

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

Before Commissioners:                    Andrew J. French, Chair  
   Dwight D. Keen  
   Annie Kuether

In the Matter of the Application of the Empire    )  
District Electric Company, d/b/a Liberty, for a    )  
One-Year Waiver of that Portion of Liberty's    )   Docket No. 24-EPDE-795-TAR  
ATRR Tariff that Requires Class Allocators Be    )  
Reset Every Five Years.                                )

**ORDER APPROVING TARIFF REVISIONS**

The above-captioned matter comes before the State Corporation Commission of the State of Kansas ("Commission") for consideration and determination. Having examined its files and records, the Commission finds and concludes:

**I.        BACKGROUND**

1.        On June 3, 2024, The Empire District Electric Company, d/b/a Liberty ("Liberty" or "Company") filed an Application requesting a one-year waiver of the section of Liberty's Transmission Delivery Charge ("TDC") rate tariff, also referred to as its Annual Transmission Revenue Requirement ("ATRR") tariff,<sup>1</sup> that requires the class demand allocators, class normalized billing demands, and class normalized energy (collectively, "class allocators") be reset, at a minimum, once every five years.<sup>2</sup>

2.        On June 11, 2024, the Commission granted the petition of the Citizens' Utility Ratepayer Board ("CURB") to Intervene and seeking a Protective Order and Discovery Order.

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<sup>1</sup> While TDC and ATRR could be used interchangeably, for consistency throughout the Order this tariff will be referred to as the TDC tariff.

<sup>2</sup> The Empire District Electric Company, Application for Waiver of a Portion of Liberty's ATRR Tariff, p. 2, Docket No. 24-EPDE-795-TAR (Jun. 3, 2024) ("Application").

3. On January 17, 2025, Commission Staff (“Staff”) filed its Report and Recommendation (“R&R”) in the above-captioned docket.<sup>3</sup> Staff’s R&R ultimately recommended that the Commission approve Liberty’s request for a one-year waiver of the section of its ATRR Tariff requiring the class allocators be reset every five years and approve the use of the current class allocators in Liberty’s 2024 TDC filing.<sup>4</sup>

## **II. LEGAL STANDARDS**

4. The Commission holds full power, authority, and jurisdiction to regulate Liberty as an electric public utility doing business in Kansas and is empowered to do all things necessary and convenient for the exercise of such power, authority, and jurisdiction.<sup>5</sup> The Commission is empowered to require all electric public utilities to establish and maintain just and reasonable rates when the same are reasonably necessary in order to maintain reasonably sufficient and efficient service from such electric public utilities.<sup>6</sup>

5. No public utility governed by the Commission shall make effective any changed rate, joint rate, toll, charge or classification or schedule of charges, or any rule or regulation or practice pertaining to the service or rates of such public utility or common carrier without filing the same with the Commission at least thirty days prior to the proposed effective date of such change.<sup>7</sup> In accordance with the Commission’s authority pursuant to K.S.A. 66-117(c), the Commission suspended this docket until January 29, 2025, to allow Staff adequate time to analyze Liberty’s Application.<sup>8</sup>

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<sup>3</sup> Notice of Filing of Staff’s Report and Recommendation, Docket No. 24-EPDE-795-TAR (Jan. 17, 2025) (“Staff’s R&R” or “R&R”).

<sup>4</sup> *Id.* at p. 3.

<sup>5</sup> See K.S.A. 66-101.

<sup>6</sup> See K.S.A. 66-101b.

<sup>7</sup> See K.S.A. 66-117(a).

<sup>8</sup> Suspension Order: January 29, 2025 (Jun. 18, 2024).

6. K.S.A. 66-1237 permits electric utilities to recover transmission-related costs resulting from any order of a regulatory authority having jurisdiction over transmission matters, including orders setting rates on a subject-to-refund basis, through a TDC rate tariff. The Commission first approved Liberty's TDC rate tariff, also referred to as its ATRR tariff, in Liberty's last general rate case.<sup>9</sup> Per Liberty's tariff, the class allocators contained in the tariff remain unchanged until Liberty's next general rate case or, at a minimum, once every five years, to limit cost shifting among retail classes.<sup>10</sup> The current five-year period expired on August 1, 2024.<sup>11</sup>

### III. ANALYSIS

7. Staff weighed various considerations regarding whether to recommend that the Commission grant Liberty's request for a one-year waiver of the requirements of its TDC tariff, including the fact that the cost of the class allocation study conducted in the 19-223 Docket was over \$80,000,<sup>12</sup> and that this cost is significant given the fact that Liberty has less than 10,000 Kansas retail customers.<sup>13</sup> Staff considered that Liberty plans to file its next general rate case in Kansas in 2025, which will include a new class allocation study;<sup>14</sup> and, filing that study in the general rate case provides more time for Staff, CURB, and other intervenors to examine, review, and issue discovery relating to Liberty's new class allocation study.<sup>15</sup> Further, filing the cost allocation study for review in the next general rate case would allow time for Staff and other

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<sup>9</sup> See Order Approving Unanimous Settlement Agreement with Modifications, Docket No. 19-EPDE-223-RTS (Aug. 1, 2019) ("19-233 Docket").

<sup>10</sup> Staff's R&R, p. 2.

<sup>11</sup> See Revised TDC Compliance Tariff in Support of Commission's Order filed August 1, 2019, 19-233 Docket, Sheet 5 of 6.

<sup>12</sup> The Empire District Electric Company Rate Case Expense filed June 18, 2019, 19-223 Docket.

<sup>13</sup> Staff's R&R, p. 2.

<sup>14</sup> *Id.* at p. 3.

<sup>15</sup> *Id.*

intervenors to conduct their own class allocation studies and submit those for Commission review and decision.<sup>16</sup>

8. Staff confirmed that the new class allocators will be available for Liberty's next TDC filing, and therefore that Liberty's request is limited to a one-year waiver of the five-year threshold.<sup>17</sup>

#### **IV. FINDINGS AND CONCLUSIONS**

9. CURB had the opportunity to review Staff's R&R and has communicated to Staff counsel that it has no objections to the recommendations contained therein.<sup>18</sup>

10. Upon review of Staff's R&R and the record as a whole, the Commission finds that Liberty's request to receive a one-year waiver of the section of its ATRR Tariff requiring the class demand allocators, class normalized billing demands, and class normalized energy be reset every five years, and approval of the use of the current class allocators in its 2024 TDC filing, is reasonable. Liberty's Application is granted.

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

A. Liberty's request to receive a one-year waiver of the section of its TDC Tariff requiring the class demand allocators, class normalized billing demands, and class normalized energy be reset every five years, and approval of the use of the current class allocators in its 2024 TDC filing 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)(1).<sup>19</sup>

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<sup>16</sup> Staff's R&R, p. 3.

<sup>17</sup> *Id.*

<sup>18</sup> Communications between Counsel for CURB and Counsel for Staff are available upon request.

<sup>19</sup> K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

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

French, Chair; Keen, Commissioner; Kuether, Commissioner

Dated: 01/28/2025



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Lynn M. Retz  
Executive Director

MKH/CRM

## **CERTIFICATE OF SERVICE**

24-EPDE-795-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 01/28/2025.

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/S/ KCC Docket Room  
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