

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

Before Commissioners: Andrew J. French, Chairperson
Dwight D. Keen
Annie Kuether

In the Matter of the Application of)
The Empire District Electric Company) Docket No. 23-EPDE-547-ACA
For Approval of its Annual Energy Cost)
Adjustment (“ECA”) Filing.)

ORDER APPROVING ANNUAL COST ADJUSTMENT FACTOR

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (“Commission”) for consideration and determination. Having examined its files and records, the Commission finds and concludes:

I. BACKGROUND

1. On December 21, 2022, The Empire District Electric Company (“Empire”) filed an Application requesting approval of its updated Annual Energy Cost Adjustment (“ECA”) factor based on the period ending October 31, 2022.¹

2. On January 10, 2023, the Commission granted intervention to the Citizens’ Utility Ratepayer Board (“CURB”).²

3. On January 24, 2023, Empire filed testimonies of Empire witnesses Charolotte T. Emery and Todd W. Tarter to explain and support its calculation of the ECA factor. Ms. Emery provided testimony describing the attachments included in the Application, the impact of the Southwest Power Pool (SPP) Integrated Marketplace (IM) on the ECA off-system profit factor,

¹ Application of Empire, Docket No. 23-EPDE-547-ACA (Dec. 21, 2022) (“Application”).

² Order Granting CURB’s Petition to Intervene, Protective and Discovery Order (Jan. 10, 2023).

and the 2023 ECA energy cost forecasts.³ Mr. Tarter provided testimony describing the impact of the Southwest Power Pool (“SPP”) Integrated Marketplace (“IM”) on Empire’s operations.⁴ Mr. Tarter also discussed Empire’s fuel and purchased power procurement process.⁵

4. With its Application, Empire also filed Appendix A and Appendix B. Appendix A includes the annual calculation of the (over)/under recovery of energy costs for the ECA year ending October 31, 2022, as well as the annual calculation of the over/(under) refund of the prior years’ Kansas jurisdictional off system sales margins that flow through the ECA. Appendix B includes the annual forecast of energy costs for the calendar year 2023.

5. Empire’s annual ECA filing in the above captioned docket sets forth a proposed recovery of \$255,611, which translates to an ECA factor of 0.00111 cents/kWh.⁶

II. LEGAL STANDARDS

6. The Commission holds full power, authority, and jurisdiction to supervise and control Empire as an electric public utility pursuant to K.S.A. 66-101. The Commission holds jurisdiction over Empire’s rates and terms of service under K.S.A. 66-101b. According to K.S.A. 66-101b, any rates charged by Empire must be just and reasonable. The rates may not be unreasonably discriminatory or unduly preferential. All of Empire’s rates pertaining to jurisdictional service must be approved by the Commission pursuant to K.S.A. 66-117.

7. In Docket No. 05-EPDE-980-RTS, the Commission approved the regulatory framework for Empire’s ECA.⁷ The regulatory framework, as explained by John Cita’s testimony

³ See Direct Testimony of Charlotte T. Emery on Behalf of the Empire District Electric Company (Jan. 24, 2023) (“Emery Direct”).

⁴ See Direct Testimony of Todd W. Tarter on Behalf of the Empire District Electric Company (Jan. 24, 2023) (“Tarter Direct”).

⁵ *Id.* at 6.

⁶ See Application, Attachment A, Schedule 2 (showing calculation of Liberty-Empire’s costs and the Annual Correction Adjustment factor).

⁷ Order Adopting Stipulated Settlement Agreement, p. 13-14, Docket No. 05-EPDE-980-RTS (Dec. 9, 2005).

in the docket, involved the reporting of ECA prices (i.e. the costs of fuel and energy) to Staff throughout the ECA year, and at the close of the year, a Commission prudence review of the proposed ECA factor for the next ECA year.⁸

8. Without altering the regulatory framework, the Commission approved modifications to Empire’s ECA formula in Docket No. 07-EPDE-712-ACA. Of relevance to this proceeding, Empire was required to remove derivative payoffs and remove the net margins resulting from gas sales during the ECA period.⁹

III. ANALYSIS

9. On July 31, 2024 Commission Staff (“Staff”) filed a Report and Recommendation (“Staff’s R&R” or “R&R”) in this docket.¹⁰ This section will address Staff’s analysis of the requested ECA factor and Empire’s SPP IM activity in two parts.

a. ECA Factor

10. Staff audited Empire’s actual fuel costs for the following months: March, April, June, and July 2022.¹¹ For these months, Staff conducted an audit of the Application that consisted of:

- 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 vendor invoices and general ledger entries;
- Verifying that the ECA factor used to calculate the customer’s bill agrees with the calculation that the Company files with the Commission; and
- Ensuring the ECA 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 ECA period ending October 31, 2022.

⁸ Direct Testimony Prepared by John Cita, Ph.D., Utilities Division, Kansas Corporation Commission, p. 16, Docket No. 05-EPDE-980-RTS (Aug. 22, 2005) (Cita Direct).

⁹ See Order Approving Staff Report and Closing Docket, Docket No. 07-EPDE-712-ACA, p. 3 (Feb. 25, 2008).

¹⁰ See Notice of Filing of Staff’s Report and Recommendation, Docket No. 23-EPDE-547-ACA (July 31, 2024).

¹¹ *Id.* at 2 (“Staff typically audits four months out of the ACA year. The four months usually consist of at least two months from the summer cooling season”).

11. For the traditional fuel and cost of service review of the ECA audit, Staff found no material irregularities in the information provided. Staff agrees with Empire's assertion that it under-recovered \$255,611 during the ECA year ending October 31, 2022. As such, Staff recommended approval of Empire's ECA factor of 0.00111 cents/kWh for the period ending October 31, 2022.¹²

b. SPP IM Activity and Performance

12. Staff's ECA audit included a review of Empire's participation in the SPP IM during 2022. Staff's review consisted of the following:

- Review Empire's process and control procedures 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 ECA audit, evaluate whether Empire has accurately accounted for Kansas' actual share of IM revenue and costs pursuant to the provisions of the current ECA tariff;
- Examine Empire's all-in ECA cost calculation and determine whether Empire's participation in the SPP IM is providing benefits to Empire's Kansas ratepayers.

13. Staff examined Empire's processes and control procedures by issuing formal discovery requests based on the SPP audit findings and the review of fuel and purchased power expenses detailed in Docket No. 22-EPDE-261-ACA.¹³ Staff found that 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.¹⁴ Additionally, Staff found that Empire has a comprehensive process in place to verify meter data with internal and external counterparties and with SPP.¹⁵ Staff found that Empire has a defined process in place to submit and monitor disputes with SPP.¹⁶

¹² Staff's R&R, p. 15.

¹³ *Id.*, p. 3.

¹⁴ *Id.*, p. 4.

¹⁵ *Id.*

¹⁶ *Id.*

14. Next, Staff issued multiple discovery requests to perform an evaluation of Empire's performance tracking and risk mitigation strategies.¹⁷ In its audit, Staff inquired as to Empire's management of daily load purchases and generation costs in the SPP IM.¹⁸ Staff found that in 2022, Empire's formula for calculating its generation offer curves was consistent with its approach in prior rate periods.¹⁹ Staff determined that Empire utilizes sufficient adders and multipliers to cover anticipated costs without subjecting the units to increased risk of its units being mitigated.²⁰ Finally, Staff found that Empire has developed strategies to manage market risks and evaluate the on-going profitability of its generation portfolio to be successful in the SPP IM.²¹

15. Next, Staff examined Empire's management of its congestion hedging portfolio. Staff requested Empire provide an analysis of its congestions costs and TCR revenues generated from its TCR portfolio.²² Staff determined, based on its review of this information, that Empire diligently managed the risks and profitability associated with the IM during 2022 and is taking the steps necessary to be successful in the SPP IM.²³

16. Staff utilizes a monthly review process to monitor the IM activity of the three vertically integrated, investor-owned electric utilities in the State of Kansas, known as a Monthly Activity Report.²⁴ Staff reviewed a reconciliation that documented and verified all Empire IM activity for the audited months.²⁵ In Staff's review of Empire's IM revenue and costs, Staff determined that the SPP settlement statements and the Monthly Activity Reports were accurately

¹⁷ Staff's R&R, p. 4.

¹⁸ *Id.* at 5.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.* at 5-6.

²² *Id.* at 6.

²³ *Id.* at 7.

²⁴ *Id.*

²⁵ *Id.*

reported on Empire's general ledger and tied to its ECA Application for the sample months audited.²⁶

17. Staff analyzed Empire's all-in fuel and purchase power costs for the year of 2022. Staff determined that, when compared against Empire's costs of Winter Storm Uri in 2021, Empire's all-in ECA costs per kWh for 2022 represented a reduction of 47.7% from the cost per kWh in 2021.²⁷ Staff found that the primary driver for the impact in the annual ECA costs was the elevated price of natural gas and purchase power throughout the SPP region in 2021 and 2022.²⁸

18. Staff analyzed SPP's calculation of the regional marketplace benefit and Empire's analysis of the SPP IM benefit in its simulation model.²⁹ Based on Staff's review of the available market data from SPP's calculation of the regional SPP IM benefit and Empire simulated model comparing SPP's operation as a single balancing authority against the modeled impact of serving customers within its own generation, Staff determined that the market data suggests that the SPP IM is benefitting Empire's Kansas customers.³⁰

19. Finally, Staff examined a workpaper Empire provided with operating data for its generation costs, generation revenues, and margins produced at each of its generating units for the 12-month period ending December 31, 2022.³¹ Based on its review of this workpaper, Staff found that Empire managed the risks of operating in the SPP IM and managed its fuel costs, VOM expenses of its generation assets, and purchase power costs that are passed on to Kansas retail customers in the ECA.³²

20. Neither CURB nor Empire filed a response to Staff's R&R.

²⁶ Staff's R&R, p. 8.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.* at 11.

³⁰ *Id.* at 12.

³¹ *Id.*

³² *Id.*

21. Upon review of the record as a whole, the Commission adopts Staff's recommendation to find that Empire under-recovered \$255,611 from its retail customers for the ECA period ending October 31, 2022.

22. Accordingly, the Commission concludes that Empire's ECA factor of 0.00111 cents/kWh, to recover \$255,611 of under-recovered fuel and purchased power expenses from retail customers during the ECA period ending October 31, 2022, is just and reasonable.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. Empire's ECA factor of 0.00111 cents/kWh for the ECA period ending October 31, 2022, is approved.

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).³³

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner; Kuether, Commissioner

Dated: 11/19/2024



Lynn M. Retz
Executive Director

CRM/MKH

³³ K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

CERTIFICATE OF SERVICE

23-EPDE-547-ACA

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of electronic service on 11/19/2024.

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