

THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

Before Commissioners: Pat Apple, Chairman  
Shari Feist Albrecht  
Jay Scott Emler

In the Matter of the Complaint Against Empire )  
District Electric Company by Brooke Lynn ) Docket No. 17-EPDE-079-COM  
Sheppard and Ricky Dale Sheppard. )

**ORDER ADOPTING STAFF'S REPORT AND RECOMMENDATION**

This matter comes before the State Corporation Commission of the State of Kansas (Commission). After a review of the pleadings, the Commission makes the following findings and conclusions.

1. On September 2, 2016, Ricky Dale Sheppard (Complainant) filed a Formal Complaint (Complaint) against Empire District Electric Company (Empire) with the Commission. The Complainant asserted that Empire overbilled the Complainant and his wife, Brooke Lynn Sheppard, for electric service at their residence from January 1, 2015 to March 20, 2015.<sup>1</sup>

2. On September 29, 2016, the Commission granted Staff's Order Adopting Legal Memorandum which waived K.A.R. 82-1-220(b)(1) for good cause, caused the Formal Complaint to be served upon Empire for an Answer, and directed Staff to investigate this matter and submit a Report and Recommendation (R&R) to the Commission.<sup>2</sup>

3. On October 11, 2016, Empire filed its Answer and Motion to Dismiss Complaint, requesting the Commission to dismiss the Complaint for failure to state a claim upon which relief can be granted and for such other further relief as the Commission deems appropriate.<sup>3</sup>

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<sup>1</sup>Formal Complaint, page 3 (September 2, 2016).

<sup>2</sup>Order Adopting Legal Memorandum, page 2 (September 29, 2016).

<sup>3</sup>Answer and Motion to Dismiss Complaint, page 5 (October 11, 2016).

4. On August 10, 2017, Staff filed both a public and confidential version of its Report and Recommendation. Staff recommended the Commission:

- A. Find the meter serving the Complainant's residence accurately recorded electric usage for the time period addressed in the Complaint;
- B. Find Empire appropriately applied the tariff's terms and conditions regarding security deposits with respect to the Complainant;
- C. Find that Empire failed to follow the terms and conditions of its tariff when it did not accept the email request from Brooke Sheppard to terminate service. Staff recommended the Commission order Empire to reimburse Brooke Sheppard \$147.88 for the billing charges that occurred after the March 5, 2015, through April 20, 2015.<sup>4</sup>

5. On August 21, 2017, Empire served Staff and Complainants with its Response to Staff's Report and Recommendation. Empire concurred with Staff's recommendations A and B as stated above. Empire did not challenge Staff's recommendation C as it pertained to the refund of \$147.88 to Brooke Sheppard, for purposes of this Complaint.<sup>5</sup>

**IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:**

(A) Staff's Report and Recommendation filed on August 10, 2017, be adopted by the Commission.

(B) That Empire District Electric Company issue a refund to Brooke Lynn Sheppard in the amount of \$147.88 for billing charges that occurred after March 5, 2015 through April 20, 2015.

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<sup>4</sup> Staff's Report and Recommendation, page 1 (August 9, 2017).

<sup>5</sup> Response to Staff's Report and Recommendation, pages 1-2 (August 21, 2017).

(C) The parties have fifteen (15) days, plus three (3) days if service of this order is by mail, from the date this order was served in which to petition the Commission for reconsideration of any issue or issues decided herein. K.S.A. 66-118b; K.S.A. 2016 Supp. 77-529(a)(1).

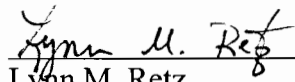
(D) The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further orders as it may deem necessary and proper.

**BY THE COMMISSION IT IS SO ORDERED.**

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: AUG 31 2017

JF

  
Lynn M. Retz  
Secretary to the Commission

**EMAILED**

AUG 31 2017

**CERTIFICATE OF SERVICE**

17-EPDE-079-COM

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of

Electronic Service on **AUG 31 2017**.

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***EMAILED***

**AUG 31 2017**