

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

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

In the Matter of the Application of The Empire)
District Electric Company for Approval of its)
Annual Energy Cost Adjustment (“ACA”)) Docket No. 18-EPDE-231-ACA
Filing.)

ORDER APPROVING ANNUAL COST ADJUSTMENT

This matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed the files and records, and being duly advised, the Commission makes the following findings and conclusions:

I. BACKGROUND

1. On December 1, 2017, The Empire District Electric Company (Empire) filed an Application for approval of its Annual Energy Cost Adjustment (ACA) for the period ending October 31, 2017.¹ Based on an over-recovery of 2017 ECA costs in the amount of \$831,752, Empire calculated an ACA factor of (\$0.00375) per kWh to be returned to Kansas customers.²
2. On December 28, 2017, Empire filed an Amended Application showing an \$184,545 under-recovery of 2017 ECA costs and an amended ACA factor of \$0.00083.³
3. On February 26, 2019, Commission Staff (Staff) submitted a Report and Recommendation (R&R) analyzing and recommending approval of Empire’s amended 2017 ACA factor.⁴ Staff’s R&R was filed in this docket on March 7, 2019, and is incorporated herein by reference.

¹ Application for The Empire District Electric Company (Dec. 1, 2017).

² See *id.* at pp. 1, Attachment A Schedule 2.

³ Amended Application of Empire, pp. 2, Attachment A Schedule 2 (Dec. 28, 2017).

⁴ Staff Report and Recommendation, p. 7 (Staff R&R) (March 7, 2019).

II. DISCUSSION

4. Traditional Fuel and Purchased Power Review. Staff requested from Empire, by formal discovery requests and email correspondence, documentation supporting Empire's Application and Attachment A, Schedules 1-5, attached to the Application and also met with Empire at its corporate offices.⁵ For the months of March, April, May, and June 2017, Staff audited Empire's Application by:

- Testing the accuracy of the monthly settlement computations;
- Ensuring the actual cost adjustment computed by the utility reflects the actual over/under recoveries and the actual sales to Kansas jurisdictional customers;
- Ascertaining that the actual fuel and purchased power costs recovered through the ECA are actual costs supported by the vendor invoices and general ledger entries;
- Verifying the ECA factor used to calculate the customer's bill agrees with the calculation that the Company files with the Commission; and
- Ensuring the ACA balance reflects the elimination of the gains/losses associated with financial instruments used to hedge the cost of natural gas and the sales of excess natural gas during the twelve-month ACA period ending October 31, 2017.⁶

Staff found no material irregularities in the information provided.⁷

5. For the Southwest Power Pool (SPP) Integrated Marketplace (IM) portion of the audit, Staff's objectives as to Empire's participation in the IM were as follows:

- Review Empire's process and control procedures in place to validate the accuracy of SPP invoices and statements;
- Examine Empire's management of market performance and operational risk within the SPP IM;
- For the months being audited in this year's ACA audit, evaluate whether Empire has accurately accounted for Kansas' actual share of IM revenue and costs pursuant to the provisions of the current ACA tariff; and
- Determine whether Empire's participation in the IM is providing benefits to Empire's Kansas ratepayers.

⁵ Staff R&R, p. 2.

⁶ See *id.* at p. 3.

⁷ See *id.*

Staff's R&R provides the details of Staff's process and analysis for this portion of the audit.⁸

6. Processes & Control Procedures. Based on the documentation provided to Staff by Empire and its discovery responses, Staff believes Empire has robust control procedures in place to verify the accuracy of the settlement statements and invoices it receives from SPP for its activity in the IM.⁹ Furthermore, Empire has a comprehensive process in place to verify meter data with internal and external counterparties and with SPP.¹⁰ Finally, Empire has a process in place to submit and monitor disputes with SPP.¹¹

7. Market Performance and Operational Risk. Staff conducted extensive discovery into the details of Empire's procedures for determining the profitability of incremental market sales associated with the SPP IM.¹² Staff also issued formal discovery requests regarding Empire's strategy for offering its generating sources into the IM and bidding for the daily load necessary to serve customers.¹³ Finally, Staff issued several formal discovery requests regarding Empire's hedging strategies and procedures regarding Auction Revenue Rights (ARRs) and Transmission Congestion Rights (TCRs) congestion management processes within the SPP IM.¹⁴ While the details of Empire's strategies are confidential due to their competitive and market-sensitive nature, Staff found that "Empire diligently managed the risks and profitability associated with the IM during 2017 and is taking the steps necessary to be successful in the IM."¹⁵

8. ACA Audit of Revenues and Costs. Empire provided Staff with a reconciliation that documented and verified all Empire IM activity for the audited months. This reconciliation

⁸ See Staff R&R, p. 3-7.

⁹ Staff R&R, p. 4.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ Staff R&R, p. 5.

¹⁵ *Id.*

relied on the KCC Monthly IM Activity Reports, weekly SPP settlement statements, and Empire's reconciliation spreadsheet tying net ledger accounting data for the month back to the corresponding settlement statement and KCC Monthly IM Activity Report.¹⁶ Staff verified that the financial impact of the SPP statements and KCC Monthly IM Activity Report were accurately reported on Empire's general ledger and this data was tied back to Empire's ACA Application for the sample months reviewed in the audit.¹⁷

9. SPP IM Benefit to Kansas Ratepayers. Staff issued formal discovery and examined other publicly-available data. Staff noted:

Staff has not performed a comprehensive review of the benefits and costs derived from Empire's participation in the various components of the SPP IM. Staff's analysis focused on short-run marginal costs of generating and transmitting power to serve Empire's load. In this limited review, Staff has observed a decline in Empire's overall cost to serve its load since the implementation of the SPP IM. Based on available data from SPP, the modeled results performed by Empire, and the decline in the overall cost to serve load, Staff's analysis suggests that the SPP IM is benefitting Empire's Kansas customers.¹⁸

10. Staff recommended the Commission approve Empire's Amended Application authorizing Empire to use an ACA factor of \$0.00083 per kWh to collect \$184,545 of under-recovered fuel and purchased power expenses from retail customers for the ACA period ending October 31, 2017.¹⁹ Staff will continue to monitor Empire's performance and participation in the IM and will provide periodic updates to the Commission regarding this issue as often as is desired.

III. FINDINGS AND CONCLUSIONS

11. The Commission has full power, authority and jurisdiction to supervise and control electric public utilities, as defined in K.S.A. 66-101a, doing business in Kansas, and is empowered

¹⁶ Staff R&R p. 6.

¹⁷ *Id.*

¹⁸ Staff R&R, p. 7.

¹⁹ *Id.*

to do all things necessary and convenient for the exercise of such power, authority and jurisdiction.²⁰ “Electric public utility” means any public utility, as defined in K.S.A. 66-104, which generates or sells electricity.²¹ 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.”²² The Commission has the power to prescribe reasonable rules and regulations regarding the form and filing of all schedules of rates and all rules and regulations of electric public utilities.²³ All incidental powers necessary to carry on the responsibilities designated in K.S.A. 66-101, *et seq.* are expressly granted to and conferred upon the Commission.²⁴

12. Empire is an electric public utility as defined by K.S.A. 66-101 *et seq.*, and K.S.A. 66-104. As such, Empire is subject to the Commission’s jurisdiction.

13. Pursuant to K.S.A. 66-117, a public utility over which the Commission has jurisdiction cannot 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 of a public utility except by filing with the Commission.²⁵

14. The Commission finds Empire’s request to approve its ACA request is not a K.S.A. 66-117 rate change request. Rather, Empire’s Energy Cost Adjustment (Schedule ECA) is a formula-based rate that outlines specific protocols Empire must comply with.²⁶ These protocols detail settlement provisions, the formula itself, and the process Empire follows to update its ACA factor.²⁷ Empire’s Schedule ECA notes its ACA factor will be applied on an interim basis

²⁰ K.S.A. 66-101; K.S.A. 66-101a; K.S.A. 66-104.

²¹ K.S.A. 66-101a.

²² K.S.A. 66-104(a).

²³ K.S.A. 66-101c.

²⁴ K.S.A. 66-101g.

²⁵ See K.S.A. 66-117(a).

²⁶ See *e.g.* The Empire District Electric Company, Schedule ECA, Sheets 2 – 3 (last revised Jul. 1, 2010).

²⁷ See *id.*

beginning January 1 of each year with the final ACA factor subject to Commission approval.²⁸

Empire's request in this proceeding is to update the ACA factor – not update the formula used to calculate this factor. As such, the Commission finds and concludes Empire's request is not a rate change request subject to K.S.A. 66-117.²⁹

15. Still, Empire's request must receive Commission approval. Upon review of the record as a whole, the Commission finds Empire's Amended Application as well as Staff's findings and recommendations to be reasonable and hereby adopts the same.

16. The Commission finds Empire's Amended Application and ACA factor, as detailed in Staff's R&R, to be reasonable. Accordingly, the Commission hereby finds and concludes permitting Empire to implement an ACA factor of \$0.00083 per kWh to collect \$184,545 from its retail customers for the ACA period ending October 31, 2017, is just and reasonable.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. Empire is authorized to use an ACA factor of \$0.00083 per kWh to collect \$184,545 from its retail customers for the ACA period ending October 31, 2017.

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).³⁰

C. If no party files such petition for reconsideration within the established timeframe the docket will be closed.

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

²⁸ See *id.* at Sheet 3.


²⁹ See *Kansas Indus. Consumers Grp., Inc. v. State Corp. Comm'n of State of Kan.*, 36 Kan. App. 2d at 93–94, 138 P.3d at 348; See also *BOC Gases v. Kansas Corporation Comm'n*, 117 P.3d 151, 2005 WL 1949952, at pp. 9 - 10 (Kan. App.) (2005) (unpublished).

³⁰ K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

BY THE COMMISSION IT IS SO ORDERED.

Keen, Chair; Albrecht Commissioner; Emler, Commissioner

Dated: 03/19/2019



Lynn M. Retz
Secretary to the Commission

REV / drsj

CERTIFICATE OF SERVICE

18-EPDE-231-ACA

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 _____.

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