

**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 Ad Valorem Tax Surcharge) Docket No. 20-EPDE-334-TAR
Rider Tariff Adjustment Annual True-Up for)
2020)

ORDER APPROVING STAFF'S REVISED AD VALOREM TAX SURCHARGE

NOW, the above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed its files and records and being duly advised in the premises, the Commission makes the following findings:

1. On January 30, 2020, The Empire District Electric Company (Empire) filed an Application to revise its Ad Valorem Tax Surcharge (AVTS) for 2020. Empire stated it is required to file every January of each calendar year pursuant to the Commission's February 19, 2015, Order in Docket No. 15-EPDE-313-TAR. Empire also stated that it calculated the 2020 surcharge in accordance with the Order approving the Stipulation and Agreement in Docket No. 19-EPDE-223-RTS. Empire requested an AVTS surcharge increase from \$0.00132 per kWh to \$0.00181 per kWh. Empire requested an effective date of March 1, 2020.

2. K.S.A. § 66-117(f) provides the following:

(f) Whenever, after the effective date of this act, an electric public utility, a natural gas public utility or a combination thereof, files tariffs reflecting a surcharge on the utility's bills for utility service designed to collect the annual increase in expense charged on its books and records for ad valorem taxes, such utility shall report annually to the state corporation commission the changes in expense charged for ad valorem taxes. For purposes of this section, such amounts charged to expense on the books and records of the utility may be estimated once the total property tax payment is known. If found necessary by the commission or the utility, the utility

shall file tariffs which reflect the change as a revision to the surcharge. Upon a showing that the surcharge is applied to bills in a reasonable manner and is calculated to substantially collect the increase in ad valorem tax expense charged on the books and records of the utility, or reduce any existing surcharge based upon a decrease in ad valorem tax expense incurred on the books and records of the utility, the commission shall approve such tariffs within 30 days of the filing. Any over or under collection of the actual ad valorem tax increase charged to expense on the books of the utility shall be either credited or collected through the surcharge in subsequent periods. The establishment of a surcharge under this section shall not be deemed to be a rate increase for purposes of this act. The net effect of any surcharges established under this section shall be included by the commission in the establishment of base rates in any subsequent rate case filed by the utility.

3. Commission Staff (Staff) submitted a Report and Recommendation regarding Empire's AVTS dated February 19, 2020, attached hereto and made a part hereof by reference. Staff recommended that Empire's AVTS be set at \$0.00182 per kWh. Staff noted that this would result in an average Kansas residential customer bill increase of \$1.82 per month, or \$21.94 annually. This is based on an average monthly usage of 1,000 kWh per residential customer. Staff explained that the AVTS compares actual 2019 ad valorem tax expense to the level of ad valorem taxes recovered by Empire through base rates during the year. Due to base rates changing during calendar year 2019, the amount of ad valorem taxes collected in base rates for purposes of calculating the AVTS had to be prorated. Staff made a revision to Empire's calculation to prorate ad valorem taxes in base rates based off kWh sales to Kansas customers in the months those base rates were in effect as a percentage of total kWh sales to Kansas customers for 2019. Staff explained that this method accurately reflects the fluctuating amount of billing determinants each month during a calendar year, as opposed to the assumption in Empire's calculation that Empire bills an equal level of kWhs each month of the year. Staff's revision ultimately increased the total amount of property taxes to be recovered through the AVTS from \$423,241 to \$425,080. Staff indicated that it discussed this with Empire and Empire agreed with Staff's revision. Staff recommended that the Commission approve Empire's AVTS rate of \$0.00182 per kWh with two

conditions: 1) Staff will ensure that the annual true up of amounts collected versus the actual amount of increase or reduction in ad valorem taxes will be reflected in the subsequent year AVTS calculation; and 2) Staff recommended that Empire be required to file its AVTS true-up in January of each calendar year.

4. The Commission finds Staff's findings and recommendations to be reasonable and hereby adopts the same.


IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

- A. Empire's AVTS shall be set at \$0.00182 per kWh, effective March 1, 2020.
- B. Staff will ensure that the annual true-up of amounts collected versus the actual amount of increase or reduction in ad valorem taxes will be reflected in the subsequent year AVTS calculation.
- C. Empire shall file its AVTS annual true-up in January of each calendar year.
- D. 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).
- E. The Commission retains jurisdiction over the subject matter and parties for the purpose of issuing such further order, or orders, as it may deem necessary.

BY THE COMMISSION IT IS SO ORDERED.

Duffy, Chair; Albrecht, Commissioner; Keen, Commissioner

Dated: 02/27/2020 _____



Lynn M. Retz
Executive Director

MRN

**REPORT AND RECOMMENDATION
UTILITIES DIVISION**

TO: Chair Susan K. Duffy
Commissioner Shari Feist Albrecht
Commissioner Dwight D. Keen

FROM: Brad Hutton, Auditor
Justin Grady, Chief of Accounting and Financial Analysis
Jeff McClanahan, Director of Utilities

DATE: February 19, 2020

SUBJECT: Docket No. 20-EPDE-334-TAR – In the Matter of the Application of the Empire District Electric Company a Liberty Utilities Company for the Ad Valorem Tax Surcharge Rider Tariff Adjustment Annual True-Up for 2020.

EXECUTIVE SUMMARY:

Staff recommends Commission approval of Staff's revision to Empire District Electric Company's (Empire) 2020 Ad Valorem Tax Surcharge Rider. Staff's revision results in an increase to the total amount that Empire would recover through the Property Tax Surcharge Rider of \$1,839 from Empire's filed amount of \$423,241. This surcharge would be in effect during the period of March 2020 through February 2021 and is in addition to the Ad Valorem tax that was included in base rates during the calendar year of 2019.¹ If approved, Empire would recover \$425,080 through the Property Tax Surcharge, which is an increase of \$116,529 from the 2019 Ad Valorem Tax Surcharge Rider of \$308,551. Staff's revision to Empire's proposed Ad Valorem Tax Surcharge Rider would result in a Kansas residential customer charge of \$1.82 per month, or \$21.84 annually.² Staff has discussed these revisions with Empire and Empire is in agreement with the changes.

BACKGROUND:

On January 30, 2020, Empire filed its 2020 Ad Valorem Tax Surcharge request with the Kansas Corporation Commission (Commission). The surcharge request was filed in accordance with K.S.A. 66-117(f), which provides for a utility to collect increases (or refund decreases) in its Ad Valorem taxes above (below) amounts currently embedded in base rates. The statute also

¹ Base rates for the first five months of calendar year 2019 were established in Docket No. 10-EPDE-314-RTS (10-314 Docket). Base rates for the last seven months of calendar year 2019 were established in Docket No. 19-EPDE-223-RTS (19-223 Docket).

² This is an increase from the 2019 Ad Valorem monthly charge in the amount of \$0.50 or \$6.00 annually. This is based on an average monthly usage of 1,000 kWh per residential customer as provided by Empire.

requires a Commission Order within 30 days of the filing date, which, in this Docket, is by March 2, 2020.³

ANALYSIS:

The Commission derives its authority to review Ad Valorem tariffs from K.S.A. 66-117(f), which states in part:

Whenever, after the effective date of this act, an electric public utility, a natural gas public utility or a combination thereof, files tariffs reflecting a surcharge on the utility's bills for utility service designed to collect the annual increase in expense charged on its books and records for ad valorem taxes, such utility shall report annually to the state corporation commission the changes in expense charged for ad valorem taxes. For purposes of this section, such amounts charged to expense on the books and records of the utility may be estimated once the total property tax payment is known. If found necessary by the commission or the utility, the utility shall file tariffs which reflect the change as a revision to the surcharge. Upon a showing that the surcharge is applied to bills in a reasonable manner and is calculated to substantially collect the increase in ad valorem tax expense charged on the books and records of the utility, or reduce any existing surcharge based upon a decrease in ad valorem tax expense incurred on the books and records of the utility, the commission shall approve such tariffs within 30 days of the filing.

Staff Analysis

Empire provided Staff with copies of its 2019 Ad Valorem tax statements to support its Property Tax Surcharge calculation. Staff agreed the amounts in the Ad Valorem tax statements to the Ad Valorem Tax Surcharge total for 2019 shown in Empire's filing. In addition, Staff was provided supporting files and workpapers regarding other aspects of Empire's Property Tax Surcharge calculation. Staff reviewed the additional supporting calculations that were provided and agreed the amounts included in Empire's filing.

The Property Tax Surcharge calculation compares actual 2019 Ad Valorem Tax expense to the level of Ad Valorem Taxes recovered by Empire through Base Rates during the year. Due to base rates changing during calendar year 2019, the amount of Ad Valorem taxes collected in base rates for purposes of calculating the Property Tax Surcharge must be prorated. Staff made the revision to Empire's Calculation to prorate Ad Valorem Taxes in Base Rates based off kWh Sales to KS Customers in the months those base rates were in effect as a percentage of Total kWh Sales to KS Customers for 2019. This method accurately reflects the fluctuating amount of billing determinants each month during a calendar year, as opposed to the assumption in Empire's calculation that Empire bills an equal level of kWhs each month of the year. This revision ultimately increases the Total amount of Property Taxes to be recovered through the PTS Rider from \$423,241 to \$425,080. Staff discussed these revisions with Empire and Empire agreed to the revised Property Tax Surcharge Rider.

³ The 30-day deadline falls on February 29, 2020, which is a Saturday. Therefore, an Order is due by the following Monday, March 2.

Based on Staff's analysis, Empire should be allowed to collect \$425,080 through its 2020 Ad Valorem Tax Surcharge Rider. This amount is composed of the portion of the 2019 Ad Valorem tax not included in base rates or the TDC Rider and is adjusted for the removal of property taxes related to Disallowed Plant Assets and Common Property.⁴ This amount also includes an over-recovery of \$41,033 for calendar year 2019, resulting in a rate of \$0.00182 per kWh. Staff's recommendation will be collected through Empire's Ad Valorem Tax Surcharge Rider.

RECOMMENDATION:

Staff Recommends the Commission approve Empire's Ad Valorem Tax Surcharge total of \$425,080 with the following conditions:

1. Staff will ensure that the annual true up of amounts collected versus the actual amount of increase or reduction in Ad Valorem taxes will be reflected in the subsequent year Ad Valorem Tax Surcharge calculation.
2. K.S.A. 66-117(f) requires the annual true-up of this surcharge once established. Accordingly, Empire shall file its Ad Valorem Tax Surcharge Rider annual true-up in January of each calendar year.

⁴ The removal of property taxes included in the TDC Rider and property taxes related to Disallowed Plant Assets and Common Property was agreed upon in the 19-223 Docket.

CERTIFICATE OF SERVICE

20-EPDE-334-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 02/27/2020.

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CERTIFICATE OF SERVICE

20-EPDE-334-TAR

DeeAnn Shupe