

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

In the Matter of the Application of The )  
Empire District Electric Company for )  
Approval of its Asbury Environmental and )  
Riverton Cost Recovery ("AERR") Rider ) Docket No. 17-EPDE-280-TAR  
to Replace the Existing Asbury )  
Environmental Cost Recovery ("AECR") )  
Rider )

**CURB'S RESPONSE TO STAFF'S REPORT AND RECOMMENDATION**

The Citizens' Utility Ratepayer Board (CURB) submits its response to the Report and Recommendation filed by the Staff of the Kansas Corporation Commission (Staff and Commission respectively) in the above-captioned docket on June 14, 2017.

1. On January 6, 2017, Empire District Electric Company (Empire) filed its Application requesting approval of its proposed Asbury Environmental and Riverton Cost Recovery ("AERR") Rider.<sup>1</sup> The proposed AERR Rider will replace Empire's current Asbury Environmental Cost Recovery ("AECR") Rider pursuant to K.S.A. 66-117 and paragraph 26 of the Unanimous Settlement Agreement ("Settlement Agreement"), which was approved in Docket No. 16-EPDE-410-ACQ ("410 Docket").<sup>2</sup>

2. On January 9, 2017, CURB filed its Petition to Intervene and Motion for Protective Order and Discovery Order.<sup>3</sup> CURB explained that Empire's proposal to replace the existing AECR Rider with the AERR Rider may substantially affect the rates paid and services received by residential and small commercial ratepayers.<sup>4</sup>

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<sup>1</sup> See Application for the Empire District Electric Company (January 6, 2017) (Application).

<sup>2</sup> Application, p. 1.

<sup>3</sup> CURB's Petition to Intervene and Motion for Protective Order and Discovery Order (January 9, 2017).

<sup>4</sup> *Id.* at ¶ 5.

3. On February 2, 2017, the Commission issued an Order granting CURB's Petition to Intervene.<sup>5</sup>

4. On June 6, 2017, Staff filed its Report and Recommendation ("R&R").<sup>6</sup> Staff recommends that the Commission approve the Application by Empire to amend and replace its AECR Rider with the proposed AERR Rider with Staff's updated revenue requirement of \$1,740,667.00, or \$0.00798 per kWh.<sup>7</sup> Empire's average Kansas residential customer's bill will increase by \$4.89 per month or a total AERR surcharge of \$8.41 per month.<sup>8</sup>

5. As part of the Unanimous Settlement Agreement (Settlement Agreement) in Docket No. 16-EPDE-410-ACQ ("Docket 16-410"), CURB, along with Staff, agreed to not categorically oppose Empire's request to amend the AECR rider provided that the revised rider met certain conditions.<sup>9</sup>

6. CURB analyzed this Application, along with Staff's R&R, and believes that Staff's recommendations in its R&R are reasonable. Empire's pending rate increase, which it withdrew as a part of the Settlement Agreement in Docket 16-410, could have resulted in a rate increase to customers' bills of approximately 25%.<sup>10</sup> Empire's pending rate increase request was

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<sup>5</sup> See Protective Order and Discovery Order; Order Granting CURB's Petition to Intervene (February 2, 2017).

<sup>6</sup> Notice of Filing of Staff's Report and Recommendation (June 6, 2017) (Staff's R&R).

<sup>7</sup> *Id.* at p. 6.

<sup>8</sup> *Id.* at p. 2.

<sup>9</sup> Empire's request to amend the AECR rider provided that the revised rider met the following conditions: (1) The revised rider should be referred to as the AERR rider; (2) The revised rider should update Gross Plant and Accumulated Depreciation associated with all components of the AERR revenue requirement to the most recent data possible; (3) The AERR rider will use the least cost capital structure determined by comparing the actual capital structure of any other entity which Empire receives financing from (including but not limited to the consolidated Algonquin Power & Utilities Corporation (APUC) capital structure); (4) The AERR rider will use a return on equity of 9.3%; (5) The AERR rider will be implemented on an interim basis, subject to true-up and eventual refund or recovery in Empire's next base rate case, with the agreement that Staff and CURB reserved their rights to challenge the reasonableness of any of the costs collected under the AERR rider in Empire's next general rate case. Docket No. 16-EPDE-410-ACQ, Order Granting Joint Motion to Approve the Unanimous Settlement Agreement and Approval of the Joint Application, Exhibit A, p. 7, ¶ 26 (December 22, 2016).

<sup>10</sup> Staff's R&R, p. 5.

not eliminated, but deferred until it re-files its request sometime after May 1, 2018.<sup>11</sup> CURB, Staff, and Empire agree that the proposed AERR Rider should lessen the impact/rate shock of any future rate increase to Empire's customers. CURB believes that the recovery of costs related to investments in Riverton 12, collected on a gradual basis, is in the best interests of Empire's ratepayers.

**WHEREFORE**, CURB respectfully recommends that the Commission adopt Staff's Report and Recommendation and for such other relief as the Commission deems just and proper.

Respectfully submitted,



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<sup>11</sup> Staff's R&R, p. 5.

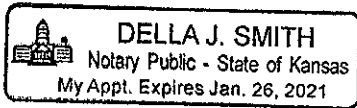
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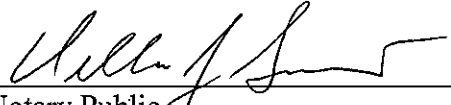
STATE OF KANSAS                                    )  
  )  
COUNTY OF SHAWNEE                            )      ss:

I, Thomas J. Connors, of lawful age and being first duly sworn upon my oath, state that I am an attorney for the Citizens' Utility Ratepayer Board; that I have read and am familiar with the above and foregoing document and attest that the statements therein are true and correct to the best of my knowledge, information, and belief.

  
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Thomas J. Connors

SUBSCRIBED AND SWORN to before me this 26<sup>th</sup> day of June, 2017.



  
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Notary Public

My Commission expires: 01-26-2021.


**CERTIFICATE OF SERVICE**

17-EPDE-280-TAR

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing document was served by electronic service on this 26<sup>th</sup> day of June, 2017, to the following:

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