

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

APPLICATION OF THE EMPIRE DISTRICT)
ELECTRIC COMPANY, A KANSAS)
CORPORATION, FOR AN ADJUSTMENT IN ITS)
RATES AND CHARGES FOR ELECTRIC SERVICE)
IN THE STATE OF OKLAHOMA)

CAUSE NO. PUD 202100163

FILED
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COURT CLERK'S OFFICE - OKC
CORPORATION COMMISSION
OF OKLAHOMA

NOTICE OF INTENT

COMES NOW, The Empire District Electric Company d/b/a Liberty-Empire, hereinafter referred to as "Liberty-Empire" or the "Company" and, pursuant to OAC 165:70-3-7(A), gives notice to the Oklahoma Corporation Commission ("Commission") of its intent to file an Application for a general rate change for its Oklahoma jurisdiction customers. The Company will also seek approval of appropriate tariffs and its terms and conditions of service. In compliance with the requirements of OAC 165:70-3-7(A), the Company notifies the Commission as follows:

1. Liberty-Empire plans to file an Application for a general rate change with a test year ending June 30, 2021.
2. Liberty-Empire anticipates filing its Application and supporting documentation in connection with the request for a general rate change on or about December 30, 2021.
3. The proposed effective date of the general rate change is expected to be no later than one hundred and eighty (180) days from the date of filing the Application, with new rates going into effect on or about June 28, 2022.
4. Liberty-Empire is a Class A Electric Company as defined by OAC 165:70-1-4(a)(1)(A).
5. At the time of this Notice of Intent, Liberty-Empire anticipates the following major issues to be raised in conjunction with its Application Package:

- a. Issues and pro forma adjustments normally addressed in the Commission's Minimum Standard Filing Requirements.
 - b. Termination, modification, addition or extension of certain cost recovery, riders.
 - c. Termination, modification or addition of certain tariffs.
 - d. Changes in utility investment in plant, property, equipment and other rate base items.
 - e. Capital investment needs and the cash flow to fund needed investment.
 - f. Rate design and cost allocation issues.
 - g. Depreciation study and proposed depreciation rates.
 - h. Pro forma adjustments for operation and maintenance costs.
 - i. Pro forma adjustments for electric plant and other rate base items.
 - j. Pro forma adjustments for administrative and general expenses.
 - k. Cost of capital.
 - l. Recognition of known and measurable changes occurring after June 30, 2021.
6. OAC 165:70-5-45 requires that a utility seeking review of its rates "shall submit a proposed Confidentiality Agreement at the time of filing its Notice of Intent." In compliance with such rule, Liberty-Empire is attaching a Confidentiality Agreement as Exhibit "A" to this Notice of Intent.

Respectfully Submitted,

THE EMPIRE DISTRICT ELECTRIC COMPANY

A handwritten signature in blue ink that reads "Kenneth Tillotson". The signature is written in a cursive style with a horizontal line underneath it.

KENNETH A. TILLOTSON, OBA No. 19237
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(417) 768-9140
kenneth.tillotson@libertyutilities.com

Counsel for The Empire District Electric Company

CERTIFICATE OF SERVICE

On this 12th day of November, 2021, the undersigned caused a true and correct copy of the above and foregoing document to be transmitted to the following:

Brandy Wreath
Natasha Scott
Michael Velez
Oklahoma Corporation Commission
P.O. Box 52000
Oklahoma City, OK 73152-2000
brandy.wreath@occ.ok.gov
natasha.scott@occ.ok.gov
michael.velez@occ.ok.gov
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Kenneth A. Tillotson

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

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CORPORATION, FOR AN ADJUSTMENT IN ITS) CAUSE NO.
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CONFIDENTIALITY AGREEMENT

WHEREAS, the parties herein have agreed that the procedures shall be established and followed for the protection of information and documents produced, given, exchanged, or otherwise used by and among the parties in the course of discovery and other proceedings in this Cause.

NOW, THEREFORE, the parties agree as follows:

1. Any document or any information produced or required to be produced by the parties or exchanged by the parties in the course of discovery in this Cause, which satisfies the conditions set forth below, may be designated by the producing party as “confidential” or “highly sensitive confidential.” Documents and information shall only be designated as “confidential” or “highly sensitive confidential” upon the good faith determination by the producing party, concurred in by counsel representing that party, that such documents or information are confidential as delineated in the Protective Order issued in this Cause. The standard regarding the definition of “confidential” in any classification dispute shall be the common or other applicable law of the State of Oklahoma. “Highly sensitive confidential” documents and information are a subset composed of information which a responding party claims is of such a highly sensitive nature that the making of copies of such information by or for the requesting party having access to such information as contemplated in Paragraph 7 of this Confidentiality Agreement (“Agreement”) would expose the producing party to an unreasonable risk of harm.

2. “Confidential” information and “highly sensitive confidential” information shall not include information found by the Administrative Law Judge (“ALJ”), the Oklahoma Corporation Commission (“Commission”), or a court of competent jurisdiction not to merit the protection afforded “confidential” information or “highly sensitive confidential” information under the terms of this Agreement.

3. As to documents and information produced to another party, only such documents or information as have been determined to be “confidential” or “highly sensitive confidential” under the terms of this Agreement and which are clearly marked and identified as such under the terms of this Agreement shall be deemed “confidential” or “highly sensitive confidential” information and entitled to receive the protection afforded by this Agreement. The designation of “confidential” or “highly sensitive confidential” documents and information shall be made initially

by the producing party prior to, or contemporaneously with, the production of such documents or information to the other party in accordance with this Agreement.

4. “Confidential” or “highly sensitive confidential” documents and information shall not be disclosed by counsel for the party receiving or having access to such documents and information to any person or entity except:

- A. Counsel of record for the parties.
- B. Employees of counsel assigned to assist counsel in the conduct of this Cause and any appeal herein.
- C. Consultants or experts, and their subordinates, employed by a party or counsel to assist counsel in this Cause.
- D. The Commission, PUD and the ALJ designated by the Commission to conduct proceedings herein.

All persons who may be entitled to receive, and who are afforded access to, any “confidential” information or “highly sensitive confidential” information by reason of this Agreement shall not: (a) use or disclose the information for any purpose other than the preparation for and conduct of this proceeding before the Commission or any related proceedings before the Supreme Court of the State of Oklahoma or any court it designates; or (b) reveal or discuss such documents or information, or any information contained therein, to or with any person who is not eligible to receive such documents or information pursuant to this paragraph and authorized to receive such documents or information pursuant to Paragraph 5.

All such persons shall use their best efforts to keep the information secure in accordance with the purpose and the intent of this Agreement. To this end, persons having custody of any such information shall keep the documents under lock and key or otherwise properly secured during all times when the documents are not being reviewed by a person authorized to do so.

5. Prior to producing the “confidential” information, as contemplated in Paragraph 4 and 6, or producing for review the “highly sensitive confidential” information, as contemplated in Paragraph 7 to any person authorized to be given and provided access to such information pursuant to this Agreement, counsel for the requesting party shall notify counsel for the producing party of the intent to make such disclosure, stating with particularity the name, title and job responsibilities of the person to whom disclosure will be made and the purpose of such disclosure. In addition, requesting counsel shall require the person to whom disclosure is to be made to read a copy of this Agreement, sign the same and deliver it to counsel for the producing party before disclosure is made and, if no objection thereto is registered to counsel requesting the same by 5:00 p.m. on the second business day after actual notice, then disclosure shall follow. If objection is made, the disclosure shall not occur until the objection is withdrawn or until an appropriate order of the Commission is issued. Objection shall be made only after good faith review by counsel for the

producing party. The procedure for objecting shall not apply to disclosure to Commission employees. Any objection shall be set for hearing, if necessary, on the next available motion docket.

6. “Confidential” documents and information shall be produced by the producing party by delivering a copy thereof to counsel for the requesting party.

7. The following procedures apply with respect to production for review of “highly sensitive confidential” information unless: (a) the producing and receiving parties agree otherwise; or (b) otherwise required by the provisions of this Agreement.

On or before the date the response is due, the party producing information claimed to be “highly sensitive confidential” information shall file with the Commission, and deliver to the party that requested the information, a written statement that includes the following information: (a) the identity of the party requesting the “highly sensitive confidential” information; (b) a verbatim recitation of those data requests for which responsive information, in whole or in part, is deemed to be highly sensitive information; and (c) a written statement that explains why the information is “highly sensitive confidential” information.

Information claimed to be “highly sensitive confidential” information must be made available at the responding party’s Oklahoma City, Oklahoma location, or another location agreed by the parties or ordered by the ALJ or the Commission, on or before the date the response is due.

The party producing information claimed to be “highly sensitive confidential” information shall be responsible for monitoring the inspection of such information. The attorney for the party requesting the information shall be responsible for monitoring any note taking allowed under this Agreement. Extensive note taking shall not be permitted.

8. A party may include “confidential” or “highly sensitive confidential” documents or information of another party in, or as attachments to, prefiled testimony, but only if the portion of the testimony, including at least the affected question and the attachments which state the “confidential” or “highly sensitive confidential” information, and such other portions of the testimony, if any, as in fairness should be redacted to protect the confidentiality of the information, are segregated from the remainder of the testimony. Where such protected documentation and/or information are redacted, the party claiming confidentiality shall file a cover sheet to the redacted version(s) of such confidential testimony with the Commission. The cover sheet shall be marked: “CONFIDENTIAL INFORMATION REDACTED--SUBJECT TO PROTECTIVE ORDER IN OKLAHOMA CORPORATION COMMISSION CAUSE NO. PUD _____.” A party which submits a confidential cover sheet shall initially serve a copy of the complete prefiled testimony, including the unredacted portions, on the party whose “confidential” or “highly sensitive confidential” information is affected. All other parties shall initially be served only a copy of the redacted prefiled testimony without the confidential portions, but annotated to clearly reveal that the testimony is not complete. If a party who is not served the unredacted portions of prefiled testimony wants to obtain access to the protected information and/or documents relating

to that testimony, that party must request the unredacted information and demonstrate it has signed this Agreement. The request shall be served on both the party which filed the testimony and upon the party whose information is affected. A requesting party shall be provided the unredacted portions of the prefiled testimony, pursuant to the mandates defined in this Agreement, by the party which filed the testimony, if the party whose information is affected does not object to such disclosure, by 5:00 p.m. of the second business day after actual notice of such a request. A failure to object has no effect other than to authorize an unredacted copy of the confidential portion of the testimony to be served on the requesting party. In the event of an objection, it shall be heard by the ALJ and no later than the next available motion docket.

9. If a party intends to use “confidential” or “highly sensitive confidential” information on the record at the hearing of this Cause, the party shall give reasonable advance notice to the ALJ or the Commission and to counsel for all other parties, and shall request an in camera proceeding before the ALJ or the Commission, as appropriate. If “confidential” or “highly sensitive confidential” information is admitted into evidence or taken as an offer of proof or otherwise in such an in camera proceeding, the record of such in camera hearing, if thereafter prepared, shall be marked “CONFIDENTIAL--SUBJECT TO PROTECTIVE ORDER IN OKLAHOMA CORPORATION COMMISSION CAUSE NO. PUD _____.” The portion of the transcript shall be separately bound, segregated, sealed and withheld from inspection by any person not bound by this Agreement, unless and until released from the restrictions of this Agreement either through the written agreement of the parties, or after notice to the parties and hearing, pursuant to an order of the Commission or a court of competent jurisdiction.

10. The receipt by any party to this Cause of any documents or information which have been designated as “confidential” or the receipt of access to any documents or to any information designated as “highly sensitive confidential” pursuant to the terms of this Agreement shall not be deemed to constitute an agreement that the documents or information produced are “confidential” or “highly sensitive confidential.” Subsequent to the receipt of documents or information marked “confidential” or of access to documents or information marked “highly sensitive confidential” by any party to this Cause, the party receiving such documents or information, or access thereto may contest the claim of confidentiality.

11. If a party, after review of the information designated as “confidential” or “highly sensitive confidential,” wishes to contest such classification, a motion to that effect shall be filed with the Commission identifying with particularity (but not disclosing) the information in question. The parties seeking to have the information designated as “confidential” or “highly sensitive confidential” shall file a response within five working days after receipt of the motion and shall have the burden of establishing the need for such designation. The parties are expected to attempt to resolve such a dispute by negotiated agreement.

At the request of the ALJ, the responding party shall provide the documents claimed to be “confidential” or “highly sensitive confidential” to the ALJ for an in camera review. Those documents shall not be filed with the Commission. Such documents will not be accessible to the other parties except pursuant to the terms of this Agreement, unless subsequently so ordered by the Commission or a court of competent jurisdiction. Disclosure shall be made as ordered or otherwise agreed to by the responding and requesting parties.

12. In the event a party determines that in order to protect the interests and expectations of privacy and confidentiality of its customers, employees, agents or representatives, it is necessary for such party to withhold the identification of such customers, employees, agents or representatives, from any documents or information produced, the producing party may, in addition to taking any other action provided for in this Agreement, redact the names and other types of information which specifically identifies such customers, employees, agents or representatives from the documents and information it produces or discloses to the other party. The fact of redaction must be clearly disclosed on the face of the document produced or as part of the response made. If the party receiving documents or information with such redaction disagrees with the necessity or appropriateness of such redactions, it may seek resolution of such issue by the ALJ. Provided, however, that one unredacted version of such documents or information shall be provided to counsel of record for the party requesting such documents or information, but such counsel shall not duplicate such unredacted documents or information or disclose the unredacted documents or information to any other person, party or entity, including the persons or parties described in Paragraph 4 above, without first seeking and receiving permission in advance from counsel for the producing party or an order from the Commission allowing such disclosure or duplication.

13. To the extent that such efforts will not damage a party’s presentation of its position in this docket, each party shall use its best efforts to phrase deposition and other discovery questions, prefiled testimony, questions asked on live examination of a witness, briefs, other pleadings and oral arguments in a way which will eliminate or minimize the need for documents in the record to be under seal, or for Commission proceedings in this docket to be closed to the public. Any party intending to refer to “confidential” information or “highly sensitive confidential” information during a Commission proceeding in this docket in a manner which might require that such proceeding be closed shall as soon as possible provide advance notice of this to the parties and the ALJ or the Commission, whichever is presiding over the proceeding, identifying with particularity the confidential information involved.

14. Upon completion of this proceeding, including administrative or judicial review thereof, copies of all “confidential” documents furnished under the terms of this Agreement shall be returned promptly to the producing party and any notes from “confidential” or “highly sensitive confidential” information shall be destroyed. Counsel for the party, which made such notes, shall certify to the producing party that such notes have been destroyed. Unless otherwise ordered, such information including portions of transcripts from any depositions to which a claim of confidentiality is made, shall remain under seal, shall continue to be subject to the protective requirements of this Agreement, and shall be returned to the producing party at the conclusion of

this litigation. While in the custody of the Commission, these documents shall be marked "CONFIDENTIAL--SUBJECT TO PROTECTIVE ORDER IN OKLAHOMA CORPORATION COMMISSION CAUSE NO. PUD 202000068". They shall not be considered as records in the possession of or retained by the Commission subject to public disclosure within the meaning of the Oklahoma Open Records Act. If the Office of the General Counsel of the Oklahoma Corporation Commission receives a request for public disclosure, pursuant to the Oklahoma Open Records Act, 51 O.S. §24A.1, et seq., of information claimed to be either "confidential" or "highly sensitive confidential" (or any notes reflecting such information) then the recipient of that request for disclosure shall, within one working day following receipt of that request, notify the party whose information is affected that a request for public disclosure has been made. The Office of the General Counsel of the Oklahoma Corporation Commission shall not release such information publicly for ten calendar days, in order to allow the responding party time to pursue any legal remedies that it may have, unless otherwise ordered by a court of competent jurisdiction.

15. Nothing in this Agreement shall prevent any party from: (a) requesting additional relief from the Commission concerning the production, protection, disclosure or use of any "confidential" or "highly sensitive confidential" documents or information in the event of disagreements among the parties or their counsel which cannot be resolved by the parties or their counsel; or (b) objecting to the production or disclosure of documents or information on grounds that such documents or information are not subject to production or disclosure or are entitled to protection from such production or disclosure under provisions of the Commission's rules of practice or other applicable law.

THE UNDERSIGNED PARTY OR INDIVIDUAL CERTIFIES THAT HE/SHE HAS READ THIS AGREEMENT AND WILL COMPLY WITH AND BE BOUND BY THE TERMS HEREOF.

PRINT NAME: _____
Signature: _____
Title: _____
Address: _____
Representing: _____
Date: _____

STATE OF OKLAHOMA)
) ss:
COUNTY OF _____)

Subscribed and sworn to before me this _____ day of _____, 20_____.

Notary Public

My Commission Expires: _____
My Commission No.: _____