

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

MISSISSIPPI POWER COMPANY  
EC1200009700

DOCKET NO. 2019-UN-219

IN RE: MISSISSIPPI POWER COMPANY'S NOTICE OF INTENT TO CHANGE RATES

**FINAL ORDER APPROVING STIPULATION**

THIS CAUSE came on for consideration by the Mississippi Public Service Commission ("Commission") on the Notice of Intent to Change Rates filed by Mississippi Power Company (the "Company" or "MPCo") in the above referenced docket as described herein and in connection with the Company's service to its customers in its certificated areas in the twenty-three (23) counties of southeastern Mississippi. This Commission, being fully apprised in the premises, having considered the documents and record before it, and upon recommendation of the Mississippi Public Utilities Staff ("Staff") through its filed Stipulation with MPCo, finds as follows:

**PETITIONER**

1. MPCo is a public utility as defined in Section 77-3-3(d)(i) of the *Mississippi Code of 1972, as amended*, and is engaged in the business of generating, transmitting and distributing electric power to and for the public for compensation in twenty-three (23) counties in southeast Mississippi. MPCo is the holder of a Certificate of Public Convenience and Necessity issued in Docket No. U-99, as supplemented from time to time, authorizing its operations in specified areas of the twenty-three (23) counties of southeast Mississippi and is rendering electric service in accordance with its service rules and regulations and in accordance with schedules of rates and

charges, all of which are a part of its tariff that has been previously approved by order of this Commission.

**BACKGROUND**

2. For over thirty years, the Company has regularly (currently filed annually) filed its Performance Evaluation Plan ("PEP") for the Commission and Staff to review and establish MPCo's base rates for retail electric service. Since 1992, the Company has annually filed its Environmental Cost Overview ("ECO") which provides the Commission and Staff a method of exercising oversight of all of MPCo's environmental expenditures. Other aspects of MPCo's retail revenue requirement are addressed in separate rate riders as well, including Fuel Cost Recover ("FCR"), Kemper Rate Factor ("KRF"), Energy Efficiency Cost Recovery ("EECR"), Storm Restoration Rider ("SRR"), Ad Valorem Tax Adjustment ("ATA") and Regulatory Tax Recovery ("RTR").

3. By order of the Commission, the Company's PEP and ECO rate filings were suspended for regulatory years 2018, 2019, and 2020, and the Company was directed to file a "general rate case" in 2019. In compliance with this directive, MPCo filed its Notice of Intent to Change Rates in the above referenced docket on or about November 26, 2019 ("2019 Rate Case"). The revenue requirement calculations and rates presented in the 2019 Rate Case were based on the entirety of the Company's business, encompassing all of the components which have traditionally been filed in separate proceedings, including but not limited to new depreciation rates and a new cost of service study. MPCo's 2019 Rate Case proposed a 0.64% decrease in retail rates, which reflected a revenue decrease of approximately \$5.8 million for 2020.

4. Currently before this Commission is a Stipulation between the Staff and MPCo that addresses the issues presented by MPCo's 2019 Rate Case. For the reasons set forth below, the Stipulation is approved in full and without modification.

#### PROCEDURAL HISTORY

5. By order of the Commission on December 10, 2019, the 2019 Rate Case was suspended pending an investigation of the filing. Notice of the 2019 Rate Case was published in the *Clarion Ledger* on or about December 22, 2019.

6. In accordance with the suspension order, written notice of the 2019 Rate Case was sent to all of MPCo's customers, including special contract customers, between December 16 and 17, 2019. A Verification of Notice to Customers was filed by MPCo with the Commission on December 18, 2019.

7. Cooperative Energy, the Sierra Club, Federal Executive Agencies ("FEA"), and Chevron Products Company, a division of Chevron U.S.A. Inc. ("Chevron") were permitted to intervene in the proceeding.

8. Following the Company's 2019 Rate Case filing, the Staff propounded numerous data requests as part of its investigation. Other intervenors also propounded data requests to MPCo. The record reflects the Company has fully responded and complied with all such requests and has met with the Staff to furnish additional information. No motion has been filed with the Commission by any party as to any discovery period or as to the sufficiency of the responses provided by the Company.

9. In compliance with applicable statutory deadlines, on February 14, 2020, the Staff submitted pre-filed testimony from a total of six witnesses concerning the 2019 Rate Case. On the same day, FEA and Chevron filed joint pre-filed testimony from one witness.

10. On February 25, 2020, MPCo and the Staff filed an executed Stipulation concerning the issues presented by the 2019 Rate Case. A true and correct copy of the Stipulation is attached hereto as Exhibit "A".

11. On March 3, 2020, MPCo filed a revised 2020 revenue requirement calculation and revised depreciation and amortization rates consistent with the terms of the Stipulation on file with this Commission.

12. On March 9, 2020, MPCo filed compliance tariffs and rate schedules, including special contracts, allocating the stipulated revenue requirement for 2020 to the various retail rates and riders.

13. On March 17, 2020, a properly-noticed abbreviated proceeding, in compliance with Section 77-3-39 of the *Mississippi Code of 1972, as amended*, was held concerning the 2019 Rate Case and the Stipulation.

#### APPLICABLE LAW

14. This Commission has jurisdiction over the parties and subject matter pursuant to Sections 77-3-5 and 77-3-37 of the *Mississippi Code of 1972, as amended*, as well as RP 9 of the Commission's Public Utilities Rules of Practice and Procedure ("Rules"). Section 77-3-33 of the *Mississippi Code of 1972, as amended* mandates:

No rate made, deposit or service charge demanded or received by any public utility shall exceed that which is just and reasonable. Such public utility, the rates of which are subject to regulation under the provisions of this article, may demand, collect and receive fair, just and reasonable rates for the services rendered or to be rendered by it to any person. Rates prescribed by the commission shall be such as to yield a fair rate of return to the utility furnishing service, upon the reasonable value of the property of the utility used and useful in furnishing service.

15. MPCo's Notice of Intent was appropriately designated as a routine change in rates under RP 9.100(1) given that the filing as proposed resulted in an overall decrease in retail rates

to customers. As such, MPCo was required to comply with the requirements of Section 77-3-37(1) of the *Mississippi Code of 1972, as amended*, and Schedule 1, Appendix “C” to the Commission’s Rules. Having reviewed the record in this case, the Commission finds that MPCo’s Notice of Intent and other supporting information comply with all applicable filing requirements and Rules of this Commission; to the extent any filing requirement was not fully met in this proceeding, the Commission finds good cause to waive such requirement as authorized by the Rules.

16. Although individual customer notice is not required by law for routine changes in rates, this Commission nonetheless ordered the Company to provide such notice. The Commission finds, after reviewing the Company’s Verification of Notice to Customers, that all notice requirements applicable to this proceeding were met, and MPCo’s retail customers received reasonable notice of this proceeding.

17. MPCo’s 2019 Rate Case, *inter alia*, requested the Commission’s approval of new depreciation and amortization rates. Section 77-3-31 of the *Mississippi Code of 1972, as amended*, sets out the Commission’s authority to ascertain, determine and fix depreciation rates for public utilities.

18. Section 77-3-43 of the *Mississippi Code of 1972, as amended*, governs the Commission’s authority to ascertain and fix the rate base of the property for public utilities. The pertinent provision of Section 77-3-43 requires “[t]he commission shall make readjustments from time to time, and ascertain the cost of all new construction, extensions and additions to the property of every public utility.”

19. Section 77-3-39 of the *Mississippi Code of 1972, as amended*, governs hearing requirements for public utility rate changes. Absent other applicable provisions of law, evidentiary hearings are not statutorily required for routine changes in rates. The Commission finds that the

notice and public proceedings held concerning the 2019 Rate Case were in full compliance with applicable law.

20. Section 77-3-59 of the *Mississippi Code of 1972, as amended*, governs Commission decisions and requires that “[a]ll findings shall be supported by substantial evidence presented and shall be in sufficient detail to enable the court on appeal to determine the controverted questions presented, and the basis of the Commission’s conclusions.”

21. For the reasons detailed in this order, this Commission finds it has the legal authority to make and substantial evidence exists in the record to support the findings and decisions detailed in this Final Order Approving Stipulation.

**PRE-FILED TESTIMONY**

22. MPCo’s Notice of Intent included pre-filed testimony and exhibits from a total of seven witnesses: Mr. Matthew P. Grice, Mr. David F. Schmidt, Mr. Patrick W. Leathers, Mr. Mark P. Loughman, Mr. Edward E. Easterling, Mr. Dane Watson, and Mr. Todd A. Shipman. This testimony supported the revenue requirement calculation and other financial information required to be submitted in rate cases as well providing an overview of the Company’s Generation Organization, Power Deliver Organization, and environmental compliance efforts. As previously mentioned, the Company’s 2019 Rate Case proposed a total reduction in retail revenue requirement for 2020 of approximately \$5.8 million.

23. The Staff’s submittal included the pre-filed testimony and exhibits from a total of six witnesses: Ralph Smith, Mark Dady, Frank Radigan, Bruce Fairchild, Michael Gorman, and David Dismukes. The primary topics addressed by the Staff’s witnesses include revenue requirement, depreciation rates, rate of return, credit ratings, and cost benchmarking. The Staff’s

witnesses proposed a total reduction in retail revenue requirement for 2020 of approximately \$46.16 million.

24. Chevron and FEA submitted pre-filed testimony from one witness, Mr. Brian C. Collins. Mr. Collins's testimony does not address the revenue requirement assumptions and calculations presented by either the Company or the Staff, and is instead limited to rate design proposing specific to the Large General Service – High Voltage (“LGS-HV”) rate schedule and confirming Chevron's agreement with MPCo's design of the Large Power Time of Use (“LPO-TOU”) rates schedule applicable to FEA and Chevron, respectively.

25. Subsequent to the filing of Mr. Collins's direct testimony and as noted earlier in this order, on March 9, 2020, MPCo submitted revised retail electric service rate schedules, rate riders, and special contract schedules (filed confidentially) in compliance with the Stipulation. These compliance rate schedules were designed consistent with the methodology and practice used by MPCo over the last several decades to design rates. The compliance rate schedules have been designed to become effective on customers' bills commencing with the first billing cycle of April, 2020.

26. Neither Chevron nor FEA commented or otherwise objected to these submittals. In fact, FEA and Chevron each affirmatively notified this Commission that they had no objection to the Stipulation. This also weighed into the Commission's consideration of FEA's initial proposal through Mr. Collins. The Commission is not persuaded that the Company's rate design methods and policies used to design all rates over the last several rate proceedings, including LGS-HV, should be modified at this time and finds that the compliance rate schedules submitted by MPCo pursuant to the Stipulation are just and reasonable and should be approved as the lawful rates of the Company.

### FINDINGS

27. Several significant and recent events in the preceding years, including the completion of the Kemper Project and the passage of the Tax Cut and Jobs Act (“TCJA”), prompted this Commission to suspend MPCo’s existing annual rate filings and order the submittal of a “general rate case.” The record reflects a thorough filing by MPCo and an extensive investigation of the 2019 Rate Case conducted by several parties, including the Staff.

28. Before the Commission is a Stipulation between the Staff and MPCo concerning the 2019 Rate Case. The Stipulation purports to address the significant issues presented in this proceeding and contains mutually agreeable adjustments estimated to result in an overall decrease of approximately \$16.68 million in total retail revenues for 2020. This equates to a monthly decrease of \$2.48 for a typical customer using 1,000 kWh per month. Thus, the Stipulation represents an incremental decrease of almost \$11 million in annual revenue requirement from the Company’s original filing, or an additional \$1.80 decrease to monthly customer bills of 1,000 kWh per month.

29. This Commission has had an opportunity to review the evidence presented by all parties, the Stipulation, and the record in this matter. Notably, several parties have intervened and participated in these proceedings, and no objection to the Stipulation has been presented, formally or informally. In the Commission’s view, reasonable compromises have been reached that will afford meaningful savings to customers while simultaneously supporting the financial strength of MPCo for the long-term. The significant issues that existed between the parties and how each was addressed by the Stipulation are each discussed below:

(a) TCJA: Since the TCJA’s passage in 2017 the Company and Staff have expressed different ways to address the impacts to customers and MPCo that the changes in tax



law had to each. The TCJA presented a timely opportunity to lower customer rates, but it was also important that the unavoidable financial impacts caused by the TCJA be acknowledged and mitigated, if necessary. The Stipulation reaches a reasonable compromise that provides significant and real benefits to customers while supporting the long-term financial strength of the Company. Specifically, the Stipulation accelerates the tax refund owed to customers by adopting an amortization period of three years for unprotected (by normalization rules) excess ADITs commencing in 2020 and a four-year amortization period for regulatory assets described in the Company's filing commencing in 2020. To mitigate the cash flow impacts of this accelerated amortization as well as the negative impacts already experienced upon the passage of the TCJA, MPCo is permitted to include in rates its test period average capital structure of 53% common equity, and is permitted an actual capital structure of up to a maximum of 55% equity by the end of the test period.

(b) Cost of Capital: MPCo's 2019 Rate Case assumed a weighted average cost of capital of 7.728%. The Staff's proposed weighted average cost of capital was 7.298%. The Stipulation adopts a weighted average cost of capital equal to 7.570%. No other party presented evidence on the cost of capital issue. Based upon the testimony in evidence in this case, the Commission finds this cost of capital to be just and reasonable and commensurate with rates of return authorized for public utilities with comparable risk.

(c) Employee Compensation: The recovery of certain employee compensation costs has been at issue between MPCo and the Staff since 2010. The parties stipulated that for the 2020 revenue requirement the following compensation costs would be excluded from the 2020 revenue requirement: (1) all compensation (i.e., base and variable; both long-term and short-term) associated with the Southern Company Chief Executive Officer; (2) all long-term incentives such

as stock-based compensation; and (3) all expenses associated with financial services for executives. For 2020, these categories represent approximately \$3.9 million.

(d) Regulatory Assets/Liabilities: This Commission agrees with the Stipulation that when reasonably possible amortization periods should remain consistent. To this end, and to remain consistent with the amortization periods adopted for the TCJA regulatory assets and liabilities, all other regulatory asset accounts presented in the stipulated revenue requirement shall have an amortization period of four years commencing in 2020 and all regulatory liability accounts shall have an amortization period of three years commencing in 2020.

30. For the reasons stated herein and based upon the pre-filed testimony and exhibits, the Stipulation and the experience and expertise of this Commission, we hereby find that the Stipulation will result in just and reasonable rates for both MPCo and its customers, and, therefore, the Stipulation is hereby approved in full and without modification.

**IT IS THEREFORE, ORDERED**, that the Stipulation is adopted and approved in full and without modification and incorporated into this order in its entirety. It is further,

**ORDERED**, that the Kemper Rate Factor, KRF, shall be discontinued, and Plant Ratcliffe's rate base and operating expenses shall be included in all future PEP, ECO and ATA annual filings. It is further,

**ORDERED**, that in response to the new Integrated Resource Planning Rule adopted by this Commission, the Energy Efficiency Cost Recovery rate (i.e., EECR) shall be discontinued, and all energy efficiency costs shall be included in all future PEP annual filings. It is further,

**ORDERED**, that after collaborating with the Staff regarding same, MPCo file within sixty (60) days of the date of this order, compliance rate clauses consistent with the requirements of Rule 9 implementing the stipulated revisions to PEP detailed in Exhibit "A" to the Stipulation. It

is further,

**ORDERED**, that the Cost of Service Study presented by the Company and the resulting jurisdictional allocators are just and reasonable and hereby approved for use in retail rates beginning with the 2020 stipulated revenue requirement. It is further,

**ORDERED**, that the revised Depreciation Study exhibits and schedules submitted by MPCo on March 3, 2020, and the resulting depreciation and amortization rates are just and reasonable and hereby approved for use in retail rates beginning with the 2020 stipulated revenue requirement. It is further,

**ORDERED**, that the compliance tariff of rate schedules filed by MPCo on March 9, 2020, is hereby approved as just and reasonable and as the lawful rates of the Company effective March 19, 2020. No further action is required of any party or the Commission regarding the implementation of these approved rates, and the Company is directed to commencing billing to customers under these new rates with the first billing cycle of April, 2020.

This Order shall be deemed issued on the day it is served upon the parties herein by the Executive Secretary of this Commission who shall note the service date in the file of this Docket.

#### COMMISSION VOTE

Chairman Dane Maxwell

Aye ☒ Nay ☐

Commissioner Brent Bailey

Aye ☒ Nay ☐

Commissioner Brandon Presley

Aye ☒ Nay ☐

SO ORDERED by this Commission on this the 17<sup>th</sup> day of March, 2020.

MISSISSIPPI PUBLIC SERVICE COMMISSION



*Dane Maxwell*  
DANE MAXWELL, CHAIRMAN

*Brent Bailey*  
BRENT BAILEY, COMMISSIONER

*Brandon Presley*  
BRANDON PRESLEY, COMMISSIONER

ATTEST: A TRUE COPY

*Katherine Collier*  
KATHERINE COLLIER, EXECUTIVE SECRETARY

Effective this the 17<sup>th</sup> day of March, 2020.

**FILED**

**FEB 25 2020**

**MISS. PUBLIC SERVICE  
COMMISSION**

BEFORE THE MISSISSIPPI PUBLIC SERVICE COMMISSION

MISSISSIPPI POWER COMPANY  
EC-120-00097-00

DOCKET NO. 2019-UN-219

**IN RE:       MISSISSIPPI POWER COMPANY'S NOTICE OF INTENT  
              TO CHANGE RATES**

**STIPULATION**

This stipulation ("Stipulation") is entered into by and between the Mississippi Public Utilities Staff ("Staff") and Mississippi Power Company ("MPCo" or "Company") in the above referenced docket.

The Staff has had the benefit of full discovery as prescribed by Mississippi law and the Mississippi Public Service Commission's ("MPSC" or "Commission") Public Utilities Rules of Practice and Procedure ("Rules"). The Staff has conducted an extensive investigation of the Company's filing and has had the benefit of substantial amounts of data produced in discovery, including having access to significant amounts of the Company's confidential information related to its operations. In addition, the Staff regularly conducts audits and reviews of the business, rates, and expenses of the Company every twelve (12) months as a part of the MPCo rate plan referred to as Performance Evaluation Plan, Rate Schedule PEP-5A ("PEP").

This Stipulation is entered into as a result of the pleadings and testimony filed by the Staff and Company in this Docket; the Staff's extensive continuing knowledge and understanding of the books, records, and business of MPCo; the discussions and information exchanged among the Staff, the interveners and the Company; and the research and investigation conducted by the Staff in this proceeding.



It is hereby stipulated and agreed as follows between the Staff and MPCo.

### **INTRODUCTION AND PROCEDURAL HISTORY**

1. For over thirty years, the Company has filed PEP annually for the Commission and Staff to review and establish MPCo's base rates for retail electric service. Since 1992, the Company has annually filed its Environmental Cost Overview ("ECO") which provides the Commission and Staff a method of exercising oversight of all of MPCo's environmental expenditures. Other aspects of MPCo's retail revenue requirement are also addressed in separate rate riders as well, including Fuel Cost Recover ("FCR"), Kemper Rate Factor ("KRF"), Energy Efficiency Cost Recovery ("EECR"), Storm Restoration Rider ("SRR"), Ad Valorem Tax Adjustment ("ATA") and Regulatory Tax Recovery ("RTR").

2. By order of the Commission, the Company's PEP and ECO rate filings were suspended for regulatory years 2018, 2019 and 2020 and the Company was directed to file a "general rate case" in 2019. In compliance with this directive, MPCo filed its Notice of Intent to Change Rates in the above referenced docket on or about November 26, 2019 ("2019 Rate Case"). The revenue requirement calculations and rates presented in the 2019 Rate Case were based on the entirety of the Company's business, encompassing all of the components which have traditionally been filed in separate proceedings, including but not limited to new depreciation rates and a new cost of service study. MPCo's 2019 Rate Case proposed a 0.64% decrease in retail rates, which reflected a revenue decrease of approximately \$5.8 million for 2020.

3. By order of the Commission on December 10, 2019, the 2019 Rate Case was suspended pending an investigation of the filing. Notice of the 2019 Rate Case was published in the *Clarion Ledger* on or about December 22, 2019. In accordance with the suspension order,

written notice of the 2019 Rate Case was sent to all of MPCo's customers, including special contract customers, between December 16 and 17, 2019. A Verification of Notice to Customers was filed with the Commission on December 18, 2019.

4. Cooperative Energy, the Sierra Club, Federal Executive Agencies ("FEA"), and Chevron Products Company, a division of Chevron U.S.A. Inc. ("Chevron") were permitted to intervene in the proceeding.

5. Following the Company's 2019 Rate Case filing, the Staff propounded numerous data requests as part of its investigation. Other intervenors also propounded data requests to MPCo. The Company has fully responded and complied with all such requests and has met with the Staff to furnish additional information. At the time of this Stipulation, no motion has been filed with the Commission by any party as to any discovery period or as to the sufficiency of the responses provided by the Company.

#### **JURISDICTION AND SUFFICIENCY OF THE FILING**

6. The Staff and the Company agree that the Commission has jurisdiction over the parties and subject matter in this proceeding.

7. The Staff and the Company also agree that the pleadings, data, documentation and exhibits to this Docket filed by MPCo with its notice of intent comply with all of the statutory filing requirements and the requirements of the Commission's Rules, except for those waived by the Commission.

#### **ISSUES RELATED TO PRIOR DOCKETS**

8. In previous Commission orders in PEP and related to Plant Ratcliffe costs the Company and Staff were directed to ensure compliance with certain conditions and issues

contained in the previous stipulations and Commission orders. Staff and MPCo have jointly confirmed through Company testimony, Staff testimony and review, and through various data request responses the following:

a. Only the costs related to the used and useful portion of the combined cycle and related assets at Plant Ratcliffe (Kemper) are included in the Company's filing pursuant to the Commission's Order dated February 6, 2018, in Docket No. 2017-AD-112;

b. The total MPCo capital investment in Plant Ratcliffe (i.e. average rate base) was \$853,918,600 in 2018 and MPCo permanently removed from retail rate base the several components of the Kemper gasifier project associated with gasifier and lignite operations and there are no costs related to the gasifier in the Company's filing;

c. The Company provided and Staff confirmed the capital and operating budgets used in support of the 2020 test year, and that all other costs associated with Plant Ratcliffe are included with the other rate base and expense items associated with the Company's PEP, ECO, and ATA rate clauses, as applicable. In addition, non-fuel O&M costs related to Plant Ratcliffe that have been expensed since the Commission's Order dated February 6, 2018, were recorded in the appropriate accounting period, and are therefore not included for recovery in MPCo's projected 2020 test year. Only the non-fuel O&M costs projected for the 2020 test year have been included for recovery in the Company's filing;

d. The Company provided and Staff confirmed those costs related to Kemper that have been capitalized since the Commission's Order dated February 6, 2018, in Docket No. 2017-AD-112. Specifically, the Company identified capitalized costs totaling \$35,665,908 for 2018, \$4,402,177 for 2019, and \$1,745,000 for the 2020 test year. As noted in Larkin's testimony, due to time constraints, the 2018 and 2019 costs were not reviewed for prudence. Therefore, the parties agree that the Staff will conduct a prudence review of these costs in conjunction with its review of the Company's next PEP filing;

e. The Company provided and Staff confirmed that the actual Kemper related O&M expenses were \$22,025,753 for 2018, \$17,850,169 for 2019, and \$17,647,576 for the projected 2020 test year;

f. The Company provided and Staff confirmed that the Company's PEP surcharge accounting for the lower tax expenses was applied as stipulated over a sixteen month period ending December 31, 2019;

g. The Company provided and Staff confirmed that the previously contested compensation costs totaling \$5.5 million in 2018 and similar costs for 2019 were deferred as stipulated and that financial services costs for executives were excluded from the Company's filing;



h. The Company provided and Staff confirmed that \$3.3 million in corporate aircraft costs were removed from the stipulated revenue requirement per the Commission's Order in Docket No. 2003-UN-0898, dated August 7, 2018, and that no corporate aircraft costs or comparable commercial airfare were included in the Company's filing for the 2020 test year as the Company has not yet determined how best to comply with the Commission's new aircraft rule;

i. The Company provided and Staff confirmed that the Company booked its unprotected excess ADITs of approximately \$44 million (PEP portion) resulting from the Tax Cut and Jobs Act ("TCJA") to a regulatory liability and that this Stipulation addresses the amortization of those regulatory liabilities;

j. The Company provided and Staff confirmed that the Company's equity ratio targeted 50% common equity for 2019; that it did not exceed 51% common equity in 2019; and that the Company calculated a cost of capital true-up of \$4.448 million for PEP and \$1.784 million for ECO; and

k. The Company provide and Staff confirmed that no extraordinary costs associated with the Company's 2018 modernization downsizing have been deferred or included in the Company's filing.

#### TAX CUT AND JOBS ACT

9. On December 22, 2017, the President signed into law the Tax Cuts and Jobs Act ("TCJA"), which reduced the Company's federal income tax rate from 35% to 21% and included other key provisions related to interest expense deductions, the elimination of bonus depreciation, and the timing of expensing capital. On January 26, 2018, the Commission issued an order in Docket No. 2018-AD-12 directing regulated utilities in Mississippi, including the Company, to file a detailed discussion of how the TCJA would be reflected in rates. The Company did so on February 7, 2018, when it submitted, in Docket No. 2003-UN-898, the Supplemental Testimony and Exhibits of Moses H. Feagin, MPCo's Vice-President, Treasurer, and Chief Financial Officer. Consistent with a stipulation between MPCo and the Staff, the Commission ordered in the Company's 2018 PEP case that the \$44 million in unprotected, excess ADITs resulting from the TCJA be retained in rate base as a regulatory liability pending further instructions from the

Commission in the 2019 Rate Case docket. MPCo's 2019 Rate Case proposed revenue requirement assumes the excess, unprotected ADITs are amortized over a six-year period.

10. While opening its docket to consider the effects of the TCJA, the Commission "acknowledge[d] the potential impacts on [MPCo's] financial health and credit metrics should be considered."<sup>1</sup> The Company has testified that the TCJA, while beneficial to customers by reducing overall tax liability, negatively impacts MPCo's credit metrics and has an adverse impact on MPCo's financial strength because of reductions in cash flows. The Company has also testified that targeting an A credit rating is appropriate now, as it has been in the past, to ensure that the Company can readily access capital whenever needed in support of its obligation to serve at a reasonable cost; the Company believes that targeting a 55% equity ratio, rather than the 50% equity ratio targeted prior to the new tax law, is the most economic approach for customers in supporting the targeted A credit rating and is necessary to mitigate the effects of the tax law change.

11. At that time, the Staff and MPCo could not resolve whether and how the Commission should respond to the effects of the TCJA on MPCo. The Staff recommended and the parties stipulated in the 2018 PEP case to defer any decision on the TCJA impacts until the Commission and Staff obtained additional information from MPCo's excess capacity filing and the Commission-ordered Operations Review and MPCo's general rate case.

12. The TCJA created significant excess ADITs that now represent an overpayment in taxes by customers that must be refunded. MPCo has proposed to amortize these ADITs over a six year period beginning in 2020. The Staff believes it is appropriate to accelerate the refund to customers as much as possible without further diminishing MPCo's credit rating and financial

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<sup>1</sup> Order Opening Docket, MPSC Docket No. 2018-AD-12 (Jan. 26, 2018).

strength. The Staff and Company have agreed to revise the revenue requirement to reflect: (a) a three-year amortization of the unprotected (by normalization rules) excess ADITs commencing in 2020, and (b) a four-year amortization of the regulatory assets described in the Company's filing commencing in 2020. This combined amortization of regulatory assets and liabilities will result in an additional incremental \$2.2 million decrease in revenue requirement. To mitigate the cash flow impacts of this accelerated amortization as well as the negative impacts already experienced upon the passage of the TCJA, the Staff and Company have stipulated to permit MPCo to include in rates its test period average capital structure of 53% common equity, and to allow an actual capital structure of up to a maximum of 55% equity by the end of the test period.

#### **2020 BASE REVENUE REQUIREMENT**

13. MPCo's 2019 Rate Case was based upon a projected twelve-month test period ending December 31, 2020. The total base rate revenue requirement (i.e. PEP, ECO, ATA and RTR) for the projected test year was approximately \$655 million, which was approximately \$5.8 million lower than the projected retail revenue for 2020 under currently approved rates. This resulted in a proposed decrease of \$0.68 to an average residential bill for 1,000 kWh of monthly usage.

14. The Staff and its outside consultants have investigated the Company's proposed revenue requirement assumptions and calculations and based upon this review the following stipulations have been agreed to between MPCo and the Staff:

a. Cost-of-Service Study: The Staff's consultants conducted a complete review of the Company's cost-of-service study methodology and assumptions as presented in Exhibit\_\_\_\_(EEE-1). Aside from the other amendments to the revenue requirement calculation

and inputs stipulated herein, the Staff proposes no changes to the cost-of-service study or the resulting jurisdictional allocators.

b. Depreciation Study: The Staff's consultants conducted a complete review of the Company's depreciation study methodology and assumptions as presented in Exhibit\_\_\_\_(DAW-2). The new study presented by the Company is based on investment balances through December 31, 2018. The current depreciation rates were established on investment balances through December 31, 2013. The Staff and Company both agree that a depreciation study and re-evaluation of depreciation rates is timely in this proceeding. The Staff determined during its review of the Company's filing that a calculation error in the Company's depreciation model overstated depreciation expense by approximately \$5.6 million. Additionally, Staff's consultant proposed other depreciation adjustments that varied from the Company's filing. After discussions between the Company and Staff, the parties agreed to adjust depreciation rates and the revenue requirement to account for the calculation error, but that the remaining recommendations of the Staff's consultant would not be adopted at this time. The resulting stipulated revenue requirement contained in this Stipulation reflects the stipulated depreciation rates. The Staff and Company agree to review the remaining recommendations, if applicable, in the Company's next depreciation filing. The parties further stipulate that the Company will submit revised supporting exhibits or other information setting forth the stipulated depreciation rates as part of the Company's compliance filing made pursuant to this Stipulation. The Staff and Company stipulate to the reasonableness of the Company's depreciation rates as stipulated herein for use in establishing the Company's retail rates.

c. Cost of Capital: The weighted average cost of capital assumed for the

proposed revenue requirement for 2020 is 7.728%. This average is premised upon an average assumed capital structure of 47% debt and 53% equity. To remain consistent with the revisions discussed below to the PEP rate schedule, the parties have stipulated for the purpose of the 2020 revenue requirement only to adopt the proposed average assumed capital structure of 47% debt and 53% equity and a weighted average cost of capital of 7.570%.

d. Excluded Expenses: As stated above, following a detailed review by the Staff and its consultants, the Staff has confirmed that the expense categories excluded by statute, Commission Rule or Commission order including costs associated with: (1) Kemper gasification, (2) corporate-owned aircraft, (3) charitable/civic contributions, (4) legislative advocacy, (5) political advertising, and (6) promotional advertising, were appropriately excluded from the proposed revenue requirement filed by the Company.

e. Employee Compensation: The Staff has contested certain compensation costs in conjunction with the Company's PEP projected and PEP look back filings since 2010. The Company has testified that, according to its market analyses, MPCo's employee compensation is at market and is, therefore, just and reasonable and should be allowed for recovery. The Staff has consistently disagreed with the Company's recovery of certain compensation costs; however the Commission has not yet ruled on this issue. In the 2018 PEP Stipulation, the Company and the Staff agreed to exclude \$5.5 million in total company contested compensation costs from recovery until the Commission could make its final decisions regarding issue of employee compensation in the Company's general rate case, which the 2019 Rate Case represents. To that end, the Company's filing in the 2019 Rate Case voluntarily excluded from recovery

approximately \$3.9 million employee compensation costs.<sup>2</sup> The Staff and Company agree and stipulate that for the 2020 revenue requirement, the following compensation costs shall be excluded from MPCo's 2020 rates: (1) all compensation (i.e. base and variable; both long-term and short-term) associated with the Southern Company Chief Executive Officer; (2) all long-term incentives such as stock-based compensation; and (3) all expenses associated with financial services for executives. For 2020, these categories represent approximately \$3.9 million in total compensation costs excluded from recovery from customers; provided, however, that this estimated 2020 exclusion amount shall not influence or otherwise cap the total amount to be excluded in future rate proceedings associated with the three stipulated categories above. All other compensation costs included in the 2019 Rate Case not associated with the three categories above shall be fully recoverable in this proceeding.

f. Regulatory Assets/Liabilities: MPCo's filing includes several outstanding approved regulatory assets and liabilities that have already been reviewed and found prudent by the Commission in prior proceedings. The 2019 Rate Case requested that the Commission consider revising the amortization applicable to many of the accounts to establish a common amortization period that would simplify the revenue requirement calculation and facilitate review of this and future filings by the Staff. To remain consistent with the agreements concerning the regulatory liabilities associated with the TCJA and maintain as much consistency as practical under the circumstances, the parties hereby stipulate agree that all regulatory asset accounts presented in the 2019 Rate Case shall have an amortization period of four years commencing in 2020 and all

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<sup>2</sup> The 2019 Rate Case also voluntarily excluded from recovery \$4.4 million of employee compensation from prior years that was previously deferred to a regulatory asset per Commission order. This Stipulation also excludes from recovery this amount as proposed by the Company.

regulatory liability accounts shall have an amortization period of three years commencing in 2020.

15. The adjustments and stipulations agreed upon by the parties herein are estimated to result in overall decrease of approximately \$16.68 million in total retail revenues for 2020, which results in a monthly decrease of \$2.48 for a typical customer using 1,000 kWh per month. The parties are currently working to complete a revised revenue requirement calculation to reflect the terms of this Stipulation and will jointly file such revised calculation within 5 days following execution of the Stipulation.

16. The Company shall file its revised depreciation rates and supporting exhibits and a schedule of Proposed Rates consistent with this Stipulation and appropriately allocating the stipulated revenue adjustment to the various retail rates and riders of MPCo within 10 days following approval of this Stipulation.

#### **MPCO RATE PLANS**

17. The Staff and MPCo hereby stipulate to the proposed discontinuance of Kemper Rate Factor, KRF, and to include Plant Ratcliffe's rate base and operating expense in the future PEP, ECO and ATA rate filings, as applicable.

18. In response to the new Integrated Resource Planning rule approved by the Commission in late 2019, the Staff and MPCo also stipulate to the discontinuance of the Energy Efficiency Cost Recovery ("EECR") rate and include all energy efficiency costs in the PEP rate filings moving forward.

19. During the suspension of PEP, the Staff and MPCo worked to develop revisions to certain of MPCo's annual rate clauses to promote regulatory efficiency, enhance the Staff's ability to review and audit MPCo's filings, make MPCo's clauses more consistent with other Mississippi

utilities and reduce the number of annual filings required. This work culminated in a series of jointly recommended revisions to be made to MPCo's PEP rate plan that are described below. MPCo has agreed to file with Commission within sixty (60) days following approval of this Stipulation, compliance rate clauses consistent with the requirements of Rule 9 implementing the stipulated revisions. The parties agree that these revised rate clauses shall govern MPCo's annual rate filings beginning with regulatory year 2021.

20. The Staff and MPCo agree to revise the existing PEP-5A rate schedule to implement the agreed upon amendments described in Exhibit "A" attached hereto and incorporated herein by reference.

21. The Staff and MPCo agree to continue to working in good faith to improve the process of review and verification of the Southern Company Services ("SCS") costs on an annual basis.

#### **OTHER PROVISIONS**

22. The Staff and the Company understand and expressly agree that, except as previously stated, the stipulations made herein are for the purpose of this proceeding only and shall not apply to or be used as precedent in any other proceeding of MPCo or any other utility.

23. It is agreed that this stipulation is expressly conditioned upon acceptance by the Commission of all of its provisions. It is also specifically understood and agreed that this stipulation is interdependent, non-separable and that if the Commission does not accept this stipulation in its entirety, neither the Staff nor MPCo will be thereafter bound by any of its provisions.

24. Both the Staff and Company agree that the changes proposed in this stipulation are



just, reasonable, and will result in rates that are in the best interest of the customers, the Company and the general public. Unless specifically addressed in the Stipulation, the Staff and Company agree to the accuracy and reasonableness of the Company's filing for all other components of its calculation of base rates.


25. Any party to this proceeding wishing to join in this Stipulation, in whole or in part, and without change to any part hereof, may join by addendum hereto.

[Signature Pages to Follow]


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SO STIPULATED, this the 25th day of February, 2020.

MISSISSIPPI PUBLIC UTILITIES STAFF

By:   
Virden Jones, Executive Director

MISSISSIPPI POWER COMPANY

  
By: \_\_\_\_\_  
Ricky J. Cox  
Attorney for Mississippi Power Company

## EXHIBIT A

1. Plant Ratcliffe costs and revenues consolidated into and moved to PEP, ECO and ATA.
2. PEP Modifications:
  - a) Change the filing date for the annual PEP rate filing to March of each year, and revise the filing documentation and data to include more work papers to support the data and calculations contained in the annual filing (similar to Entergy Mississippi). The Company commits to work with the Staff to agree on a filing date that accommodates both parties.
  - b) The PEP annual filings will be based upon a historic test year adjusted for "known and measurable" changes. Also, a Transmission and Distribution Plan (similar to Entergy Mississippi's Attachment I) will be filed providing information required for large capital projects and recurring capital program spending.
  - c) Provide for the implementation of temporary rates following the Company's filing, based on the date agreed to in item 2a above. The amount would be subject to refund or credit to customer accounts, subject to a 2% cap of Evaluation Period Retail Revenues, unless waived by the Commission, and subject to MPCo providing bond or other surety traditionally used by public utilities to secure such obligations.
  - d) Provide for a surcharge or refund to be applied following the resolution of all disputes, if any, by the Commission designed to permit recovery of the final-approved revenue requirement as if it had been implemented initially.
  - e) The Company's Performance Rating (CPR) will not change from what has been approved in PEP-5A.

## EXHIBIT A

- f) Use of DCF and Regression formulas to determine ROE consistent with other utilities.
- g) Move all property taxes embedded in PEP into ATA.