

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

APPLICATION OF THE EMPIRE DISTRICT)
ELECTRIC COMPANY FOR APPROVAL OF A)
REGULATORY ASSET AND SPECIAL)
REGULATORY TREATMENT FOR RECOVERY)
OF EXTRAORDINARY GAS SUPPLY COSTS)
ARISING FROM EXTREME WINTER WEATHER,)
AND FOR WAIVER OF APPLICABLE TARIFFS)
AND RULES)

CAUSE NO. PUD 202 100050

FILED
MAR 04 2021

COURT CLERK'S OFFICE - OKC
CORPORATION COMMISSION
OF OKLAHOMA

APPLICATION

The Empire District Electric Company (“Liberty-Empire” or the “Company”) presents this Application in response to the recent unprecedented February 2021 winter weather crisis in Oklahoma. In this Cause, Liberty-Empire seeks approve from the Commission for the following: (1) establishment of a regulatory asset account to which shall be directed all extraordinary costs incurred by the Company in connection with its effort to maintain utility service for its customers during the winter weather crisis, including fuel costs and carrying costs at the utility’s weighted average cost of capital; (2) a subsequent process for amortization and recovery of costs deferred to the regulatory asset account; (3) waiver of the provisions of the Company’s tariffs that would otherwise direct that these costs be passed through to customers in the ordinary course; (4) waiver of applicable provisions of Commission rules to the extent inconsistent with the process proposed here; and (5) providing such other relief as the Commission may find to be fair, just and reasonable.

In support of this Application, Liberty-Empire states as follows:

I. Parties.

Liberty-Empire is an electric public utility operating in the State of Oklahoma under the jurisdiction of the Commission. Liberty- Empire is also doing business in the states of Missouri,

Arkansas, and Kansas. Liberty-Empire owns and operates an electric utility system located in contiguous portions of the above mentioned four states, which is used to serve approximately 172,000 total electric customers, of which approximately 4,700 of those customers are located in Oklahoma (i.e., approximately 2.7% of Liberty-Empire’s retail electric business). The names of and contact information for the persons to whom notices and correspondence concerning this Application should be sent are as follows:

Kenneth A. Tillotson, OBA No.19237
Director of Legal Services
Liberty Utilities (Central Region)
602 S Joplin Ave
Joplin, MO 64818
(405) 768-9140
Kenneth.Tillotson@LibertyUtilities.com
** and **

Curtis M. Long, OBA No. 5504
J. Dillon Curran, OBA No. 19442
CONNER & WINTERS, LLP
1700 Leadership Square
Oklahoma City, Oklahoma 73102-7261
Phone: 405-272-5711
Fax: 405-232-2695
clong@cwlaw.com
dcurran@cwlaw.com

I. ALLEGATIONS OF FACT

1. On February 12, 2021, Oklahoma Governor Kevin Stitt declared a state-wide emergency due to “[e]xtreme freezing temperatures and severe winter weather including snow, freezing rain, and wind beginning February 7, 2021, and continuing.” In his Declaration, the Governor stated, “There is hereby declared a disaster emergency caused by severe winter weather in *all 77 Oklahoma counties* that threatens the public’s peace, health, and safety.” (Emphasis in original).

2. This weather emergency presented an event that was unpredictable and unexpected. Utility service and underlying natural gas markets throughout the region experienced a profound crisis arising from the unusually cold and unusually persistent winter weather. As a result of this weather crisis, demand for electric power on Liberty-Empire's local distribution system and demand for natural gas in the region escalated dramatically and prices rose on the spot and daily index markets accordingly.

3. Procurement vehicles for Liberty-Empire's natural gas fuel supply for generation of electricity include Forward Physical Index Contracts and Forward Physical Fixed Contracts triggered by historical pricing levels. The prices Liberty-Empire pays for natural gas fuel for generation, the Company's upstream services contracts, and the process by which the Company arranges for its gas fuel supply and related upstream services are all strictly supervised, audited and approved by the Oklahoma Corporation Commission, including an annual review of the Company's fuel adjustment clause mechanism and a prudence review of the process by which the Company obtains its gas supply.

4. The converging factors of reduced supply and increased demand placed temporary but severe constraints on Liberty-Empire's ability to obtain adequate natural gas fuel supply to satisfy customer needs. To provide the quantities of natural gas to generate electricity needed by its utility customers, the Company was obliged to purchase supplemental quantities of gas supply through the spot and daily index markets. The Company incurred extraordinary costs and carrying charges for these emergency measures, including SPP market charges. Absent regulatory intervention, those prices will adversely affect customers' monthly utility bills.

5. The Company seeks relief in this Cause so that the extraordinary costs the Company was obligated to incur during the weather crisis are not flowed through directly to the

Company's customers on a monthly basis as provided by the Company's fuel adjustment tariff. Instead, to mitigate the impact on Liberty-Empire's customers, those extraordinary costs should be deferred to a regulatory asset for a different recovery mechanism.

6. Costs to be deferred to a regulatory asset should include (1) extraordinary commodity costs incurred through escalated spot and daily index prices; (2) carrying costs of the extraordinary expenditures at the utility's weighted average cost of capital; and (3) extraordinary costs specifically related to the weather emergency, including those costs related to procuring natural gas supplies and wholesale energy for Oklahoma customers, including costs necessary to ensure stability and reliability of electric service, such as SPP market charges and those costs eligible for recovery as part of Liberty-Empire's Fuel Adjustment Clause tariff. Liberty-Empire will segregate all deferred costs by detailed cost category and shall contain enough detail for the Commission to perform a subsequent review for prudence and reasonableness. This deferral should be for accounting purposes only.

7. Because the alternative recovery mechanism proposed here is at variance with the tariffs of Liberty-Empire and with the Commission rules prescribing gas supply recovery, the Company proposes a waiver of its tariffs and a waiver of the applicable provisions of OAC 165:50 for this limited purpose.

WHEREFORE, Liberty-Empire requests that the Commission approve the following relief: (1) establishment of a regulatory asset account to which shall be directed all extraordinary costs incurred by the Company in connection with its effort to maintain utility service for its customers during the winter weather crisis, including commodity costs and carrying costs and other extraordinary costs necessary to ensure stability and reliability of natural gas service during the crisis; (2) specifying the process for amortization and recovery of costs deferred to the

regulatory asset account; (3) waiving the provisions of the Company's tariffs that would otherwise direct that these costs be passed through to customers in the ordinary course; (4) waiving the provisions of OAC 165:50 to the extent inconsistent with the process proposed here; (5) deferring decisions on recovery of the costs placed in the regulatory asset account for later consideration; and (6) providing such other relief as the Commission may find to be fair, just and reasonable.

Respectfully submitted,

THE EMPIRE DISTRICT ELECTRIC COMPANY

By: /s/ Curtis M. Long

Kenneth A. Tillotson, OBA No.19237
Director of Legal Services
Liberty Utilities (Central Region)
602 S Joplin Ave
Joplin, MO 64818
(405) 768-9140
Kenneth.Tillotson@LibertyUtilities.com

and

Curtis M. Long, OBA #5504
J. Dillon Curran, OBA #19442
CONNER & WINTERS, LLP
Conner & Winters, LLP
1700 Leadership Square
Oklahoma City, Oklahoma 73102-7261
Phone: 405-272-5711
clong@cwlaw.com
dcurran@cwlaw.com

**ATTORNEYS FOR THE EMPIRE DISTRICT
ELECTRIC COMPANY**

CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of March, 2021, a full, true, and correct copy of the above and foregoing instrument was served on the following persons by **ELECTRONIC MAIL** to the following:

Brandy L. Wreath
Director of Public Utility Division
Oklahoma Corporation Commission
Jim Thorpe Bldg., 4th Floor
P.O. Box 52000-2000
Oklahoma City, Oklahoma 73152-2000
PUDEnergy@occ.ok.gov

Michael L. Velez
Deputy General Counsel
Oklahoma Corporation Commission
Jim Thorpe Bldg., 4th Floor
P.O. Box 52000-2000
Oklahoma City, Oklahoma 73152-2000
Michael.Velez@occ.ok.gov

Jared B. Haines
Assistant Attorney General
Office of the Attorney General
313 NE 21st Street
Oklahoma City, Oklahoma 73105
Jared.Haines@oag.ok.gov

/s/ Curtis M. Long