Classification,  
13 including the pro forma revenue from existing tariffs, the revenue increase resulting from  
14 proposed tariffs, and the pro forma revenue from the proposed tariffs.

15 Schedule 17.1 shows customers and revenues for each existing individual tariff.  
16 The test year numbers are shown as "per books" and followed by pro forma adjustments,  
17 and then total pro forma customers and revenues.

18 **Q. PLEASE DESCRIBE SECTION 18.**

19 A. Section 18 includes proposed changes to the Company’s rate schedules, as presented in the  
20 Direct Testimony of Mr. Timothy S. Lyons.

1 **IV. RATE BASE ADJUSTMENTS**

2 **Q. HAS THE COMPANY PROPOSED ANY ADJUSTMENTS TO ITS RATE BASE?**

3 A. Yes. As reflected in Table JMS-1 above and Section 3, the Company has included various  
4 adjustments to rate base.

5 **Q. ARE YOU SPONSORING ANY OF THE RATE BASE ADJUSTMENTS?**

6 A. Yes. I am sponsoring rate base adjustments ADJ 1 Iatan and Plum Point Disallowance,  
7 ADJ 2 Removal of Common Gas Property and ADJ 17 TDC Rider.

8 **Q. PLEASE EXPLAIN ADJUSTMENT ADJ 1 IATAN AND PLUM POINT**  
9 **DISALLOWANCE.**

10 A. In the Stipulation and Agreement from Docket 11-EPDE-856-RTS, Empire agreed to cap  
11 the amount of the Kansas jurisdictional share of plant allowed in rate base for the Iatan and  
12 Plum Point generation assets. The adjustment reduced the March 31, 2011 plant balance to  
13 \$23,143,000, accumulated depreciation by \$7,488, depreciation expense by \$1,033, and  
14 property tax by \$663.

15 **Q. PLEASE EXPLAIN ADJUSTMENT ADJ 2 COMMON GAS PROPERTY.**

16 A. A portion of certain plant assets on the Company's books provide service to The Empire  
17 District Gas Company. ADJ 2 removes an appropriate percentage of plant allocated as  
18 common gas property from Plant in Service. The decrease in Kansas jurisdictional  
19 production plant is \$109,200 and accumulated depreciation is \$68,435.

20 **Q. PLEASE EXPLAIN ADJUSTMENT ADJ 5 FOR PLANT ADDITIONS.**

1 A. ADJ 5 increases Plant in Service and Accumulated Depreciation for a list of projects  
2 included in Construction Work In Progress (“CWIP”) as of the end of the test year, which  
3 are reasonably expected to be placed in service, used and useful by January 31, 2019. The  
4 increase in Kansas jurisdictional Plant in Service is \$259,487 and overall increase Kansas  
5 jurisdictional Accumulated Depreciation is \$9,872.

6 **V. INCOME STATEMENT ADJUSTMENTS**

7 **Q. HAS THE COMPANY PROPOSED ANY ADJUSTMENTS TO ITS TEST YEAR**  
8 **OPERATING INCOME?**

9 A. Yes. As reflected above in Table JMS-1 and in Section 9, the Company has proposed  
10 several adjustments to its operating income.

11 **Q. DO ANY OF THE PROPOSED ADJUSTMENTS RELATE TO REVENUE?**

12 A. Yes. The Company has proposed adjustments to normalize revenues for weather and to  
13 remove unbilled revenues, franchise fees, and revenues collected through the AERR,  
14 AVTS, and ECA.

15 **Q. PLEASE EXPLAIN THE ADJUSTMENT MADE TO WEATHER NORMALIZE**  
16 **REVENUES.**

17 A. ADJ 13 adjusts test year sales and revenues to account for the impacts of abnormal  
18 weather. The calculation of the weather sales is presented in the Direct Testimony of Mr.  
19 Eric Fox. Weather revenue is calculated by multiplying the weather normalized sales by  
20 the current rates for each pricing plan. As shown in ADJ 13 and addressed by Mr. Fox,  
21 colder than normal temperatures during the test year resulted in higher than normal sales

1 and revenues. As such, the weather normalization adjustment proposes to decrease Kansas  
2 jurisdictional base rate revenue by \$195,088 to a normalized level of weather revenue.

3 **Q. HAVE OTHER ADJUSTMENTS BEEN MADE TO OPERATING REVENUE?**

4 A. In addition to the adjustments noted above adjustments were made to remove Transmission  
5 revenues associated with the TDC, and Tax Reform revenues which are discussed below.

6 **Q. PLEASE GENERALLY EXPLAIN THE ADJUSTMENTS TO OPERATING  
7 EXPENSES THAT YOU ARE SPONSORING.**

8 A. As reflected in Table JMS-1 above and Section 9, the Company has proposed several  
9 adjustments to operating expenses. The Company's calculated revenue requirement  
10 includes adjustments to decrease operating expenses associated with fuel and purchase  
11 power expenses, Iatan and Plum Point, Franchise Fee, over-collected amortization and  
12 non-deductible expenses and Administrative and General expenses from the merger  
13 stipulation in Docket No. 16-EPDE-410-ACQ. Also, the Company's revenue requirement  
14 for which it proposes to set its base rates includes adjustments to remove transmission  
15 expenses that will be recovered through the proposed TDC rider.

16 Additionally, the Company has also proposed adjustments which result in increased  
17 operating expenses. Specifically, the Company has included adjustments to reflect  
18 increases in wages associated with merit increases, a normalized level of bad debt expense  
19 and decreased federal and state income taxes.

20 **Q. PLEASE PROVIDE FURTHER EXPLANATION ON THE FUEL AND  
21 PURCHASE POWER ADJUSTMENT.**

1 A. ADJ 15 eliminates the fuel and purchased power energy expenses from the Company's  
2 revenue requirement as these costs are recovered from retail electric customers in Kansas  
3 through the ECA.

4 **Q. PLEASE DESCRIBE ADJ 10.**

5 A. In the 314-Docket, Empire was ordered to adjust rates after the amortization period ended  
6 for the rate case expense and wind storm damage regulatory assets that were established in  
7 the 2010 rate case. Because Empire has not adjusted its base rates since 2011 it has  
8 continued to collect the same level of amortization expense established in the 2010 rate  
9 case through its base rates. ADJ 10 reduces the operating expenses for the amount over  
10 collected since July 2015 when the amortization period for the regulatory assets ended.

11 **Q. PLEASE EXPLAIN THE COMPANY'S ADJUSTMENTS TO DEPRECIATION**  
12 **EXPENSE.**

13 A. The Company's Kansas jurisdictional depreciation expense has been adjusted to reflect the  
14 proposed depreciation rates, as discussed in the Direct Testimony of Mr. Tom Sullivan,  
15 and the additional capital investment reflected in WP ADJ 5 CWIP.

16 **VI. OTHER ADJUSTMENTS**

17 **Q. ARE YOU SPONSORING ANY OTHER ADJUSTMENTS?**

18 A. Yes, I am sponsoring the TDC Adjustment, ADJ 17, and the Adjustment for Tax Reform,  
19 ADJ 3.

20

21

1 **Q. PLEASE FURTHER DESCRIBE ADJ 17.**

2 A. As discussed in the Direct Testimony of Mr. Aaron Doll, Empire is requesting a TDC rider  
3 to recover the Company's transmission costs. ADJ 17 removes all transmission related  
4 investments and costs from rate base and operating expenses which flow through the  
5 Company's FERC Transmission Formula Rates (TFR), as well as additional transmission-  
6 related costs incurred by the Company. Because the TFR is calculated on a historical test  
7 year, with the most recent TFR filing test year ending December 31, 2017, the TFR  
8 balances were allocated to Kansas with same allocations as presented in Section 12 of this  
9 filing. ADJ 17 also removes the additional SPP Schedule 11 expenses recorded to FERC  
10 accounts 561 and 565 and account 557.4.

11 **VII. TAX REFORM**

12 **Q. PLEASE DISCUSS HOW EMPIRE'S COMPLIANCE WITH TAX REFORM HAS**  
13 **BEEN ADDRESSED.**

14 A. On January 18, 2018, the Commission issued its Order Opening General Investigation and  
15 Issuing Accounting Authority Order Regarding Federal Tax Reform ("Tax Reform Order")  
16 in Docket No. 18-GIMX-248-GIV. In its order in that docket, all regulated public utilities  
17 that are taxable at the corporate level were directed to accrue monthly (in a deferred  
18 revenue account), the portion of its revenues representing the difference between: (1) the  
19 cost of service approved by the Commission in its most recent rate case; and (2) the cost of  
20 service that would have resulted had the provision for federal income taxes been based  
21 upon the corporate income tax rate approved in the TCJA. The Commission also stated that



1 it intended to capture excess ADIT for the benefit of customers using a methodology  
2 consistent with the tax normalization requirements specified in the tax legislation or IRS  
3 Tax Normalization Rules, as applicable. Finally, the Commission indicated that it would  
4 conduct its investigation into the effect of the TCJA on a case-by-case basis. See Order  
5 Opening General Investigation and Issuing Accounting Authority Order Regarding Federal  
6 Tax Reform ("Tax Reform Order"), Docket No. 18-GIMX-248-GIV, at pages 5 -8.

7 The Company, Staff, CURB and Empire reached a settlement and agreed that: (a) the  
8 annual amount of the regulatory liability exclusive of any calculated interest was  
9 \$1,229,466, consisting of \$1,049,971 related to base rates and \$179,495 related to Empire's  
10 Asbury and Environmental Cost Recovery Rider ("AERR"); (b) that treatment of excess  
11 accumulated deferred income taxes ("EDIT") would be addressed in Empire's next rate  
12 case to be filed no later than 150 days after filing the settlement agreement, and; (c) that  
13 Empire had the right to demonstrate that the Company had experienced offsetting cost  
14 increases in its next distribution rate case. The Commission approved the settlement on  
15 July 12, 2018.

16 **Q. DOES THE COMMISSION'S TAX REFORM ORDER ADDRESS WHETHER A**  
17 **UTILITY SHOULD BE PERMITTED TO DEMONSTRATE COST INCREASES**  
18 **WHICH OFFSET THE BENEFIT OF THE TCJA?**

19 A. Yes. In its Tax Reform Order, the Commission states:

20 Any affected utility that believes other components of their cost of  
21 service have more than offset the decrease in its income tax

1 expenses will have the ability to file such information and  
2 supporting data with the Commission, to be considered on a  
3 case-by-case basis. The Commission's intention here is not to  
4 materially impact regulated utilities' profitability, but rather, ensure  
5 that the affected utilities are neither positively nor negatively  
6 impacted by the passage of federal income tax reform.<sup>6</sup>

7 The Commission clearly states that a utility will be afforded an opportunity to show it has  
8 experienced increases in its cost of service that offset the decrease in income tax expense.

9 **Q. DOES THIS RATE CASE FILING ESTABLISH THAT EMPIRE HAS**  
10 **EXPERIENCED COST INCREASES OFFSETTING THE DECREASE IN**  
11 **INCOME TAX EXPENSE?**

12 A. Yes, it does. This filing, based on a test year ending June 30, 2018, demonstrates the cost  
13 of providing service to Empire's customers. This filing demonstrates that as of June 30,  
14 2018, adjusted for known and measurable changes, Empire experienced a net revenue  
15 deficiency of \$2.5 million. This revenue deficiency, which incorporates the change in the  
16 corporate federal income tax rate, demonstrates that the benefit of the decrease in the  
17 federal income tax rate has been offset by increases in other operating expenses and  
18 investments in capital.

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<sup>6</sup>*Id.*, at pages 7 and 11.

1 **Q. HOW DOES EMPIRE PROPOSE THAT THE COMMISSION ADDRESS THIS**  
2 **ISSUE IN THIS PROCEEDING?**

3 A. Empire suggests that once the Commission has made a determination concerning the  
4 Company's revenue deficiency in this case, it can determine the offsetting effect of the  
5 change in the corporate tax rate. Empire has included language in the proposed Tax  
6 Change Rider that will govern any credit that might be owed to customers, with a true-up  
7 provision and establish that the rider would be reset to zero after the true-up. The tariff  
8 would remain in place to address any future change in the federal tax laws and federal tax  
9 expenses included in rates.

10 **Q. HOW DOES EMPIRE INTEND TO ADDRESS EXCESS ADIT?**

11 A. Empire proposes that a bill credit be issued once each year to reflect the annual value of  
12 the re-measured excess ADIT. Credit amounts will be distributed among the rate classes  
13 based on the spread of the revenue requirement as approved in this rate case. The credit  
14 will also consist of fixed and variable components based on the rate design approved in  
15 this rate case. This would be accomplished through the proposed Tax Change Rider.

16 **Q. ARE THERE OTHER FACTORS THAT NEED TO BE ACCOUNTED FOR WITH**  
17 **RESPECT TO WHETHER THE REDUCTION IN TAX EXPENSES IN EMPIRE'S**  
18 **KANSAS COST OF SERVICE FOR THE CALENDAR YEAR 2018 CAN BE**  
19 **CREDITED TO CUSTOMERS?**

20 A. Yes. The settlement in the 410 Docket included the following rate moratorium provision:

1           ...the Parties agree that EDE shall not re-file to change its base rates  
2           prior to May 1, 2018, with new rates effective no sooner than  
3           January 1, 2019...

4  
5           ...Notwithstanding the above, in the event of changes in law or  
6           regulations, or the occurrence of events outside the control of EDE  
7           that result in a material adverse impact to EDE, EDE may file an  
8           application with the Commission proposing methods to address the  
9           impact of the events, including the possibility of changes in base  
10          rates. Staff and CURB shall have the right to contest the application,  
11          including whether the impact of the changes or event is material to  
12          EDE, and whether EDE's proposed remedy in the application is  
13          reasonable.<sup>7</sup>

14  
15          Under the above provision, Empire agreed to maintain its current rates until January 1,  
16          2019, with the only potential re-opener to its rates being a change in law that had an  
17          adverse impact on Empire. Empire took on that risk subject to the above-provision that  
18          allowed Empire (and only Empire) to ask for relief prior to January 1, 2019, in the event of  
19          a change in law or regulation that would result in a material adverse impact on Empire.

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<sup>7</sup>Order Granting Joint Motion to Approve the Unanimous Settlement Agreement and Approval of Joint Application dated December 22, 2016, Docket No. 16-EPDE-410-ACQ, Exhibit A, pages 5-6, par. 24.

1 There was no corresponding provision in the settlement that required Empire, or allowed  
2 Staff or CURB, to ask that Empire's rate moratorium be lifted to account for a change in  
3 law. Given (1) the fact that provision in the settlement approved in the merger docket; (2)  
4 that Empire's base rates were last adjusted on January 1, 2012; (3) that Empire took on the  
5 risk related to the rate moratorium; and (4) that Empire's rate case shows it was incurring a  
6 significant revenue deficiency under the seven year old base rates; Empire should be  
7 allowed, as set forth in the Commission tax reform order, to offset the revenue deficiency it  
8 incurred in 2018, with the reduction in tax expenses as a result of the tax change. The  
9 customers received far more benefit from the rate moratorium, which clearly provided that  
10 base rates could not be changed prior to January 1, 2019, than the amount of the reduction  
11 in tax expenses.

12 **VIII. LED TRACKER**

13 **Q. PLEASE PROVIDE AN EXPLANATION OF WHY A TRACKER FOR LOST**  
14 **REVENUES AND COST DIFFERENTIAL IS BEING REQUESTED FOR THE**  
15 **LED MUNICIPAL STREET LIGHTING TARIFF.**

16 A. The Company should be allowed an opportunity to earn its authorized rate of return,  
17 despite the additional costs it anticipates incurring associated with the conversion to LED  
18 street lights. The revenue requirement established in this case does not reflect the impact  
19 of the conversion to LED municipal street lights because it does not have the necessary  
20 information to support or propose accounting adjustments.

1 **Q. PLEASE EXPLAIN WHY THE IMPACT OF THE CONVERSION TO LED IS**  
2 **UNKNOWN AND UNMEASURABLE.**

3 **A.** The cost associated with the impact on revenue requirement for lost revenues are not  
4 known and measurable as the conversion will occur outside the test year. The Company  
5 can provide estimates to the cost differential however the total cost of converting is  
6 uncertain at this time.

7 **IX. MERGER STIPULATION COMPLIANCE**

8 **A. GENERAL PROVISIONS**

9 **Q. HAS EMPIRE MET THE GENERAL PROVISION CONDITIONS SET FORTH IN**  
10 **THE AGREEMENT WITH THE KANSAS STAFF AND CURB REGARDING**  
11 **GENERAL PROVISIONS?**

12 **A.** Yes. The following general provisions have been met:

13 (1) Liberty Utilities has established a "Central Region" which is headquartered in Joplin,  
14 Missouri. This regional office provides senior leadership to the current operations of  
15 Empire and Liberty Utilities' gas operations in Missouri, Illinois, and Iowa, and Liberty  
16 Utilities' water operations in Missouri, Arkansas, and Texas.

17 (2) Liberty Utilities Central has caused Empire and its subsidiaries to maintain and operate  
18 their respective businesses under the "Empire District" brand for a period of at least five

19 (5) years following the closing of the merger, provided that such use may also include a  
20 "Liberty Utilities" company brand or similar co-branding designation.

1 (3) The Company has committed to retain all of Empire's management team and its  
2 workforce following closing of the Transaction. No involuntary reductions in Empire's  
3 current administrative, professional and field workforce and its existing management team  
4 are planned for or expected as a result of the Transaction.

5 (4) Liberty Utilities Central has honored the terms and conditions of Empire's existing  
6 severance packages.

7 (5) A regional board of directors has been established to provide guidance and counsel on  
8 local issues and enhanced customer service. All existing board members of Empire were  
9 offered a position on the board.

10 (6) Empire and certain of Liberty Utilities' existing utilities have been reorganized under  
11 Liberty Utilities Central. Due to Mr. Beecher voluntarily leaving the company, David  
12 Swain has taken over the role of CEO of Liberty Utilities Central.

13 **B. RATEMAKING AND RELATED ISSUES**

14 **Q. HAS EMPIRE MET THE CONDITIONS CONTAINED IN THE MERGER**  
15 **AGREEMENT REGARDING RATEMAKING AND RELATED ISSUES?**

16 A. Yes. Empire has met the following conditions relating to ratemaking:

17 (1) In exchange for Staff's agreement not to recommend in the merger, or any future  
18 Empire ratemaking proceeding, a sharing with ratepayers of the acquisition premium or  
19 gain on sale associated with the Transaction and the other provisions contained in this  
20 Agreement, the Joint Applicants, Staff and CURB (the "Parties"), agreed that upon  
21 approval by the Commission of this Agreement Empire would withdraw its rate

1 application currently pending before the Commission. In addition, the Parties agreed that  
2 Empire should not re-file to change its base rates prior to May 1, 2018, with new rates  
3 effective no sooner than January 1, 2019. This means the current base rates, which went  
4 into effect on January 1, 2012, would not change for a period of seven (7) years as a result  
5 of this settlement (2012, 2013, 2014, 2015, 2016, 2017 and 2018).

6 (2) The Company made no changes to the current surcharge outside of the third  
7 condition below.

8 (3) In order to lessen the impact of any future rate increase on customers, the Parties  
9 agreed that Empire would seek an Order from the Commission to amend the rider  
10 referenced on page 39 line 23 of the merger agreement to include the Riverton 12 revenue  
11 requirement increase consisting of return on investment and depreciation expense  
12 associated with the Riverton 12 plant. This filing was to be filed as soon as possible  
13 following close of the Transaction. The Parties agreed that they would not categorially  
14 oppose such a request as long as the rider amendment is filed with the following  
15 conditions: 1) The revised rider should be referred to as the AERR (the Asbury  
16 Environmental and Riverton Rider; 2) The revised rider should update Gross Plant and  
17 Accumulated Depreciation associated with the AERR revenue requirement, to the most  
18 recent actual data possible; 3) The AERR will use the least cost capital structure  
19 determined by comparing the actual capital structure of Empire and the actual capital  
20 structure of any other entity which it receives financing from, (including but not limited to,  
21 the consolidated Algonquin capital structure); 4) The AERR will use a return on equity of



1 9.3%; and 5) The AERR will be implemented on an interim basis, subject to true-up and  
2 eventual refund or recovery in Empire's next base rate case. The Parties reserve their rights  
3 to challenge the reasonableness of any of the costs collected under the amended rider in  
4 Empire's next general rate case.

5 The AERR was issued on January 6, 2017 and became effective July 1, 2017.

6 (4) No costs of the proposed merger transaction were to be borne by Kansas ratepayers  
7 directly, or indirectly, in any future Liberty Utilities Central or Empire ratemaking  
8 proceeding. Such costs included but are not limited to: (1) acquisition premium costs (i.e.,  
9 amounts recorded in FERC USOA Account 114 -Utility Plant Acquisition Adjustments or  
10 Account 116 - Other Utility Plant Adjustments and defined as the difference between the  
11 cost to the accounting utility of utility plant acquired and the original cost of such property,  
12 less the amounts credited to accumulated depreciation), including the return on those costs  
13 or the amortization thereof, (2) transition costs defined as one-time, temporary costs related  
14 to effecting the Transaction that do not create a long lived or future benefit to ratepayers,  
15 severance costs related to termination of employees as a direct result of the Transaction, or  
16 termination fees incurred in conjunction with the Transaction, or (3) transaction costs,  
17 defined as one-time costs required for items such as equity financing and regulatory  
18 approvals, including but not limited to Liberty Utilities Central or Empire personnel costs  
19 incurred as a result of the Transaction. All costs related to the Transaction shall be  
20 recorded in separate accounts specifically maintained to account for the Transaction. The

1 detailed journal entries recorded to reflect the Transaction shall be filed with the  
2 Commission no later than six months after the date of closing of the Transaction.

3 Detailed journal entries were submitted to the Commission on June 23, 2017, and none of  
4 those costs are included in this rate filing for recovery from customers.

5 (5) Algonquin and Liberty Utilities each expressly recognized that each represents an  
6 "Affiliated Interest" under K.S.A. 66-1401, 66-1402, and 66-1403. These statutes confer  
7 certain jurisdiction to the Commission regarding access to books and records, submission  
8 of contracts, review of affiliate transactions detail, etc. This condition has been complied  
9 with by the Company.

10 (6) Empire's fuel and purchased power costs has not been adversely impacted as a  
11 result of the Transaction.

12 (7) Liberty Utilities already has in place a cost allocation manual that sets forth a cost  
13 allocation methodology to be used by all regulated utilities entities based largely on the  
14 guidelines established by the National Association of Regulatory Utility Commissioners  
15 ("NARUC"). Liberty Utilities will revise or modify its current cost allocation manual, as  
16 needed, to reflect the acquisition of Empire within six (6) months following the closing of  
17 the Transaction, and provide a copy to the Commission.

18 The Company filed its revised Corporate Allocation Manual (CAM) on June 30, 2017.

19 (8) Liberty Utilities Central has filed with the Commission executed copies of its  
20 Affiliate Service Agreements within thirty (30) days of closing of the Transaction,  
21 pursuant to K.S.A. 66-1402.

1 (9) The return on equity capital (ROE) as reflected in Empire's rates has not been  
2 adversely affected as a result of the Transaction.

3 (10) The calculation of ROE is consistent with applicable law, regulations and practices  
4 of the Commission and is discussed in the direct testimony of Empire

5 (11) Liberty Utilities Central and Empire have agreed not to oppose, in either a  
6 regulatory proceeding or by judicial appeal of a Commission decision, the application of  
7 the principle that the determination of the ROE can be based only on the risks attendant to  
8 the regulated operations of Empire.

9 (12) The Company's equity level has not fallen below 40%.

10 (13) For purposes of determining a fair and reasonable allowed rate of return for  
11 determining Empire's revenue requirement in future rate cases, Liberty Utilities Central  
12 agreed that if Empire's per books capital structure is different from that of the entity or  
13 entities in which Empire relies for its financing needs (debt or equity), Empire shall be  
14 required to provide evidence as to why Empire's per book capital structure, or the capital  
15 structure of the entity or entities in which Empire relies on for its financing needs is the  
16 least cost. Nothing herein restricts the ability of Staff or CURB to present a different  
17 recommendation than Empire regarding the least cost capital structure for purposes of  
18 determining a fair and reasonable allowed rate of return for determining Empire's revenue  
19 requirement.

20 The Company's per books capital structure does not differ from that of any entity in  
21 which it relies on for its financing needs.

1 (14) Liberty Utilities Central agreed the accumulated deferred income taxes (ADIT)  
2 amount, character, and all other terms reflected on the books of Empire immediately prior  
3 to the Transaction shall be unchanged by the Transaction. Additionally, Empire will record  
4 on its books all deferred taxes related to income tax deductions or credits created by  
5 Empire's operations.

6 The accumulated deferred income taxes (ADIT) amount, character, and all other terms  
7 reflected on the books of Empire immediately prior to the Transaction were unchanged by  
8 the Transaction.

9 (15) At the time of any Empire rate case filing within five years after the Transaction  
10 closes, Empire shall provide an analysis demonstrating that administrative and general  
11 (A&G) costs and general corporate overheads have not increased as a direct result of the  
12 Transaction. Nothing herein restricts the ability of Staff or CURB from independently  
13 reviewing this analysis and making a different recommendation than Empire on the issue  
14 of A&G or overhead costs (including but not limited to the issue of future USD/CAD  
15 exchange rate fluctuations) occurring as a result of the Transaction.

16 The Company has completed an analysis of A&G costs and adjusted expenses in this rate  
17 case for the increase in accounts thought to be related to the acquisition.

18 (16) Liberty Utilities Central committed that in future rate case proceedings, Liberty  
19 Utilities Central and Empire will support its assurances provided in the merger agreement  
20 with appropriate analysis, testimony, and necessary journal entries fully clarifying and  
21 explaining how any such determinations were made.

1 This analysis can be found in ADJ 6.

2 **C. SEGREGATION OF ASSETS**

3 **Q. HAS EMPIRE MET THE CONDITIONS IN THE AGREEMENT REGARDING**  
4 **SEGREGATION OF ASSETS?**

5 Yes. The following conditions in the agreement regarding segregation of assets have been  
6 met:

7 (1) Liberty Utilities Central agreed that Empire would not comingle its assets with the  
8 assets of any other person or entity, except as allowed under the Commission's Affiliate  
9 Transaction Statutes.

10 The Company has not comingled its assets.

11 (2) Liberty Utilities Central committed that Empire would conduct business as a  
12 separate legal entity and would hold all of its assets in its own legal entity name.

13 Empire continues to conduct business as a separate legal entity.

14 (3) Liberty Utilities Central committed that Empire would not grant or permit to exist  
15 any lien, encumbrance, claim, security interest, pledge, or other right in favor of any  
16 person or entity in its assets, other than liens or encumbrances entered into in the ordinary  
17 course of business.

18 The Company continues to not grant or permit any lien or encumbrance other than in the  
19 ordinary course of business.

20 (4) Liberty Utilities Central and Empire affirmed that the present legal entity structure  
21 that separates the regulated business operations from those unregulated business operations

1 would continue to be maintained unless express Commission approval is sought to alter  
2 any such structure. Liberty Utilities Central and Empire further agreed that proper  
3 accounting procedures would be employed to protect against cross-subsidization of non-  
4 regulated businesses or regulated businesses in other jurisdictions by Empire's Kansas  
5 customers.

6 The Company affirms that the present legal entity structure continues to separate the  
7 regulated and unregulated operations.

8 **D. ACCOUNTING STANDARDS**

9 **Q. HAS EMPIRE MET THE CONDITIONS IN THE AGREEMENT REGARDING**  
10 **ACCOUNTING STANDARDS?**

11 A. Yes. Empire has met the following conditions regarding accounting standards:

12 (1) Liberty Utilities Central agreed not to permit any subsidiary to make any material  
13 change in financial accounting methods, principles or practices, except to the extent as may  
14 have been required by a change in applicable state or federal law or Generally Accepted  
15 Accounting Principles ("GAAP") or by any Governmental Entity (including the Securities  
16 and Exchange Commission ("SEC") or the Public Company Accounting Oversight Board).

17 The Company has not permitted any subsidiary to make any material change in financial  
18 accounting methods, principles or practices.

19 (2) Liberty Utilities Central affirmed there would will be no material change in  
20 accounting for Kansas held assets of Liberty Utilities Central or Empire unless reviewed  
21 and approved by the Commission.

1 The Company affirms there has been no material change in accounting for Kansas held  
2 assets.

3 **E. BOOKS AND RECORDS**

4 **Q. HAS EMPIRE MET THE CONDITIONS IN THE AGREEMENT REGARDING**  
5 **BOOKS AND RECORDS?**

6 A. Yes. Empire has met the following conditions regarding books and records:

7 (1) Liberty Utilities Central and Empire accounting records were to be maintained in  
8 accordance with the NARUC Uniform System of Accounts as adopted by the Commission  
9 including the "NARUC Regulations to Govern the Preservation of Records of Electric, Gas  
10 and Water Utilities."

11 Liberty Utilities Central and Empire accounting records continue to be maintained in  
12 accordance with NARUC.

13 (2) Empire committed it would maintain separate books and records, system of  
14 accounts, financial statements, and bank accounts.

15 Empire continues to maintain separate books and records, systems of accounts, financial  
16 statements, and bank accounts.

17 (3) Algonquin, Liberty Utilities Central, its affiliates, and Empire (collectively the  
18 "Entities") agreed to produce or deliver any or all accounting records and related  
19 documents requested by the Commission, Staff, or CURB. The Entities may, with  
20 Commission approval, provide verified copies of original records and documents. The  
21 Entities further agreed that the preferred method of production or delivery of records is by

1 electronic access or electronic submission. If electronic access or electronic submission is  
2 not available or is deemed unsatisfactory by the Commission for its purposes, the Entities  
3 agreed that the requested records and related documents, or legible verified copies thereof,  
4 shall be physically produced and delivered to the Commission in a timely manner. Nothing  
5 in this condition was deemed a waiver of any of the Entities' right to seek protection of the  
6 information or to object, for purposes of submitting such information as evidence in any  
7 evidentiary proceeding, to the relevancy or use of such information by any party.

8 The Entities will produce any accounting records requested. No requests have been made  
9 at this time.

10 (4) The Entities agreed to maintain adequate records to support, demonstrate the  
11 reasonableness of, and enable the audit and examination of all centralized corporate costs  
12 that are allocated to or directly charged to Empire. Nothing in this condition was deemed a  
13 waiver of any of the Entities' right to seek protection of the information or to object, for  
14 purposes of submitting such information as evidence in any evidentiary proceeding, to the  
15 relevancy or use of such information by any party.

16 The Company continues to maintain adequate records to support an audit and examination  
17 of all centralized corporate costs allocated to or directly charged to Empire.

18 **F. CUSTOMER SERVICE AND CUSTOMER NOTIFICATION**

19 **Q. HAS EMPIRE MET THE CONDITIONS IN THE AGREEMENT REGARDING**  
20 **CUSTOMER SERVICE AND CUSTOMER NOTIFICATION?**



1 A. Yes. Empire has met the following conditions regarding customer service and customer  
2 notification:

3 (1) Liberty Utilities Central and Empire agreed to maintain or improve Empire's  
4 current quality of service, consistent with the requirements of Commission rules. In  
5 addition, Empire agreed to the following quality of service parameters and penalties for  
6 non-compliance in the event of failure to maintain these parameters. Using the  
7 methodology established in the Annual Reliability Benchmarking Report of the Institute of  
8 Electronic and Electrical Engineers (IEEE), Empire's normalized (Normalized shall be  
9 defined as excluding major event days as defined by IEEE. The occurrence of any major  
10 event shall be considered in evaluation customer service reporting metrics.) reliability  
11 statistics (SAIDI, SAIFI, CAIDI) for its Kansas operations (area 212) shall be calculated  
12 for years 2013 through 2015. Empire shall pay a refund to its Kansas customers for any  
13 year the Kansas Service area normalized annual statistics decrease in reliability below the  
14 2013-2015 averages according to the following schedule:

- 15 a. 5%-10%: \$35,000,  
16 b. 10%-15%: \$70,000,  
17 c. >15%: \$105,000.

18 The Company continues to maintain or improve Empire's current quality of service,  
19 consistent with the requirements of Commission rules.

20 (2) Subject to the extraordinary event provision contained in the third condition below,  
21 Empire agreed to calculate the answered call rate (ratio of calls answered to calls received)

1 for its normalized operations during the years 2013 through 2015. Empire shall pay a  
2 refund to its Kansas customers for any year its answered call rate normalized annual  
3 operation falls below 95% of the 2013-2015 average according to the following schedule:

4 a. 5% to 10%: \$17,000,

5 b. >10%: \$34,000.

6 The Company is currently at 96% calls answered as of May 1, 2018.

7 (3) The Parties recognized that there may be certain extraordinary events that occur  
8 from time to time, which (1) are beyond the control of the utility, such as an act of nature,  
9 and (2) may affect the utility's ability to meet the service standards agreed to in Paragraphs  
10 50 and 51 of this Agreement and the attachment to this Agreement. Upon the occurrence of  
11 an extraordinary event as that term is further defined below, Empire shall document the  
12 event and its impact on Empire's call center or electric service performance as applicable.  
13 Should Empire's service performance become inferior to service standards of any of the  
14 performance indicators specified, Empire will have the opportunity to present evidence of  
15 an extraordinary event in its written report, attaching supporting documentation as  
16 previously described. For purposes of this Agreement, the term "extraordinary event"  
17 means an event beyond the control of the utility, which shall include acts of God, strikes,  
18 lockouts or other industrial disturbances, acts of the public enemy, wars, blockades,  
19 insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, ice  
20 storms, floods, tornados, washouts, arrests and restraints of governments and people, acts,  
21 orders, laws or regulations of government authority, civil disturbances, explosions,

1 breakage or accident to machinery or lines of pipe or electric supply lines, major events  
2 causing electric service interruptions of the magnitude defined by the Commission's  
3 Electric Reliability Requirements Rule 3 (n), other than those caused by the utility's  
4 negligence, the necessity for making repairs or alterations to machinery, equipment or lines  
5 of pipe, freezing lines of pipe or electric supply lines, which could not have been prevented  
6 by the utility's standard and custom industry practice, partial or entire failure of supply of  
7 natural gas or fuel which could not have been prevented by the utility's use of standard and  
8 custom industry practices, acts of independent and unaffiliated third parties which damage  
9 or interference with the kind herein enumerated or otherwise beyond the control of the  
10 utility, if, using standard and custom industry practice, the utility could have avoided the  
11 extraordinary event, then the impact of such event will be considered in the measurement  
12 of the performance of the utility.

13 Empire had one major event during the test year on June 22, 2018. The event lasted 165  
14 minutes which interrupted 1,540 customers. SAIDI for the day in Kansas was 23.25 and  
15 the service level at the Contact Center was 88% and average speed of answer was 15  
16 seconds,

17 (4) From the effective date of the closing of the Transaction and ending three years  
18 later there shall be no net reduction in the total number of the field/plant personnel serving  
19 the customers of Kansas.

20 There has been no net reduction in the total number of field/plant personnel serving the  
21 customers of Kansas.

1           **G.     OTHER**

2   **Q.     WHAT IS THE CONDITION IN THE AGREEMENT REGARDING OTHER**  
3   **MATTERS?**

4   A.     Liberty Utilities Central and Empire agreed to reaffirm and honor any prior commitments  
5           made by Empire to the Commission and to comply with any previously issued  
6           Commission orders applicable to Empire or its previous owners.  
7           The Company continues to honor any prior commitments made by Empire to the  
8           Commission.

9           **H.     FINANCING**

10 **Q.     HAS EMPIRE COMPLIED WITH THE CONDITIONS IN THE AGREEMENT**  
11 **REGARDING FINANCING?**

12 A.     Yes. Empire has complied with the following conditions regarding financing:  
13           (1)     Algonquin acknowledges that it is ultimately responsible for maintaining the  
14           financial integrity of Empire such that Empire is capable of meeting its statutory  
15           responsibility to provide sufficient and efficient service.  
16           (2)     The Company has not been downgraded below a BBB-.  
17           (3)     The Company has not attempted to seek an increase to the cost of capital as a result  
18           of the Transaction.  
19           (4)     The Company has filed a long-term debt financing agreement on March 1, 2017.

1 (5) No gain on sale has been recorded on the books of Algonquin, Liberty Utilities,  
2 Empire or any of their subsidiaries or affiliates.

3 (6) The Company has not refinanced any of Empire's debt other than to obtain a lower  
4 interest rate.

5 (7) Goodwill has not impaired Empires of capital. An analysis was completed on  
6 January 26, 2018.

7 The Company filed the annual goodwill impairment analysis for 2017 on April 2, 2018.

8 **I. ACCESS TO RECORDS**

9 **Q. HAS EMPIRE COMPLIED WITH THE CONDITIONS IN THE AGREEMENT**  
10 **REGARDING ACCESS TO RECORDS?**

11 A. Yes. Empire has complied with the following conditions regarding access to records:

12 (1) Empire agrees to l provide Staff and CURB with access, upon reasonable written  
13 notice during working hours and subject to appropriate confidentiality and discovery  
14 procedures, to all written information provided to common stock, bond or bond rating  
15 analysts which directly or indirectly pertains to Empire or any affiliate that exercises  
16 influence or control over Empire or has affiliate transactions with Empire. Such  
17 information includes, but is not limited to, common stock analysts and bond rating  
18 analyst's reports. For purposes of this condition, "written" information includes, but is not  
19 limited to, any written and printed material, audio and video tapes, computer disks, and  
20 electronically stored information. Nothing in this condition shall be deemed a waiver of  
21 any entity's right to seek protection of the information or to object, for purposes of

1 submitting such information as evidence in any evidentiary proceeding, to the relevancy or  
2 use of such information by any party.

3 Empire agrees to make available to Staff and CURB, upon written notice during normal  
4 working hours and subject to appropriate confidentiality and discovery procedures, all  
5 books, records and employees as may be reasonably required to verify compliance with  
6 Empire's CAM and any conditions ordered by this Commission. Empire also agrees to  
7 provide Staff and CURB any other such information (including access to employees)  
8 relevant to the Commission's ratemaking, financing, safety, quality of service and other  
9 regulatory authority over Empire; provided that any entity producing records or personnel  
10 shall have the right to object on any basis under applicable law and Commission rules,  
11 excluding any objection that such records and personnel of affiliates;

12 (a) are not within the possession or control of EDE or

13 (b) are either not relevant or are not subject to, the Commission's jurisdiction and  
14 statutory authority by virtue of, or as a result of, the implementation of the  
15 proposed Transaction.

16  
17 (2) Empire agrees to provide Staff and CURB access to and copies of, if requested by  
18 Staff or CURB, the complete Liberty Utilities, Liberty Utilities Central and Empire Board  
19 of Directors' meeting minutes, including all agendas and related information distributed in  
20 advance of the meeting, presentations and handouts, provided that privileged  
21 information shall continue to be subject to protection from disclosure and Empire shall

1 continue to have the right to object to the provision of such information on relevancy  
2 grounds.

3 Empire agrees to provide access to and copies of the complete Liberty Utilities, Liberty  
4 Utilities Central and Empire Board of Directors' meeting minutes. Included with the  
5 application of the rate case are Empire's Board of Directors' meeting minutes attached to  
6 Data Request 4.

7 **J. MISCELLANEOUS PROVISIONS**

8 **Q. HAS EMPIRE MET THE CONDITIONS IN THE AGREEMENT REGARDING**  
9 **MISCELLANEOUS PROVISIONS?**

10 A. Yes. Empire has met the conditions contained in the agreement regarding miscellaneous  
11 provisions.

12 **K. REPORTING REQUIREMENTS**

13 **Q. HAS EMPIRE MET THE CONDITIONS IN THE AGREEMENT REGARDING**  
14 **REPORTING REQUIREMENTS?**

15 A. Yes.

16 **X. CONCLUSION**

17 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

A. Yes.

**AFFIDAVIT OF JILL SCHWARTZ**


STATE OF MISSOURI )  
                                  ) ss  
COUNTY OF JASPER )

On the 3 day of December 2018, before me appeared Jill Schwartz, to me personally known, who, being by me first duly sworn, states that she is Senior Manager of Rates and Regulatory Affairs of The Empire District Electric Company – Liberties Utilities Central and acknowledges that she has read the above and foregoing document and believes that the statements therein are true and correct to the best of her information, knowledge and belief.

  
\_\_\_\_\_  
Jill Schwartz

Subscribed and sworn to before me this 3 day of December, 2018.

ANGELA M. CLOVEN  
Notary Public - Notary Seal  
State of Missouri  
Commissioned for Jasper County  
My Commission Expires: November 01, 2019  
Commission Number: 15262659

  
\_\_\_\_\_  
Notary Public

My commission expires: 11/01/2019.