

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

Before Commissioners: Susan K. Duffy, Chair
Shari Feist Albrecht
Dwight D. Keen

In the Matter of the Application of The Empire)
District Electric Company a Liberty Utilities)
Company for the Annual Transmission) Docket No. 20-EPDE-526-TAR
Delivery Charge (TDC) Rider)

**ORDER ACKNOWLEDGING EFFECTIVE DATE OF TRANSMISSION DELIVERY
CHARGE SUBJECT-TO-REFUND PURSUANT TO K.S.A. 66-1237**

This matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed the pleadings and filings in the above-captioned docket, the Commission makes the following findings and conclusions:

I. BACKGROUND

1. On June 22, 2020, Empire District Electric Company a Liberty Utilities Company (Empire) filed an updated Transmission Delivery Charge (TDC).¹ The Application requested \$3,103,665 in TDC revenues, which is a \$654,284 increase from Empire's prior TDC.² Empire requested an effective date of August 1, 2020.³

II. JURISDICTION AND STANDARD OF REVIEW

2. The Commission holds full power, authority and jurisdiction to supervise and control Empire as an electric public utility, including its rates and terms of service.⁴ Empire's rates

¹ Application of Empire (Jun. 22, 2020) (Application).

² *See id.*

³ *See id.*

⁴ See K.S.A. 66-101; see also K.S.A. 66-101b.

and terms of service must be just and reasonable and its rates may not be unreasonably discriminatory or unduly preferential.⁵

3. K.S.A. 66-1237(a) allows Empire to seek to recover costs associated with transmission of electric power through a separate TDC on customers' bills, so long as such recovery is done in a manner consistent with the determination of transmission-related costs by an order of the Commission.

4. K.S.A. 66-1237(c) provides in full:

(c) All transmission-related costs incurred by an electric utility and resulting from any order of a regulatory authority having legal jurisdiction over transmission matters, including orders setting rates on a subject-to-refund basis, shall be conclusively presumed prudent for purposes of the transmission delivery charge and an electric utility may change its transmission delivery charge whenever there is a change in transmission-related costs resulting from such an order. The commission may also order such a change if the utility fails to do so. An electric utility shall submit a report to the commission at least 30 business days before changing the utility's transmission delivery charge. If the commission subsequently determines that all or part of such charge did not result from an order described by this subsection, the commission may require changes in the transmission delivery charge and impose appropriate remedies, including refunds.

III. DISCUSSION

5. As provided by K.S.A. 66-1237(c), all transmission-related costs incurred by an electric public utility that resulted from an order of a regulatory authority having legal jurisdiction over transmission matters are conclusively presumed prudent.

6. K.S.A. 1237(c) provides for a process by which an electric public utility submits a report to the Commission a minimum of 30 business days prior to the electric public utility changing its TDC.

7. The Commission may issue an order setting the TDC rates subject to refund.⁶ If the Commission subsequently determines that all or part of the TDC rate does not comply with

⁵ K.S.A. 66-101b.

⁶ See K.S.A. 66-1237(c).

K.S.A. 66-1237, the Commission may require changes in the TDC and impose appropriate remedies, including refunds.⁷

III. FINDINGS AND CONCLUSIONS

8. The Commission finds that Empire is a regulated electric public utility subject to the Commission's jurisdiction. Empire submitted a report updating its TDC tariff on June 22, 2020, thereby providing notice at least thirty (30) business days prior to the requested effective date of August 1, 2020. This complies with the language of K.S.A. 66-1237(c).

9. The Commission finds that the revisions to Empire's tariff are necessary to compensate Empire for the transmission expense incurred by the utility to supply retail energy to its customers. Accordingly, at this time, the Commission finds no reason to delay the implementation of Empire's revised TDC rates.

10. The Commission has the authority to approve TDC updates subject-to-refund.⁸ If, after Empire changes its TDC on August 1, 2020, the Commission determines all or part of the TDC did not comply with the provisions of K.S.A. 66-1237, the Commission can require changes in the TDC and impose appropriate remedies, including refunds.⁹

11. The Commission concludes that Empire's proposed TDC rates filed June 22, 2020, should become effective August 1, 2020, on a subject-to-refund basis while the Commission conducts its review of Empire's TDC.

⁷ See K.S.A. 66-1237(c).

⁸ See *id.*

⁹ *Id.*

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:


A. Empire's Transmission Delivery Charge, as filed in its Amended Tariff on June 22, 2020, shall go into effect on August 1, 2020, subject to Commission review, possible changes to the charge, and subject to appropriate remedies, including refunds.

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).¹⁰

BY THE COMMISSION IT IS SO ORDERED.

Duffy, Chair; Keen, Commissioner; French, Commissioner

Dated: 07/28/2020



Lynn M. Retz
Executive Director

CRM

¹⁰ K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

CERTIFICATE OF SERVICE

20-EPDE-526-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 07/28/2020.

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