

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

In the Matter of the Application of the Empire)
District Electric Company’s Proposed Tariff) Docket No. 21-EPDE-134-TAR
Revision of the Credit/Debit Card)
Transaction Amounts.)

CURB’S RESPONSE TO STAFF’S REPORT AND RECOMMENDATION

COMES NOW, the Citizens’ Utility Ratepayer Board (“CURB”) and hereby files its response to Commission Staff’s (Staff) Report and Recommendation, which was filed on March 11, 2021. CURB states as follows:

1. On October 1, 2020, Empire District Electric Company (Empire or Company) filed an application with the Kansas Corporation Commission (KCC or Commission) with a request to modify its tariffs to reflect changes to its transaction fees for credit and debit card transactions and e-check and ACH payments, based upon a new agreement with its payment processing vendor. Specifically, Empire proposed adjusting the fees for residential customers who pay with credit cards to \$1.75 per transaction up to \$600.00 and, for commercial customers, a \$7.95 fee per transaction up to \$1,200.¹ These are reductions from the fees currently on Empire’s books and are lower than the proposed rates from Docket No. 20-EPDE-459-TAR (“20-459 Docket”).² Due to the economic impacts of the ongoing COVID-19 pandemic, credit card transaction fees are currently being waived from applicable customers’ bills and tracked in a regulatory asset, established in Docket No. 20-EPDE-427-ACT (“20-427 Docket”).³ Empire’s request in this docket also calls for these proposed transaction fees to be calculated and tracked in the asset.

¹ *Application for The Empire District Electric*, pg. 5 ¶9 (October 1, 2020).

² See *Order On Unanimous Settlement Agreement*, Docket No. 21-EPDE-459-TAR, (February 16, 2021).

³ *Order Approving Application for Accounting Authority Order*, Docket No. 20-EPDE-427-ACT (July 9, 2020).

2. On March 11, 2021, Staff filed its Report and Recommendation (“R&R”) on Empire’s application.⁴ Staff recounted the various Empire-specific dockets that touched on the issue of transaction fees. Staff then evaluated the application through the requirements for credit card payments under the Commission’s Payment Standards and concluded that the proposed fees met the requirements.⁵ Under the Commission’s Payment Standards, jurisdictional utilities are not allowed to charge customers a fee for payment via e-check. However, Empire proposes either to offer e-check as a payment method with a transaction fee or to not offer it as a payment method. Therefore, Staff considered the comparative benefits of charging customers for using the method versus not having the option altogether. Staff concluded that it would be in the best interest of all parties for the Commission to issue Empire a partial waiver of the Payment Standards to allow for e-check payments to be subject to a transaction fee.⁶ Finally, Staff supported the addition of the waived transaction fees to the 20-427 regulatory asset. However, Staff emphasized that any determination regarding the recovery of these fees would be made in a future rate case.⁷

3. CURB has reviewed both the Company’s request to approve the proposed transaction fees and Staff’s R&R from the perspective of residential and small commercial ratepayers. CURB is supportive of the changes to the transaction fees and the analysis in Staff’s R&R. The fees reflected in this docket are lower than those previous Commission-approved fees and lower than the proposed fees from the 20-459 docket. Once the pandemic-related waiver of Empire’s transaction fees end and charging of these fees resume, customers would then experience

⁴ *Notice of Filing of Staff’s Report and Recommendation*, Docket No. 21-EPDE-134-TAR (March 11, 2021).

⁵ Staff’s R&R, pg. 7.

⁶ *Id.* at pg. 8.

⁷ *Id.*

comparative savings with these proposed, as opposed to the prior fee structure. Therefore, CURB is supportive of the proposed transaction fees.

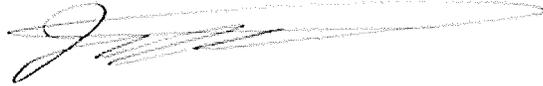
4. CURB agrees with Staff's analysis of the Commission's Payment Standards and the conclusion that the proposed fees comply with the requirements.⁸ Although lower transaction limits may impact customers with larger bills, Staff's analysis indicates that the average customer bill is well under the proposed limits, which mitigates those potential impacts. In the event that a customer is experiencing burdens with the new transaction limits, CURB encourages Empire to work with those customers directly to reach an amicable solution. CURB is also satisfied with Staff's conclusion that the fees will be revenue-neutral for the Company and only assessed to those customers using the service, as required by the Payment Standards. CURB would draw attention to Paragraph 2.b of Section I of the Payment Standards which addresses who pays for the costs of these transactions. Customers who do not utilize these payment methods cannot be burdened with those same costs. Even though CURB is agreeable to the waiving of the transaction fees and tracking within a regulatory asset, CURB believes that this particular topic could require special attention in any future request for recovery.

5. CURB agrees with Staff's recommendation to grant a partial waiver of the Payment Standards to facilitate the use of an e-check, a previously unavailable payment method. E-checks may provide a new alternative for remote payments that can cut down on person-to-person contact and add convenience for customers. In regards to the additional fee for this service, customers should be able to access that information easily to fully understand all available payment options in order to choose the best one for them.

⁸ Staff R&R, pgs. 6-7.

WHEREFORE, CURB respectfully requests that the Commission grant Empire's requests contained in Empire's application, as recommended by Staff's R&R.

Respectfully submitted,



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CERTIFICATE OF SERVICE

21-EPDE-134-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 18th day of March, 2021, to the following:

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