

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

Before Commissioners: Dwight D. Keen, Chair
 Susan K. Duffy
 Andrew J. French

The Empire District Electric Company for)
Transmission Delivery Charge (TDC), 2022) Docket No. 22-EPDE-567-TAR
Annual True Up.)

ORDER VERIFYING ACCURACY OF TRANSMISSION DELIVERY CHARGE

This matter comes before the State Corporation Commission of the State of Kansas (“Commission”) for consideration and decision. Having reviewed the pleadings and filings in the above-captioned docket, the Commission makes the following findings and conclusions:

I. BACKGROUND

1. On June 21, 2022, the Empire District Electric Company (“Empire”) filed an updated 2022 Transmission Delivery Charge (“TDC”) Rider with the Commission.¹ The updated TDC tariff contained revisions to the rates for electric transmission service to Empire’s retail customers. Empire requested an effective date of August 1, 2022.²

2. The Commission’s July 30, 2019 Order in Docket No. 19-EPDE-223-RTS approved Empire’s TDC Rider and instructed the Company to file an annual true-up each calendar year.³ The instant docket represents Empire’s required true-up, including previously unrecovered/over-received Transmission Expenses charged to the Company. Empire calculated the 2022 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.⁴

¹ The Empire District Electric Company for Transmission Delivery Charge (TDC), 2022 Annual True Up (Jun. 21, 2022) (“Application”).

² See *id.*, p. 1.

³ *Id.*

⁴ *Id.*

3. The Citizens' Utility Ratepayer Board ("CURB") petitioned to intervene and motioned for the issuance of a Protective Order and a Discovery Order on June 30, 2022. On July 7, 2022, the Commission granted CURB's Intervention and issued a Protective Order and Discovery Order.

4. On July 14, 2022, the Commission issued an Order Acknowledging Effective Date of Transmission Delivery Charge Subject-To-Refund Pursuant to K.S.A. 66-1237.⁵ The Commission concluded that Empire's proposed TDC rates filed June 21, 2022 were to become effective August 1, 2022, on a subject-to-refund basis while the Commission conducted its review of Empire's revised 2022 TDC.

5. On September 27, 2022, Commission Staff ("Staff") filed its Report and Recommendation ("R&R"), after performing an audit of Empire's TDC tariff filing.⁶ Staff recommended the Commission approve the Application as filed, as Staff did not find any errors in Empire's reporting of its TDC charges, thus negating the need for refunds. This includes a verification by the Commission that Empire did incur \$3,330,211 in TDC, which represents an increase of \$118,159 compared to Empire's last TDC filing in Docket No. 21-EPDE-471-TAR. Empire's revised TDC revenue amount will increase an average residential monthly customer bill by \$0.64.⁷

6. CURB has reviewed Staff's R&R and has indicated to Staff that it supports Staff's recommendations. Further, neither CURB nor Empire filed objections to Staff's R&R.

II. DISCUSSION

⁵ Order Acknowledging Effective Date of Transmission Delivery Charge Subject to Refund (Jul. 14, 2022) ("Order Acknowledging Date").

⁶ See *Notice of Filing of Staff's Report and Recommendation*, p. 1 (Sep. 27, 2022) ("R&R").

⁷ *Id.*, p. 1.

7. The Commission holds full power, authority and jurisdiction to supervise and control Empire as an electric public utility, including its rates and terms of service.⁸

8. K.S.A. 66-1237(a) allows Empire to seek to recover costs associated with transmission of electric power through a separate TDC on customers' bills, so long as such recovery is done in a manner consistent with the determination of transmission-related costs from an order of a regulatory authority having legal jurisdiction over such transmission costs; in this case, that authority is the Federal Energy Regulatory Commission ("FERC"). Here, Empire's TDC rates are based on Empire's Annual Transmission Revenue Requirement, which is derived from Empire's FERC-approved annual Transmission Formula Rate.

9. 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.

10. K.S.A. 1237(c) provides for a process by which an electric public utility submits a report to the Commission a minimum of 30 business days prior to the electric public utility changing its TDC. The Commission may then issue an order setting the TDC rates subject to refund, as was done in this instance.⁹ If the Commission subsequently determines that all or part

⁸ See K.S.A. 66-101; see also K.S.A. 66-101b.

⁹ See K.S.A. 66-1237(c).

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.¹⁰

III. FINDINGS AND CONCLUSIONS

11. Empire is a regulated electric public utility subject to the Commission's jurisdiction. Empire submitted a report updating its TDC tariff on June 21, 2022, thereby providing notice at least thirty (30) business days prior to the requested effective date of August 1, 2022. This complies with the language of K.S.A. 66-1237(c).

12. The Commission reviewed Staff's Report and Recommendation submitted in this matter and included here as Attachment A. The Commission adopts the recommendations contained within Staff's R&R and incorporates the aforementioned into this Order by reference. The Commission concludes the TDC revenue amount requested by Empire accurately reflects the nature of the costs Empire incurs for providing transmission service to its retail customers.¹¹ Although an order approving Empire's Application was issued on July 14, 2022, Staff's recommendation to acknowledge the TDC revenues were correct negates the need for refunds.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. The Commission adopts Staff's Report and Recommendation, filed in this docket on September 27, 2021, and included here as Attachment A.

B. Empire's TDC Tariff, filed June 21, 2022, which went into effect on August 1, 2022, shall remain in effect.

C. 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).¹²

¹⁰ *Id.*

¹¹ Report and Recommendation at 4.

¹² 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; Duffy, Commissioner; French, Commissioner

10/27/2022

Dated: _____

Lynn M. Retz

Lynn M. Retz
Executive Director

CRM

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

In the Matter of the Application of The Empire)
District Electric Company for Transmission) Docket No. 22-EPDE-567-TAR
Delivery Charge (TDC), 2022 Annual True Up)

NOTICE OF FILING OF STAFF'S REPORT AND RECOMMENDATION

COMES NOW, the Staff of the State Corporation Commission of the State of Kansas ("Staff" and "Commission," respectively), and files its Report and Recommendation regarding The Empire District Electric Company's ("Empire") annual filing to true-up its Transmission Delivery Charge ("TDC") rate schedules pursuant to K.S.A. 66-1237.

Empire is a transmission-owning member of Southwest Power Pool ("SPP"), and its retail customers utilize Empire's transmission system to receive power and energy. Empire purchases transmission service for its retail customers under a Network Integrated Transmission Service ("NITS") Agreement with SPP, thus acting as a wholesale transmission network customer under the SPP Open Access Transmission Tariff. As such, Empire incurs charges from SPP. The TDC tariffs are designed to recover Empire's retail transmission service costs.

Empire requested \$3,330,211 in TDC revenues in its Application, which represents a \$118,159 increase since its last approved TDC. If approved, Empire's TDC would increase an average residential monthly customer bill by \$0.64. Staff has performed an audit of Empire's TDC filing and recommends the Commission approve the tariff as filed.

WHEREFORE, Staff submits its Report and Recommendation for Commission review and consideration and for such other relief as the Commission deems just and reasonable.

Respectfully submitted,

/s/ Carly R. Masenthin

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**REPORT AND RECOMMENDATION
UTILITIES DIVISION**

TO: Dwight D. Keen, Chair
Susan K. Duffy, Commissioner
Andrew J. French, Commissioner

FROM: Andria Jackson, Deputy Chief of Revenue Requirements, Cost of Service and Finance
Justin Grady, Chief of Revenue Requirements, Cost of Service and Finance
Jeff McClanahan, Director

DATE: September 22, 2022

SUBJECT: Docket No. 22-EPDE-567-TAR: In the Matter of the Application of The Empire District Electric Company for Transmission Delivery Charge (TDC), 2022 Annual True Up.

EXECUTIVE SUMMARY:

The Empire District Electric Company (Empire) requested \$3,330,211 in Transmission Delivery Charge (TDC) revenues under the Application, which represents a \$118,159 increase since its last approved TDC. On August 1, 2022, Empire began billing the updated TDC rates to its retail customers on a subject-to-refund basis pursuant to K.S.A. 66-1237(c), pending the conclusion of Staff's investigation and the Commission's final determination. Staff has performed an audit of Empire's TDC tariff filing and recommends the Commission approve the tariff as filed. If approved, Empire's TDC would increase an average residential monthly customer bill by \$0.64.

BACKGROUND:

On June 21, 2022, Empire submitted an Application seeking Commission approval to implement changes in its TDC rate schedules. Empire's filing represents an update to the prior TDC approved in Docket No. 21-EPDE-471-TAR (21-471 Docket). Supplemental to its filed request, Empire included clean and red-line versions of its proposed TDC tariffs, as well as workpapers supporting the calculations. In accordance with K.S.A. 66-1237(c), Empire sought

implementation of the new TDC tariffs within 30 business days, requesting August 1, 2022, as the desired effective date.¹

Empire is a transmission-owning member (TO) of Southwest Power Pool (SPP) and the Midcontinent Independent System Operator (MISO), non-profit Regional Transmission Organizations (RTOs) that serve the function of a Transmission Provider (TP) to its member-entities.² In its role as a TP, SPP and MISO act as an agent for and on behalf of its TOs. One of the functions as a TP is administering the billing for the wholesale transmission service provided over member-owned transmission facilities under the Open Access Transmission Tariff (OATT). Accordingly, SPP and MISO will collect for the transmission service from the wholesale transmission customers requesting such service over Empire's transmission facilities and will then remit these charges back to the Company.

Empire's retail customers also utilize Empire's transmission system to receive desired power and energy. Empire's cumulative retail demand is incorporated within the Company's Network Load designated under the Network Integrated Transmission Service (NITS) Agreement with SPP. Under its NITS Agreement, Empire, in essence, "purchases" the transmission service on behalf of its native load customers, thus acting as a wholesale transmission network customer under the SPP OATT. Subsequently, as a TO acting on behalf of its native load, Empire incurs charges from the SPP.

The TDC tariff is established to recover Empire's revenue requirement associated with providing transmission service to its retail load. In other words, the approved TDC tariffs are designed to recover Empire's retail transmission service costs. The approved TDC rates under the current tariff are based on Empire's Annual Transmission Revenue Requirement (ATRR), which is derived from Empire's annual Transmission Formula Rate (TFR), which has been approved by the Federal Energy Regulatory Commission (FERC). In addition to the retail portion of that amount, the current TDC tariff recovers the retail-allocated portion of other SPP and MISO charges associated with transmission service. In its Application, Empire's TDC rates were calculated to recover \$3,330,211 from retail customers, which represents a \$118,159 increase since the Company's prior TDC filing in the 21-471 Docket. On July 14, 2022, the Commission issued an Order pursuant to K.S.A. 66-1237 acknowledging that Empire is allowed to implement the requested changes in its TDC rates on a subject-to-refund basis.³

¹ K.S.A. 66-1237(c) states: "[a]ll 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 the subsection, the commission may require changes in the transmission delivery charge and impose appropriate remedies, including refunds."

² Due to Plum Point generation facility's physical footprint laying in MISO South territory, the unit must be pseudo tied out of MISO which requires Empire to obtain point-to-point service for the delivery of energy into SPP.

³ *Order Acknowledging Effective Date of Transmission Delivery Charge Subject-to-Refund Pursuant to K.S.A. 66-1237*, Docket No. 22-EPDE-567-TAR (Jul. 14, 2022).

ANALYSIS:

To facilitate its review of Empire's TDC filing, Staff solicited from Empire various data requests including recent copies of SPP and MISO billing statements, billing determinants, Load Ratio Share (LRS) data to determine the amount of the TDC Empire is responsible for, residential bill impact analysis, etc.

Calculation of the ATRR for use in the TDC calculation:

The tariff Empire included in the Application contains transmission-related costs incurred to be recovered under the following schedules of the OATT offered by SPP and MISO for service to Empire's retail customers:

SPP:

- Schedule 1A – Tariff Administration Service
- Schedule 1 – Scheduling, System Control and Dispatch Service
- Schedule 9 – Network Integration Transmission Service
- Schedule 10 – Wholesale Distribution Service
- Schedule 11 – Base Plan Charge
- Schedule 12 – FERC Assessment Charge
- Monthly Assessment Charge

MISO:

- Schedule 1 – Scheduling, System Control and Dispatch Service
- Schedule 2 – Reactive Supply and Voltage Control
- Schedule 7 – Long-Term Firm and Short-Term Firm Point-to-Point
- Schedule 10 – FERC Annual Charges Recovery
- Schedule 11 – Wholesale Distribution Service
- Schedule 26 – Network Upgrade Charge From Transmission Expansion Plan
- Schedule 33 – Blackstart Service
- Schedule 45 – Cost Recovery of NERC Recommendation or Essential Action

Additionally, other non-SPP or non-MISO transmission-related charges recorded in FERC Account 565 (Transmission of Electricity by Others), fees charged to the Company by the North American Electric Reliability Council (NERC), and other transmission revenue requirements that are not otherwise reflected in and recoverable through base rates or other Commission-authorized rider mechanisms are also included.

In addition to verifying the total input costs, Staff also examined a few supplementary processes performed by the Company to arrive at the individual retail transmission delivery charges, including: (1) a review of the data published in Empire's TFR file on the Open Access Same-Time Information System (OASIS) website to verify costs incurred from its owned facilities; and (2) a review of transmission statements supporting transmission-related expenses not relating to transmission facilities owned by the Company. Furthermore, Staff conducted its own supplemental review of Empire's costs by examining the zonal and regional Schedule 9 and Schedule 11 data published in the Revenue Requirements and Rates (RRR) file on the SPP website and LRS data provided by Empire.

Staff has reviewed the data provided by Empire through the information requests issued, including the SPP and MISO invoices and the load and usage data submitted by Empire in

support of its TDC calculation. Additionally, Staff has verified the SPP information provided by reviewing the published data on the OASIS and SPP websites. Staff finds Empire's TDC filing accurately reflects the nature of the costs it incurs for providing transmission service to its retail customers and that its TDC charges were calculated correctly in its filing.

Calculation of the TDC Rate for each retail rate schedule:

The ATRR is collected by applying a TDC rate, developed for each rate schedule permitting such cost recovery, to each applicable customer's bill. The allocation of the ATRR to the respective rate schedules is based on the 12 coincident-peak (12-CP) allocation method, similar to the method used by SPP to assess transmission charges. Empire's TDC tariff is currently based on the 12 months of the test year ended June 30, 2018. Empire's 12-CP allocation is adjusted for each customer class using the updated 12-CP allocation ratio from its most recent rate case and remains unchanged until the next general rate case or, at a minimum, once every five years, to limit cost shifting among retail classes.

Staff reviewed Empire's allocation of the TDC expense and verified the final TDC rates computed for each rate schedule.

RECOMMENDATION:

Staff recommends the Commission continue to allow Empire's TDC rate schedules to be collected, resulting in the collection of \$3,330,211, or an increase of \$118,159.

CERTIFICATE OF SERVICE

22-EPDE-567-TAR

I, the undersigned, certify that a true and correct copy of the above and foregoing Notice of Filing was served via First Class US Mail and electronic service this 27th day of September, 2022, to the following:

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CERTIFICATE OF SERVICE

22-EPDE-567-TAR

/s/ Ann Murphy

Ann Murphy

CERTIFICATE OF SERVICE

22-EPDE-567-TAR

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of
10/27/2022
first class mail and electronic service on _____.

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22-EPDE-567-TAR

/S/ KCC Docket Room

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