

**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 Empire District Electric)
Company for Transmission Delivery Charge) Docket No. 24-EPDE-894-TAR
(TDC), 2024 Annual True-Up.)

**ORDER ACKNOWLEDGING EFFECTIVE DATE OF TRANSMISSION DELIVERY
CHARGE SUBJECT-TO-REFUND PURSUANT TO K.S.A. 66-1237**

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:

I. Background

1. On June 21, 2024, Empire District Electric Company, a Liberty Utilities Company (Liberty-Empire or the Company) filed an updated 2024 Transmission Delivery Charge (TDC) tariff with the Commission.¹ The updated TDC tariff contained revisions to the rates for electric transmission service to Liberty-Empire's retail customers. Liberty-Empire requested an effective date of August 1, 2024.

2. The Commission's July 30, 2019 Order in Docket No. 19-EPDE-223-RTS approved Liberty-Empire's TDC Rider and instructed the Company to file an annual true-up each calendar year.² The instant docket represents Liberty-Empire's required true-up, including previously unrecovered/over-received Transmission Expenses charged to the Company. Liberty-Empire

¹ Empire District Company a Liberty Utilities Company for the Annual 2024 Transmission Delivery Charge Rider (Jun. 21, 2024) (Application).

² *Id.*, pg. 1.

calculated the 2024 surcharge to be charged to its customers as specified under the TDC Rider and under the Order approving the Stipulation and Agreement in Docket No. 19-EPDE-223-RTS.

II. Jurisdiction and Standard of Review

3. The Commission holds full power, authority, and jurisdiction to supervise and control Liberty-Empire as an electric public utility pursuant to K.S.A. 66-101. The Commission holds jurisdiction over Liberty-Empire's rates and terms of service under K.S.A. 66-101b.

4. K.S.A. 66-101b states any rates charged by Liberty-Empire must be just and reasonable and that the rates may not be unreasonably discriminatory or unduly preferential.

5. K.S.A. 66-1237(a) provides, in part, that any electric utility subject to the Commission's jurisdiction may seek to recover costs associated with transmission of electric power through a TDC Rider, so long as those costs are consistent with the determination of transmission-related costs made by a regulatory authority with legal jurisdiction over the electric transmission system.

6. K.S.A. 66-1237(c) provides in full:

(c) All transmission-related costs incurred by an electric utility and resulting from any order of a regulatory authority having legal jurisdiction over transmission matters, including orders setting rates on a subject-to-refund basis, shall be conclusively presumed prudent for purposes of the transmission delivery charge and an electric utility may change its transmission delivery charge whenever there is a change in transmission-related costs resulting from such an order. The commission may also order such a change if the utility fails to do so. An electric utility shall submit a report to the commission at least 30 business days before changing the utility's transmission delivery charge. If the commission subsequently determines that all or part of such charge did not result from an order described by this subsection, the commission may require changes in the transmission delivery charge and impose appropriate remedies, including refunds.

III. Discussion

7. As provided by K.S.A. 66-1237(c), all transmission-related costs incurred by an electric public utility that resulted from an order of a regulatory authority having legal jurisdiction

over transmission matters are conclusively presumed prudent. The Federal Energy Regulatory Commission (FERC) is the regulatory authority with legal jurisdiction over transmission matters. The Commission does not have discretion over transmission matters but is instructed by K.S.A. 66-1237(c) to presume Liberty-Empire's 2024 TDC filing is prudent.

8. Although FERC has jurisdiction over transmission-related costs, the Commission has authority to issue an order setting the TDC rates subject to refund.³ If the Commission, after detailed review of Liberty-Empire's filing, subsequently determines that all or part of the TDC rate does not comply with K.S.A. 66-1237, the Commission may require changes in the TDC and impose appropriate remedies, including refunds.⁴

IV. Findings and Conclusions

9. The Commission finds that Empire submitted a report updating its TDC tariff on June 21, 2024, thereby providing notice at least thirty (30) business days prior to the requested effective date of August 1, 2024. This comports with the language of K.S.A. 66-1237(c).

10. The Commission finds that the revisions to Liberty-Empire's TDC tariff are necessary to compensate Liberty-Empire for the transmission expense incurred by the utility to supply retail energy to its customers. Accordingly, the Commission at this time finds no reason to delay the implementation of Liberty-Empire's revised TDC rates.

11. The Commission notes that K.S.A. 66-1237(c) provides that, if after Liberty-Empire has changed its TDC, the Commission determines that all or part of the TDC did not result from an order described in K.S.A. 66-1237(c), the Commission may require changes in the charge and impose appropriate remedies, including refunds.

³ See K.S.A. 66-1237(c).

⁴ *Id.*

12. The Commission concludes that Liberty-Empire's proposed TDC rates filed June 21, 2024, should become effective August 1, 2024, on a subject-to-refund basis while the Commission conducts its review of Liberty-Empire's revised 2021 TDC.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. Liberty-Empire's Transmission Delivery Charge, as filed in its Application on June 21, 2024, shall go into effect on August 1, 2024, subject to Commission review, possible changes to the charge, and subject to appropriate remedies, including refunds.

B. A 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).

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner; Kuether, Commissioner

Dated: 07/16/2024



Lynn M. Retz
Executive Director

PZA

CERTIFICATE OF SERVICE

24-EPDE-894-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 07/16/2024.

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