

**THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

Before Commissioners: Shari Feist Albrecht, Chair
Jay Scott Emler
Dwight D. Keen

In the Matter of Empire District Electric)
Company to Show Cause Whether it is in) Docket No. 19-EPDE-180-SHO
Violation of the National Electric Safety)
Code Rule 214 A.5.)

ORDER ASSESSING PENALTY AND REQUIRING COMPLIANCE FILING

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed its files and records, and being duly advised in the premises, the Commission makes the following findings:

I. Background

1. On November 15, 2018, the Commission issued an *Order to Show Cause* (Order) requiring The Empire District Electric Company (Empire) to respond to an allegation made by Commission technical Staff (Staff) in a Report and Recommendation (R&R) dated October 26, 2018, which was attached to the Order.

2. Staff alleged that Empire violated the National Electric Safety Code (NESC) Rule 214 A.5 as adopted by the Commission in K.A.R. 82-12-2. NESC Rule 214 A.5 states that “[l]ines and equipment with recorded defects that could reasonably be expected to endanger life or property shall be promptly repaired, disconnected, or isolated.”

3. Staff alleged that Empire violated NESC Rule 214 A.5 because Empire was aware of a severely damaged transmission structure as early as September 16, 2015, but failed to repair or replace the structure. This failure led to the structure toppling to the ground after a windstorm on June 17, 2017.

4. Staff recommended that Empire show cause as to why it should not be penalized \$5,000 pursuant to K.S.A. 66-138, for violating NESC Rule 214 A.5. Staff also recommended that the Commission instruct Empire to inspect the insulators and clamps on the existing adjacent transmission structures due to possible strain put upon them when the transmission structure fell during the windstorm.

5. On December 17, 2018, Empire filed *The Empire District Electric Company's Response to Show Cause Order* (Empire's Response). Empire's Response indicated that it did not dispute the facts and conclusions contained in Staff's R&R and the Commission's Order. Empire also did not challenge Staff's recommendations and indicated that it would submit a filing to Staff and the Commission setting forth what Empire plans to do to address the issue raised in this matter with respect to its lines and equipment.

II. Jurisdiction and Standard of Review

6. The Commission holds full power, authority and jurisdiction to supervise and control Empire as an electric public utility pursuant to K.S.A. 66-101.

7. Pursuant to K.S.A. 66-183, Empire must string and maintain its wires to transmit electricity in such a way as to avoid unreasonable injury or interference from the wires of other utilities. K.S.A. 66-183 gives the Commission the power to adopt regulations with respect to the stringing and maintaining of wires. The Commission has done so in K.A.R. 82-12-1 *et seq.* K.A.R. 82-12-2 specifically adopted the NESC 1997 edition by reference.

8. Pursuant to K.S.A. 66-138, the Commission may fine Empire for failing to obey a lawful requirement of the Commission a sum of not less \$100 and not more than \$5000 for each offense.

III. Findings and Conclusions

9. As Empire has admitted to the allegation raised by Staff, the Commission hereby adopts the findings, conclusions, and recommendations contained in Staff's R&R attached to the Commission's November 15, 2018, Order.

10. Empire is hereby found to be in violation of K.A.R. 82-12-2, which adopted NESC Rule 214 A.5, for failing to promptly repair the damaged transmission structure referenced in the Commission's Order and Staff's R&R.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. Empire is assessed a \$5,000 penalty for its violation of K.A.R. 82-12-2. The penalty shall be paid within thirty (30) days of the issuance of this order. Payment shall reference this docket, 19-EPDE-180-SHO, be made out to the Commission, and mailed to the Commission's Fiscal Office, 1500 SW Arrowhead Road, Topeka, Kansas 66604-4027. Credit card payment may be made by calling the Fiscal Office at 785-271-3113.

B. Empire is hereby ordered to inspect the clamps and insulators on the transmission structures adjacent to the one at issue in this docket if it has not already done so.

C. Empire shall file its plans to address the issue raised in this matter with respect to its lines and equipment within thirty (30) days of the issuance of this order.

D. After Empire pays its penalty and files its plans under ordering clause C., this docket will be closed. Staff is directed to take any follow-up actions as may become necessary.

E. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).

F. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further order, or orders, as it may deem necessary and proper.

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 01/03/2019

A handwritten signature in dark ink, appearing to read "Lynn M. Retz", is written above a horizontal line.

Lynn M. Retz
Secretary to the Commission

MRN

CERTIFICATE OF SERVICE

19-EPDE-180-SHO

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 01/03/2019.

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/S/ DeeAnn Shupe

DeeAnn Shupe