

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

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

In the Matter of the Application of The Empire)
District Electric Company's Proposed Tariff) Docket No. 21-EPDE-134-TAR
Revision of the Credit/Debit Card Transaction)
Amounts.)

**ORDER CORRECTING CREDIT CARD FEES AND
REMOVING WAIVER OF TRANSACTION FEES**

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

I. BACKGROUND

1. On October 1, 2020, Empire filed an application to revise the third party charge for customer credit card, debit card, prepaid card, and electronic check (e-check)/Automated Clearing House (ACH) transactions.¹ Empire filed its application after entering into an agreement with a new third-party vendor.² Empire requested approval of a \$1.75 fee per transaction with a \$600 transaction limit for residential customers paying by credit card, debit card, prepaid card, or ACH.³ Empire also requested approval of a \$7.95 fee per transaction with a \$1,200 transaction limit for commercial customers.⁴

¹ Application for The Empire District Electric Company, Docket No. 21-EPDE-134-TAR (21-134 Docket), p. 1 (Oct. 1, 2020).

² *Id.* at 5.

³ *Id.*

⁴ *Id.*

2. In February 2021, in Docket No. 20-EPDE-459-TAR (20-459 Docket), the Commission waived third-party Transactions fees through December 31, 2021 due to the COVID pandemic.⁵ Eventually, the Commission extended the waiver through the end of the pandemic.⁶

3. On July 13, 2021, the Commission issued an Order in this Docket (21-134 Docket) granting Empire's request to revise the third-party charge for customer credit card, debit card, prepaid card, and e-check/ACH transactions to a \$1.75 fee per transaction with a \$600 transaction limit for residential customers and a \$7.95 fee per transaction with a \$1,200 transaction limit for commercial customers. The Commission also granted Empire's request to waive said fees and to track the credited or waived fees in a regulatory account as approved by the Commission in Docket No. 20-EPDE-448-MIS (20-448 Docket) and Docket No. 20-EPDE-427-ACT (20-427 Docket).⁷

4. On May 26, 2022, in the 21-134 Docket, Empire filed a Motion to correct the commercial customer credit/debit card fee from \$7.95 to \$7.75.⁸ The Motion also requested to let Empire's waiver of Electronic Payment Transaction Fees lapse, allowing Empire to begin charging these fees again upon Commission approval beginning July 1, 2022.⁹

5. On July 26, 2022, Staff filed a Report & Recommendation agreeing with Empire's Motion to correct the third-party fee from \$7.95 per transaction to \$7.75 per transaction for commercial customers.¹⁰ Staff also recommended allowing the waiver of Electronic Payment

⁵ Order on Unanimous Settlement Agreement, Docket No. 20-EPDE-459-TAR (20-459 Docket), p. 8 (Feb. 16, 2021) (20-459 Order)

⁶ Order Designating Presiding Officer and Granting Empire's Motion to Extend Stay, Docket No. 20-EPDE-448-TAR, p. 3 (Sept. 30, 2021).

⁷ Order, 21-134 Docket, p. 7 (Jul. 13, 2021).

⁸ The Empire District Electric Company Motion for Approval to Correct Card Fee and to Remove Waiver of Fees Beginning July 1, 2022, Docket No. 21-EPDE-134-TAR, p. 1 (May 26, 2022) (21-134 Docket Motion).

⁹ *Id.*

¹⁰ Notice of Filing of Staff's Report and Recommendation, p. 5 (Jul. 26, 2022) (Staff's R&R).

Transaction Fees to lapse, thereby allowing Empire to resume charging these fees upon Commission approval.¹¹

II. DISCUSSION

6. Empire's May 26, 2022 Motion states that it originally agreed to waive Transaction Fees for Electronic Payments to "assist customers during the COVID-19 pandemic period in paying their electrical bills. Now that the pandemic has ended, the waiver is no longer necessary."¹² While Staff has not found a definitive declaration by state or national health authorities that the pandemic has "ended," there are several indications that life is starting to return to a perpetual-COVID normalcy.¹³ Therefore, Staff recommended the Commission allow the waiver of Electronic Payment Transaction Fees to lapse, thereby allowing Empire to resume charging these fees.¹⁴

7. Staff also stated the correction of the third-party fee for commercial customers from \$7.95 to \$7.75 is appropriate as it results in a lower fee to be charged, and is consistent with what the vendor will charge the customers.¹⁵ Notably, because the Commission granted Empire's request to waive the third-party fee in the 20-459 Docket prior to the Commission revising the third-party fee in July 2021, none of Empire's commercial customers have paid the incorrect third-party fee.¹⁶ Additionally, Empire has confirmed to Staff that it has been recording the correct waived fee (\$7.75) to the regulatory asset account approved in the 20-427 Docket.¹⁷

¹¹ *Id.*

¹² 21-134 Docket Motion, at 2.

¹³ Staff's R&R, at 4.

¹⁴ *Id.*

¹⁵ *Id.* at 5.

¹⁶ *Id.*

¹⁷ *Id.*

III. FINDINGS AND CONCLUSIONS

8. Upon review of the record as a whole, the Commission agrees with Staff's recommendations to be reasonable and adopts the same. The Commission grants the lapse of Empire's waiver of Electronic Payment Transaction fees, thereby allowing Empire to resume charging these fees. The Commission also approves the correction of Empire's third-party fee from \$7.95 per transaction to \$7.75 per transaction for commercial customers.

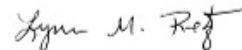
IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

- A. Empire is granted lapse of its waiver of Electronic Payment Transaction fees.
- B. Empire correct its third-party fee from \$7.95 per transaction to \$7.75 per transaction for commercial customers.
- C. 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).¹⁸

BY THE COMMISSION IT IS SO ORDERED.

Keen, Chair; Duffy, Commissioner; French, Commissioner

Dated: 08/18/2022



Lynn M. Retz
Executive Director

JRJ

¹⁸ K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

CERTIFICATE OF SERVICE

21-EPDE-134-TAR

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of electronic service on 08/18/2022.

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