

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

Before Commissioners: Shari Feist Albrecht, Chair
 Jay Scott Emler
 Dwight D. Keen

In the Matter of Southern Pioneer Electric Company,)
Regarding Violation of the Commission’s Minimum)
Standards for Payment Methods for Utility Bills by) Docket No. 18-SPEE-428-SHO
Charging Its Customers a Convenience Fee to)
Submit Bill Payment via Electronic Check.)

ORDER TO SHOW CAUSE

This matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined its files and records, the Commission finds and concludes as follows:

1. The Commission has full power, authority and jurisdiction to supervise and control electric public utilities doing business in Kansas, and is empowered to do all things necessary and convenient for the exercise of such power, authority, and jurisdiction.¹ “Electric public utility” means any public utility, as defined in K.S.A. 66-104, which generates or sells electricity.² K.S.A. 66-104 defines “public utility” in part as “all companies for the production, transmission, delivery or furnishing of heat, light, water, or power.”³

2. Electric public utilities subject to the Commission’s jurisdiction are “required to furnish reasonably efficient and sufficient service and facilities for the use of any and all products or services rendered, furnished, supplied or produced by such electric public utility, to establish

¹ K.S.A. 66-101, 66-101a, and 66-104.

² K.S.A. 66-101a.

³ K.S.A. 66-104(a).

just and reasonable rates, charges, and extractions and to make just and reasonable rules, classifications and regulations.”⁴

3. Commission approval is required before a public utility subject to Commission jurisdiction changes its rates, joint rates, tolls, charges or classifications or schedules of charges, or any rules or regulations or practices pertaining service.⁵

4. Pursuant to K.S.A. 66-101d, “the Commission, upon its own initiative, may investigate all schedules of rates and rules and regulations of electric public utilities [...]” K.S.A. 66-101d provides:

If after investigation and hearing it is found that any regulation, measurement, practice, act or service complained of is unjust, unreasonable, unreasonably inefficient or insufficient, unduly preferential, unjustly discriminatory, or otherwise in violation of this act or of the orders of the commission, [...] the commission shall have the power to substitute therefor such other regulations, measurements, practices, service or acts, and to make such order respecting any such changes in such regulations, measurements, practices, service or acts as are just and reasonable.

5. The Commission has adopted Minimum Standards for Payment Methods for Utility Bills and Allowing the Acceptance of Credit Cards by Kansas Jurisdictional Electric, Natural Gas, and Water Utilities (Minimum Standards).⁶ Section (C) of the Commission’s Minimum Standards, provides “if electronic checks (ECM) are accepted by the utility or by an authorized agent of the utility they shall be accepted as a zero fee method.” Under a “zero fee” payment method, customers are not charged a fee on top of the actual amount of the utility bill.⁷

6. On March 27, 2018, Commission Staff (Staff) submitted a Report and Recommendation, noting that by charging a convenience fee to customers who make bill

⁴ K.S.A. 66-101b.

⁵ K.S.A. 66-117.

⁶ See Order Adopting the Minimum Standards for Payment Methods for Utility Bills and Allowing the Acceptance of Credit Cards by Kansas Jurisdictional Electric, Natural Gas, and Water Utilities (Order Adopting Minimum Standards), Docket No. 04-GIMX-651-GIV, Nov. 22, 2005, ¶ A.

⁷ See Section (B) of Minimum Standards attached to Order Adopting Minimum Standards.

payments via electronic check, Southern Pioneer Electric Company (Southern Pioneer) may be in violation of the Commission's Minimum Standards.⁸ Staff's Report and Recommendation is attached as Attachment A. Southern Pioneer has not received a waiver to charge a convenience fee for bill payments made via electronic check, nor is a convenience fee disclosed in the Schedule of Fees in Southern Pioneer's Rules and Regulations.⁹

7. Staff recommends the Commission issue an Order to Show Cause to determine whether Southern Pioneer is in violation of the Commission's Minimum Standards by charging its customers a convenience fee to submit bill payments via electronic check.¹⁰

8. Staff's Report and Recommendation is adopted and incorporated by reference. The Commission finds and concludes that Southern Pioneer has thirty (30) days to show cause why it is not in violation of the Commission's Minimum Standards.

9. If Southern Pioneer fails to appear or participate in this proceeding, it may be held in default pursuant to K.S.A. 77-520.

10. The Commission designates Brian G. Fedotin, Deputy General Counsel, 1500 SW Arrowhead Road, Topeka, KS 66604-4027, telephone number (785) 271-3105, b.fedotin@kcc.ks.gov, as Prehearing Officer in this proceeding.¹¹ The prehearing officer may conduct any prehearing conferences necessary to address any matters appropriately considered in a prehearing conference, including all items listed in K.S.A. 77-517(b) of the Kansas Administrative Procedure Act (KAPA). The Commission may designate other staff members to serve in this capacity.

⁸ Report and Recommendation, March 27, 2018, p. 1.

⁹ *Id.*

¹⁰ *Id.*, p. 3.

¹¹ K.S.A. 77-514; K.S.A. 77-516; K.S.A. 77-551(c).

THEREFORE, THE COMMISSION ORDERS:

A. Southern Pioneer has thirty (30) days from the date of service of this Order, to show cause why it is not in violation of the Commission's Minimum Standards.

B. Electronic service will be used in this proceeding, including this Order.

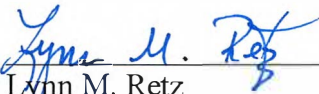
C. The parties have 15 days from the date this Order was electronically served to petition for reconsideration.¹²

D. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further orders as it deems necessary.

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 04/10/2018



Lynn M. Retz
Secretary to the Commission

BGF

¹² K.S.A. 66-118b; K.S.A. 77-529(a)(1).

STATE OF KANSAS



ATTACHMENT A

CORPORATION COMMISSION
UTILITIES DIVISION
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604-4027

PHONE: 785-271-3220
FAX: 785-271-3357
<http://kcc.ks.gov/>

GOVERNOR JEFF COLYER, M.D.

SHARI FEIST ALBRECHT, CHAIR | JAY SCOTT EMLER, COMMISSIONER | PAT APPLE, COMMISSIONER

REPORT AND RECOMMENDATION UTILITIES DIVISION

TO: Shari Feist Albrecht, Chair
Jay Scott Emler, Commissioner
Pat Apple, Commissioner

FROM: Josh Frantz, Senior Research Economist
Lana Ellis, Deputy Chief of Economics and Rates
Bob Glass, Chief of Economics and Rates
Jeff McClanahan, Director, Utilities Division

DATE: March 27, 2018

SUBJECT: Recommending An Order to Show Cause Whether Southern Pioneer Is in Violation of the Commission's Minimum Standards for Payment Methods for Utility Bills by Charging Its Customers a Convenience Fee to Submit Bill Payment via Electronic Check.

EXECUTIVE SUMMARY:

It has come to the attention of Staff of the Kansas Corporation Commission (Commission) that Southern Pioneer Electric Company (Southern Pioneer) may be acting in violation of the Commission's Minimum Standards for Payment Methods for Utility Bills and Allowing the Acceptance of Credit Cards (Minimum Standards) by charging a convenience fee to customers who make bill payments via electronic check (e-check). Southern Pioneer has not been granted a waiver allowing it to charge a convenience fee for bill payments made via e-check, and such a fee is not disclosed in the Schedule of Fees in Southern Pioneer's Rules and Regulations.

Commission Staff (Staff) recommends the Commission issue an Order to Show Cause whether Southern Pioneer is in violation of the Commission's Minimum Standards by charging its customers a convenience fee to submit bill payment via e-check.

BACKGROUND:

On December 8, 2017, Southern Pioneer filed an Application in Docket No. 18-SPEE-241-TAR (Docket 18-241). In its Application, Southern Pioneer sought a waiver from the Commission's Minimum Standards and proposed certain revisions to its Schedule of Fees related to the assessment of credit card convenience fees.

Through discovery requests of the Citizen's Utility Ratepayer Board (CURB) in Docket 18-241, Staff became aware that Southern Pioneer's customers are charged a \$3.95 convenience fee for bill payments made via e-check.¹

ANALYSIS:

Standard of Review

Under K.S.A. 66-101d:

The commission, upon its own initiative, may investigate all schedules of rates and rules and regulations of electric public utilities....

If after investigation and hearing it is found that any regulation, measurement, practice, act or service complained of is unjust, unreasonable, unreasonably inefficient or insufficient, unduly preferential, unjustly discriminatory, or otherwise in violation of this act or of the orders of the commission... the commission shall have the power to substitute therefor such other regulations, measurements, practices, service or acts, and to make such order respecting any such changes in such regulations, measurements, practices, service or acts as are just and reasonable.

Violation of the Commission's Minimum Standards

Charging a convenience fee for payments made via e-check is a violation of the Commission's Minimum Standards—specifically, section (C), which states: "If electronic checks (ECM) are accepted by the utility or by an authorized agent of the utility, they shall be accepted as a zero fee method."²

Although Staff is not sure how long Southern Pioneer's e-check fee has been in effect, from 2015–2017, Southern Pioneer customers were charged over \$85,000 in convenience fees for bill payment via e-check.³ Southern Pioneer has not been granted a waiver allowing it to charge a convenience fee for bill payment via e-check and such a fee is not disclosed in Section VII(K)(7) of Southern Pioneer's Rules and Regulations which lists the Schedule of Fees for bill payment.

¹ See Southern Pioneer's response to CURB data requests 15 and 20 in Docket 18-241.

² Section (B) of the Commission's Minimum Standards defines "zero fee" and "non-zero fee" payment methods: A "zero fee" payment method is one in which the customer is not charged a fee for use of the payment method above the actual amount of the utility bill being paid. Postage or money order fees necessary to mail a payment shall not be considered a fee. A "nonzero fee" payment method is any payment method for which the utility or its authorized agent proposes to charge a fee above the actual amount of the utility bill being paid.

³ See Southern Pioneer's response to CURB data request 20 in Docket 18-241.

RECOMMENDATION:

Based upon information found through Discovery in Docket 18-241, Staff recommends the Commission issue an Order to Show Cause whether Southern Pioneer is in violation of the Commission's Minimum Standards by charging its customers a convenience fee to submit bill payment via e-check.

CERTIFICATE OF SERVICE

18-SPEE-428-SHO

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of electronic service on 04/10/2018.

THOMAS J. CONNORS, ATTORNEY AT LAW
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3116
tj.connors@curb.kansas.gov

TODD E. LOVE, ATTORNEY
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3116
t.love@curb.kansas.gov

DAVID W. NICKEL, CONSUMER COUNSEL
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3116
d.nickel@curb.kansas.gov

SHONDA RABB
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3116
s.rabb@curb.kansas.gov

DELLA SMITH
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3116
d.smith@curb.kansas.gov

BRIAN G. FEDOTIN, DEPUTY GENERAL COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604-4027
Fax: 785-271-3354
b.fedotin@kcc.ks.gov

AMBER SMITH, CHIEF LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604-4027
Fax: 785-271-3167
a.smith@kcc.ks.gov

RANDY MAGNISON, EXECUTIVE VICE PRESIDENT -
ASSISTANT CEO
PIONEER ELECTRIC COOP. ASSN., INC.
1850 W OKLAHOMA
PO BOX 368
ULYSSES, KS 67880-0368
Fax: 620-356-4306
rmagnison@pioneerelectric.coop

LINDSAY CAMPBELL, EXECUTIVE VP - GENERAL
COUNSEL
SOUTHERN PIONEER ELECTRIC COMPANY
1850 W OKLAHOMA
PO BOX 430
ULYSSES, KS 67880-0430
Fax: 620-356-4306
lcampbell@pioneerelectric.coop

/S/ DeeAnn Shupe
