

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

Before Commissioners: Andrew J. French, Chairperson
 Dwight D. Keen
 Susan K. Duffy

In the Matter of the Application of The Empire)
District Electric Company for Approval of its) Docket No. 20-EPDE-242-ACA
Annual Energy Cost Adjustment (“ACA”))
Filing.)

ORDER APPROVING ANNUAL COST ADJUSTMENT FACTOR

NOW, 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 December 4, 2019, The Empire District Electric Company (“Empire”) filed an Application requesting approval of an Annual Correction Adjustment (ACA) factor of (\$0.00111) per kWh for the period November 1, 2018 through October 31, 2019.¹ On January 21, 2020, Empire filed the Direct Testimony of Gregory Tillman and Todd Tarter to explain and support its calculation of the ACA factor.

2. Empire’s ACA filing is the annual calculation of the (over)/under recovery of energy costs for the Energy Cost Adjustment (ECA) year ending October 31, 2019, the annual calculation of over/(under) refund of the prior year’s off system sales margins (Kansas jurisdictional) that flow through the ECA.² Empire’s ACA calculation resulted in an over

¹ Empire ACA Application, Attachment A at 2, (Dec. 4, 2019).

²*Id.* at 1.

recovered balance of \$257,295 consisting of over-recovered fuel and purchased power expenses from retail customers during the period ending October 31, 2019.

II. Staff's Report and Recommendation

3. Staff submitted a Report and Recommendation (R&R) on June 22, 2021. Staff's Report and Recommendation is incorporated herein by reference.³ For a complete understanding of Staff's review, refer to the full R&R. This Order will note the major points raised by Staff that compel the Commission to agree with Staff's recommendation of approval.

4. Staff's review was broken down by subject matter and all financial documentation used by Empire to support its ACA factor were audited and verified by Staff.

5. Traditional Fuel and Purchased Power Review. Staff explained that this portion of its review mostly entailed an audit of the actual expenses incurred by Empire, including fuel, purchased power, and emission costs.⁴ Staff found that the costs incurred were just and reasonable and there were no material irregularities in the information provided by Empire.⁵

6. The Southwest Power Pool (SPP) Integrated Marketplace (IM) portion of the audit focused on Empire's participation in the SPP IM during 2019. Staff's objectives during Empire's audit were as follows:

- Review Empire's process and control procedures in place to validate the accuracy of SPP invoices and statements.
- Examine Empire's management of market performance and operational risk within the SPP IM
- For the months being audited in this year's ACA audit, evaluate whether Empire has accurately accounted for the Kansas' actual share of IM revenue and costs pursuant to the provisions of the current ACA tariff.
- Determine whether Empire's participation in the IM providing benefits to Empire's Kansas ratepayers.
- Analyzing the market performance of Empire's coal units.

³ Staff R&R, June 21, 2021.

⁴*Id.* at 3.

⁵*Id.* at 4.

7. Processes & Control Procedures. Staff issued discovery requests based on the findings of the SPP audit and review of fuel and purchased power expenses in Empire's ACA in Docket No. 19-EPDE-216-ACA.⁶ Staff found that Empire has robust processes and control procedures that govern its participation in the SPP IM. Additionally, Empire has a comprehensive process in place to verify meter data with internal and external counterparties and with SPP.⁷

8. Market Performance and Operational Risk. Staff issued discovery requests to evaluate Empire's performance tracking and risk mitigation strategies.⁸ In Staff's evaluation, Empire's strategies appear to be successful as Empire's Transmission Congestion Rights (TCR) hedged positions have netted Empire \$575,293 in TCR revenue in 2019. Staff found that Empire diligently manages the risks and profitability associated with the IM during 2019 and is taking steps necessary to be successful.⁹

9. ACA Audit of Revenues and Costs. Staff performed an audit of Empire's IM revenue and costs by comparing SPP settlement statements with Monthly Activity Reports of Empire. Staff also verified Empire's IM purchase and sales amounts were as presented in the Monthly Activity Report. Staff determined that the SPP settlement statements and the Monthly Activity Reports were accurately reported on Empire's general ledger and tied to Empire's ACA Application for the sample months audited.¹⁰

10. SPP IM Benefit to Kansas Ratepayers. Staff issued formal discovery and examined other publicly available data. Staff notes:

Staff has not performed a comprehensive review of the benefits and costs derived from Empire's participation in the various components of the SPP IM. Staff's analysis focused on short-run marginal costs of generating and transmitting power

⁶ *Id.* 5-6.

⁷ *Id.* at 6.

⁸ *Id.*

⁹ *Id.* at 7-8.

¹⁰ *Id.* at 8.

to serve Empire's load. In this limited review, Staff has observed a decline in Empire's all-in costs to serve its load since the implementation of the SPP IM. Based on the available data from SPP, the modeled results performed by Empire, and the decline in the overall cost to serve load, Staff's analysis suggests that the SPP IM is benefitting Empire's Kansas customers.

11. Self-Commitment of Baseload Coal-Fired Generation. Finally, Staff analyzed whether Empire's coal generator self-commitment practices in the SPP IM are harmful to its ratepayers or otherwise imprudent.¹¹ Staff's analysis includes an examination of information from several confidential sources. Staff noted that ultimately, it did not find any evidence that Empire's self-commitment practices harmed Kansas ratepayers.¹² Staff found that in the aggregate, during the hours that the units were self-committed, all of Empire's coal-fired generators produced margins in excess of their short-run production costs over the unit's long-term operations.¹³ However, Staff did note that Empire should continue the active long-term management of its coal resources to the benefit of customers and avoid operating in uneconomic periods when possible.¹⁴

12. Staff ultimately recommended approval of Empire's proposed ACA factor for the period of November 1, 2017 through October 31, 2018.

III. Findings and Conclusions

13. 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. The Commission holds jurisdiction over Empire's rates and terms of service under K.S.A. 66-101b. All of Empire's rates pertaining to jurisdictional service must be approved by the Commission pursuant to K.S.A. 66-117. According to K.S.A. 66-101b, any rates charged by Empire must be just and reasonable. The rates may not be unreasonably discriminatory or unduly preferential.

¹¹*Id.* at 12-24.

¹²*Id.* at 24.

¹³*Id.*

¹⁴*Id.*

14. In Docket No. 05-EPDE-980-RTS, the Commission approved the regulatory framework for Empire's ECA Tariff.¹⁵ Empire's request to approve its ACA request is not a K.S.A. 66-117 rate change request. Empire's ECA is a formula-based rate that outlines specific protocols Empire must comply with.¹⁶ These protocols detail settlement provisions, the formula itself, and the process Empire follows to update its ACA factor.¹⁷ Empire's ACA factor is applied on an interim basis each year and the final ACA factor will be subject to Commission approval.¹⁸ Empire's request in this docket is to update the ACA factor and not to update the formula used to calculate this factor. Therefore, Empire's request is not a rate change request subject to K.S.A. 66-117.¹⁹

15. Nonetheless, Empire's request must receive Commission approval. Upon review of the record as a whole, the Commission finds Staffs recommendation to be lawful and reasonable, and hereby adopts the same. Accordingly, the Commission hereby finds and concludes permitting Empire to implement an ACA factor of (\$0.00111) per kWh to return \$257,295 to retail customers during the ACA period ending October 31, 2019, is just and reasonable.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. Empire's ACA factor of (\$0.00111) per kWh for the ACA period ending October 31, 2019 is approved.

B. 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)(l).

¹⁵ Order Adopting Stipulated Settlement Agreement, at 9-14, Docket No. 05-EPDE-980-RTS (Dec. 9, 2005).

¹⁶ Empire, Schedule ECA, Sheets 2-3. (last revised Jul. 1, 2010).

¹⁷ *Id*

¹⁸ *Id.* Sheet 3.

¹⁹ Kansas Industrial Consumers Group, Inc. v. State Corp. Com'n of State of Kan. 36 Kan.App.2d 83, 92-94, 138 P.3d 338, 347-340 (Jul. 7, 2006); *See also* BOC Gases v. State Corp. Com'n of State of Kan. 117 P.3d 151, 2005 WL 1949952, at 9-10, (Kan. App.) (unpublished) (Aug. 12, 2005).

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner; Duffy, Commissioner

Dated: 07/15/2021



Lynn M. Retz
Executive Director

cab

CERTIFICATE OF SERVICE

20-EPDE-242-ACA

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of electronic service on 07/15/2021.

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