

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

Before Commissioners: Mark Sievers, Chairman
 Thomas E. Wright
 Shari Feist Albrecht

In the Matter of the Adoption of Policies)
Regarding Commission Internal Procedures.) Docket No. 14-GIMX-190-MIS

**AMENDED ORDER ADOPTING POLICIES REGARDING
COMMISSION PROCEDURES**

This matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and determination. Having examined its files and records and being fully advised in the premises, the Commission finds as follows:

1. To establish a consistent policy and ensure compliance with applicable Kansas law, the Commission sets forth the attached document regarding certain docket processes.¹ The Commission hereby adopts the attached internal procedures with the intention of developing a related guidance document to be publically available on the Commission's website.

2. Any interested entity may file written comments on the attached policy by January 3, 2014. Interested entities need not file Entries of Appearance or Petitions to Intervene. However, filed comments should refer to Docket No. 14-GIMX-190-MIS and must be addressed to:

Kansas Corporation Commission
c/o Kim Christiansen, Executive Director
1500 SW Arrowhead Road
Topeka, Kansas 66604-4027

3. The attached proposed internal procedures are subject to modification following receipt of public input and comments on those procedures. They shall not become effective until

¹ See Attachment A.

after comments are received and reviewed. Therefore, the effective date shall be January 17, 2014, unless otherwise stayed. This differs from past practice where processes and procedures were not open to public comment.

4. This Amended Order nullifies and replaces the Commission's Order Adopting Policies Regarding Commission Procedure issued October 29, 2013.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

- A. The Commission adopts the attached policy document.
- B. Parties have 15 days from the date of service of this Order in which to petition the Commission for reconsideration.²
- C. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further orders as it may deem necessary.

BY THE COMMISSION IT IS SO ORDERED.

Sievers, Chairman; Wright, Commissioner; Albrecht, Commissioner.

Dated: 11-7-2013



Kim Christiansen
Executive Director

ORDER MAILED NOV 07 2013
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² K.S.A. 66-118b; K.S.A. 77-529(a)(1).

In the Matter of the Adoption of Policies Regarding Commission
Internal Procedures
Docket No. 14-GIMX-190-MIS

Concurring Statement of Chairman Mark Sievers

The Commission seeks public comment on the proposed processes that govern how it develops orders, conducts deliberations and discusses matters in open meetings. I concur with the Commission's order in this matter and offer my thoughts to help guide commenters who may be interested in this topic.

This proposal represents a significant change in the processes and procedures that have come to be taken for granted over the last decade or more, namely that:

- over the years, the Commission's internal processes have not been developed through a public comment process;
- the Commission has followed an historical practice of not freely talking with one another about any substantive case deliberations; and,
- notational voting, as practiced for more than a decade at the Commission, has been assumed to be a proper method of processing Commission orders.

The public review process adopted by the Commission in today's order differs from the previous practice of developing internal practices supported only by legal memorandum issued by Commission lawyers. Certainly, such memoranda were developed in good faith, but in the end, they merely reflected the drafter's best judgment about how a court would rule on an issue if it came before it.

I believe that the agency will benefit from processes and procedures that are ultimately reflected in rules and regulations that have been presented to the public for comment, voted on by the Commission and reviewed by the Attorney General as is the process for rules and regulations in many Kansas administrative agencies. I support the practice of presenting significant process changes to the public for comment and memorializing Commission decisions in the form of rules and regulations.

As a practical matter, the historic practice of the Commission restricting discussions between Commissioners means that if a Commissioner has a question for another Commissioner or simply an idea to consider that implicates deliberations in a matter before the Commission they cannot simply walk down the hall, pop in and have an open discussion with fellow Commissioners like people do every day in almost every type of public or private organization. Thus, to the extent that it stifles deliberations and communications on the matters brought before the Commission, the Kansas Open Meetings Act ("*KOMA*") has the unintended consequence of chilling rather than promoting transparency in government. *KOMA*'s strictures are particularly vexing for three-member government boards where discussions between any two members constitute a majority of agency decision makers. Because Commissioners do not speak to one another or through intermediaries, the Commission's Staff who draft the 2,500 orders annually for the Commissioners' signatures must speculate about what they believe will be satisfactory to all three Commissioners before a matter is placed on the open meeting agenda.

In my view, the critical elements of the proposed process involve explicit recognition of the mixed role of the Commission, for me, that comes down to two concepts:

- The Commission acts in a quasi-legislative manner when it develops and articulates forward looking policy and/or rates that are prospective in nature;
- The Commission acts in a quasi-judicial manner when it presides over hearings and weighs the credibility of witnesses, evidence and arguments.

In the proposed rules it is submitting for public comment, the Commission draws the line between quasi-legislative and quasi-judicial at activities focused on rate design. As described below, there is a significant range of Commission regulatory activity that is not encompassed by rate design that may be affected by these proposed procedures.

The distinction between quasi-judicial and quasi-legislative is legally significant and I look forward to reviewing public comments and analysis on this topic. In my opinion, the critical issues revolve around three statutes and ambiguous case law:

First, K.S.A 75-4318(g)(1) provides that “[t]he provisions of the open meetings law shall not apply: (1) to any administrative body that is authorized by law to exercise quasi-judicial functions when such body is deliberating matters relating to a decision involving such quasi-judicial functions.”

Second, K.S.A. 2012 Supp. 77-523(f) declares Kansas Administrative Procedures Act (“KAPA”) hearings to not be “meetings” as defined by the KOMA:

The hearing is open to public observation except to the limited extent, as determined by the presiding officer, that it is necessary to close parts of the hearing pursuant to a provision of law requiring confidentiality or expressly authorizing closure. Notwithstanding any other provision of law to the contrary, any hearing held pursuant to this act shall not be deemed a meeting pursuant to K.S.A. 75-4317a, and amendments thereto. [emphasis added]

The Kansas Attorney General has opined that *“While there are a variety of procedures which could be used, after hearing evidence and arguments, a public body or agency may simply call its hearing to a close and deliberate over the course of days or weeks. During the deliberations, the members may discuss the evidence and issues, draft a proposed order, and reach a consensus as long as they do not take a formal vote outside of an open meeting.”* See Attorney General Opinion No. 91-31.

Finally, the statutes governing a wide range of the Commission’s regulatory activities – some of which involve rate making and many that do not – envision proceedings under the under the KAPA. For example, under K.S.A. 66-101d, hearings held by the Commission to set rates for electric utilities are to be governed by KAPA:

Hearings shall be conducted in accordance with the provisions of the Kansas administrative procedure act, unless, in the case of a general investigation, for good cause, the commission orders otherwise.

Similar statutory language is found for utility rate changes and surcharges,¹ natural gas utilities,² telecommunications,³ miscellaneous public utilities,⁴ transmission line siting,⁵ common carriers,⁶

¹ K.S.A. 66-117g “proceedings under this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act.”

² K.S.A. 66-1,202 “The commission shall have the power, after notice and hearing in accordance with the provisions of the Kansas administrative procedure act, to require all natural gas public utilities governed by this act to establish and maintain just and reasonable rates when the same are reasonably necessary in order to maintain reasonably sufficient and efficient service from such natural gas public utilities.”

³ K.S.A. 66-1,191 “Hearings shall be conducted in accordance with the provisions of the Kansas administrative procedure act, unless, in the case of a general investigation, for good cause, the commission orders otherwise.”

⁴ K.S.A. 66-1,232. “The commission shall have the power, after notice and hearing in accordance with the provisions of the Kansas administrative procedure act, to require all miscellaneous public utilities governed by this act to establish and maintain just and reasonable joint rates when the same are reasonably necessary in order to maintain reasonably sufficient and efficient service from such miscellaneous public utilities.”

⁵ K.S.A. 66-1,180. “All hearings conducted pursuant to this act shall be in accordance with the provisions of the Kansas administrative procedure act.”

licensing of motor carriers,⁷ decommissioning costs of nuclear power facilities,⁸ objections to assessments by CURB and the Commission,⁹ motor carrier liability insurance,¹⁰ violations of oil and gas laws,¹¹ assessments of penalties for oil and gas operators,¹² enforcement of laws related to crude oil production,¹³ determination of responsibility for abandoned well plugging,¹⁴ proration plans,¹⁵ underground gas storage,¹⁶ unitization,¹⁷ and regulation of disposal wells.¹⁸

⁶ K.S.A. 66-1,217. "The commission shall have the power, after notice and hearing in accordance with the provisions of the Kansas administrative procedure act, to require all common carriers, except a motor carrier holding a certificate of public service, governed by this act to establish and maintain just and reasonable joint rates when the same are reasonably necessary in order to maintain reasonably sufficient and efficient service from such common carriers."

⁷ K.S.A. 66-1,112j & 66-1,114 "the commission may suspend or completely revoke, at any time, any permit, certificate or interstate license after notice and an opportunity to be heard has been given to the grantee in accordance with the provisions of the Kansas administrative procedure act" (66-1,112j) "The commission, upon the filing of an application for a certificate, shall fix a time and place for hearing thereon, which shall be not less than 20 and not more than 60 days after the filing and shall be conducted in accordance with the provisions of the Kansas administrative procedure act." (66-1,114)

⁸ K.S.A. 66-128n. "The state corporation commission shall hold a public hearing in accordance with the provisions of the Kansas administrative procedure act on each proposed decommissioning financing plan submitted under K.S.A. 66-128m and amendments thereto."

⁹ K.S.A. 66-1505. "The commission, after notice to the objector, shall hold a hearing in accordance with the provisions of the Kansas administrative procedure act upon such objections."

¹⁰ K.S.A. 66-1,128(d) "Upon notice and a hearing in accordance with the provisions of the Kansas administrative procedure act, the commissioner of insurance may cancel a certificate of self-insurance upon reasonable grounds."

¹¹ K.S.A. 55-162(a) "the commission shall cause such person to come before it at a hearing held in accordance with the provisions of the Kansas administrative procedure act."

¹² K.S.A. 55-164(b) "The commission shall conduct a hearing in accordance with the provisions of the Kansas administrative procedure act within 30 days after receipt of such request."

¹³ K.S.A. 55-605(c) "proceedings on such order shall be conducted in accordance with the provisions of the Kansas administrative procedure act."

¹⁴ K.S.A. 55-179(c) "the commission shall cause such person to come before it at a hearing held in accordance with the provisions of the Kansas administrative procedure act to show cause why the requisite care and control has not been exercised with respect to such well."

¹⁵ K.S.A. 55-604(c) "the commission, after notice and hearing in accordance with the provisions of the Kansas administrative procedure act, may approve such plan or distribution."

¹⁶ K.S.A. 55-1204(b) "The commission shall issue no such certificate until after public hearing is had on application and upon reasonable notice to interested parties in accordance with the provisions of the Kansas administrative procedure act."

¹⁷ K.S.A. 55-1303. "the commission shall conduct a hearing in accordance with the provisions of the Kansas administrative procedure act."

Thus, when the Commission is deliberating in any of the matters before it governed by KAPA, to what extent are those activities exempt from the KOMA?

Dicta in (but not the holding in the case) some KCC case law characterizes KCC rate making activity as quasi-legislative, but obviously, as my list above indicates, ratemaking is not the only regulatory activity the Commission engages in that is governed by the KAPA. For example, in *Citizen Utility Ratepayer Board v. Kansas Corporation Commission*, 47 Kan. App. 2d 1112, 1123 (2012) the Kansas Court of Appeals stated:

Further, rate making is more than a mere act of discretion by a state agency; it is a part of the legislative function. Again, referring to *Kansas Gas & Electric Co.*, the court held:

Under the constitutional separation of powers doctrine, the regulation of public utilities is legislative in nature. The legislators created the Kansas Corporation Commission and granted it full and exclusive authority and jurisdiction to supervise, control, and regulate the public utilities of this state and, when acting in the exercise of its delegated powers, the Commission is not a quasi-judicial body. [Citations omitted.]

Thus, public utility rate making is a legislative function, whether it is regulated by an administrative body or by the legislature itself.

Adding to the complexity, other Kansas court cases have characterized some KCC activities as quasi-judicial in nature. For example, in the Kansas Supreme Court decision in *Mobil Exploration & Producing U.S. Inc., v. Kansas Corporation Comm'n.*, 258 Kan. 796, 796, (1995), where the court addressed the KCC's authority under K.S.A. 55-703, which governs oil and gas matters. The court stated that the KCC "*is vested with three responsibilities under the provisions of K.S.A. 55-703: (1) It must prevent waste of the natural resource, (2) it must allow sufficient production to meet the market demand if such can be done without waste, and (3) it*

¹⁸ K.S.A. 55-1003. "the commission shall proceed to hear and determine the matter in accordance with the provisions of the Kansas administrative procedure act"

must protect correlative rights." When commenting on the character of the KCC's actions under that statute, the court said:

An administrative body empowered to investigate facts, weigh evidence, draw conclusions as a basis for official actions, and exercise discretion of a judicial nature is acting in a quasi-judicial capacity. *Adams v. Marshall*, 212 Kan. 595, 599, 512 P.2d 365 (1973). *Mobil Exploration*, p. 821.

Black's Law Dictionary defines deliberation as

"the act of weighing and examining for and against a contemplated act or course of conduct" Black's Law Dictionary 384 (5th Ed. 1979).

Kansas Courts have defined quasi-judicial actions in several cases. In *Golden v. City of Overland Park*, 224 Kan. 591, 597 (1978), the Court described a quasi-judicial proceeding as one that

[R]equires a weighing of the evidence, a balancing of the equities, an application of rules, regulations and ordinances to facts, and a resolution of specific issues.

In *Gawith v. Gage's Plumbing & Heating Co*, 206 Kan. 169 (1970), the Court discussed the difference between a legislative function and a judicial function:

There is a distinction between the types of decisions rendered by different administrative agencies; and some such agencies perform judicial or quasi-judicial functions while others do not.

In determining whether an administrative agency performs legislative or judicial functions, the courts rely on certain tests; one being whether the court could have been charged in the first instance with the responsibility of making the decisions the administrative body must make, and another being whether the function the administrative agency performs is one that courts historically have been accustomed to perform and had performed prior to the creation of the administrative body.

A judicial inquiry investigates, declares and enforces liabilities as they stand on present or past facts and under laws supposed already to exist, whereas legislation looks to the future and changes existing conditions by making a new rule to be applied thereafter to all or some part of those subject to its power.

In applying tests to distinguish legislative from judicial powers, courts have recognized that it is the nature of the act performed, rather than the name of the officer or agency which performs it, that determines its character as judicial or otherwise.

A recent Kansas case concluded that a board of county commissioners acted as a quasi-judicial body, and not a legislative body, when determining whether to grant a zoning change for one specific tract of land. *McPherson Landfill, Inc. v. Bd. Of County Comm'rs of Shawnee County*, July 12, 2002 Kansas Supreme Court Slip Opinion Case No. 88,075. Likewise, in *Brown v. Board of Educ., Unified School Dist. No. 333, Cloud County*, 928 P.2d 57 (Kan. 1996) the Court concluded that an agency acts in a quasi-judicial manner when elements of due process are involved.

I look forward to the public comment in this proceeding.

**Commission Docket Procedures Final
November 7, 2013**

The Commission will address docket matters as Summary Proceedings under KAPA, K.S.A. 2012 Supp. 77-537 (i.e., comments, staff reports and recommendations) unless a hearing is scheduled pursuant to K.S.A. 2012 Supp. 77-513 through K.S.A. 77-533. When a hearing is scheduled, the proceeding becomes adjudicatory, triggering the ex parte rule per K.S.A. 77-545 and the deliberation exception to KOMA per K.S.A. 75-4318(g)(1). For purposes of this document, a "Commission Meeting" is an open meeting. K.S.A. 75-4318(a).

A. General Objectives

The Commission's obligation is to determine what is in the public interest and what is a just and reasonable result or policy. A quality order concisely contains findings of fact, conclusions of law, and determinations of Commission policy. This Docket Procedure addresses:

KCC Dockets:

- Routine and Non-Controversial Matters
- Generic Dockets and Adversarial Summary Proceedings
- Adjudicatory Proceedings
- Transportation Economic Orders

Summary Proceedings

B. Routine and Non-Adversarial Dockets or Dockets Where Parties have Waived a Hearing.

- A Staff Attorney drafts a proposed order from a Staff Report and Recommendation (R&R), comment summary, or other template.
- The attorney puts order in eStar under Meetings tab in the folder entitled "Consent Agenda." At the attorney's discretion, the attorney may place the docket on "Noticed Items".
- Commissioners view the proposed order prior to the Commission Meeting and may decide to pull the order for discussion. However, that action must occur at the Commission Meeting. When placed in the "Consent Agenda" and "Notice of Commission Meeting" is sent, these orders may be viewed by the public through the link provided in the Notice.

C. Generic or Adversarial Dockets Upfront/Early in case:

- General Investigation dockets are generally initiated by the Commission, involve Commission policy, and have no statutory deadline.
- For both generic and adversarial summary proceedings, the Commission and Advisory Counsel meet to discuss issues, policies, and necessary legal standards. This meeting should occur in a Commission Meeting and/or executive session if necessary and appropriate (attorney client privilege).

- If there is a question on how to move forward procedurally, it should be addressed in the Commission Meeting. Deference should be given to any Commissioner wanting a hearing in the matter because any one or more members of the Commission may be the presiding officer at a hearing. K.S.A. 2012 Supp. 77-514(a). The Commission can set the matter for hearing at any time in the process.

Once a Staff Report and Recommendation or comment summary is filed, Commissioners can send an e-mail or speak to the assigned Advisory Counsel regarding issues in the proceeding. If the communication is by meeting with Advisory Counsel, Advisory cannot discuss another Commissioner's position for the purpose of gaining consensus. Any discussion of the issues among the Commissioners and consensus shall occur in a Commission Meeting and/or executive session if necessary and appropriate.

- Staff can draft order and send a copy to Commissioners in a blind e-mail.
- Commissioners can discuss edits or modifications with Advisory or send comments, in a one way email without other Commissioners.
- The Commission has elected to discuss the proposed orders among Commissioners in Commission Meeting. If this discussion is recorded as the vote, Advisory drafts the modification as directed and files the order. If the issue is complicated, the Commissioners can table the vote until review of the revised draft order in another Commission Meeting.
- These orders are placed in "Noticed Items" in the "Notice of Commission Meeting". If the Commissioners provide Advisory with written comments and Advisory wishes to circulate the comments among Commissioners prior to the Commission meeting, the comments become part of the Agenda Packet and are available to the public on request.
- If at any time in the process the Commission seeks legal advice, the Commission may convene an executive session in a Commission meeting.

Adjudicatory Proceeding with a Scheduled Hearing

- This process applies to all proceedings where the Commission has determined and announced that a hearing should be held, except the rate design portion of utility rate cases. A rate case involves four basic sequential steps: revenue requirement, class cost of service, class allocation of the revenue requirement and rate design. Rate design is the construction of rates for customer classes and sub-classes. Only rate design will be treated as a summary proceeding.
- Before hearing, Advisory Counsel briefs the Commissioners regarding: 1) the major controversial issues and who testifies to those issues (e.g., applicant, staff, & interveners) because these may have changed through the process; and 2) the major legal standards, the elements of proving/meeting such standards and any deficiencies in the record noted by Advisory Counsel. This may be through an executive session based on Attorney- Client privilege or Confidential Data justification.

- If substantive prehearing motions are received, the Commission can deliberate or convene a deliberative meeting outside of KOMA.
- Following hearing, a deliberative meeting is convened: Commissioners may deliberate freely, as they are outside the scope of KOMA. During deliberations, Advisory Counsel obtains Commissioner input on specific findings of fact, conclusions of law and determinations of policy. These deliberations are exempt from KOMA but any binding decision must occur in a Commission Meeting. At the conclusion of the deliberative meeting, Advisory Counsel prepares a first draft of the order and circulates it among the Commissioners to provide an opportunity for additional details and direction until a consensus is reached and the order is finalized. This is still part of the deliberative process.
- At any time the Commission can move into the Commission Meeting process.
- The order is placed on “Noticed Items” in the “Notice of Commission Meeting” where the binding action or vote is taken. Once placed in the “Noticed Items,” the proposed order is available to the public upon request.

D. Orders Generally

- Orders should reflect a consensus decision and be developed to meet the appropriate appellate review given the Commission’s role and the standards of K.S.A. 2012 Supp. 77-621.
- Consensus - generally means the three Commissioners all agree on the decision or policy and sign the Order but, failing to achieve a consensus, a binding order can be issued when two of the three Commissioners agree. K.A.R. 82-1-232(c).
- With regard to uncontested pleadings such as unanimous settlements, joint motions, or agreed procedural schedules, Advisory Counsel may require submission of two copies of a proposed order (A PDF version filed and a Word version provided to Advisory Counsel). A proposed order should identify evidence in the record that supports the order and should include ordering clauses.
- If the order contains precedential policy or procedure, the policy or procedure should be identified and labeled as precedential in the “Wherefore” paragraph of the order. Thereafter, the order should be treated pursuant to K.S.A. 2012 Supp.77-415(b)(2)(A).

Binding Action

The Commission must take any binding action, or vote, on a docket in a Commission Meeting.

E. Consent Agenda

- The "Consent Agenda" encompasses all orders on the Commission Meeting other than the Transportation Economic Orders, Orders Assessing Costs for reimbursable dockets and Noticed Orders.
- An attorney drafts order from a Staff Report and Recommendation, comment summary, or other template and puts order in eStar under Meetings tab in the folder entitled "Consent Agenda."
- The Commissioner reviews proposed orders through eStar. This is a one way communication with no subsequent discussion until the Commission Meeting. On review, the Commissioner can decide whether to approve the order or whether to remove the order from the Consent Agenda for discussion. However, that action (approving or removing the proposed order) must occur at the Commission Meeting.
- Deadline: folders are closed at 5:00 pm on Friday for the Commission Meeting scheduled the next Tuesday.
- Deadline: folders are closed at 5:00 pm on Tuesday for the Commission Meeting scheduled the next Thursday.
- To add other orders after deadline, contact is made with the front office and added to Consent Agenda. If proposed order is significant, the Notice of Commission Meeting is amended and sent.
- Day before Commission Meeting - Notice is sent to those requesting it. The Notice contains a link to Consent Agenda revealing the caption, the docket number, and the proposed order for public view.
- Day of the Commission Meeting - An Order Summary is run for the Executive Director to attach to the Minutes.
- At Commission Meeting - The Commissioners approve orders as a batch. This is considered a "vote" and binding action.
- If a Commissioner wants to request removal of an order from the Consent Agenda, to discuss, remove, or disapprove, it is done by initialing the Order Summary in Commission Meeting.

F. Noticed Items

- Once a proposed order is placed in "Noticed Items," and the Notice of Commission Meeting has been sent, a copy of the proposed order is available to the public upon request.

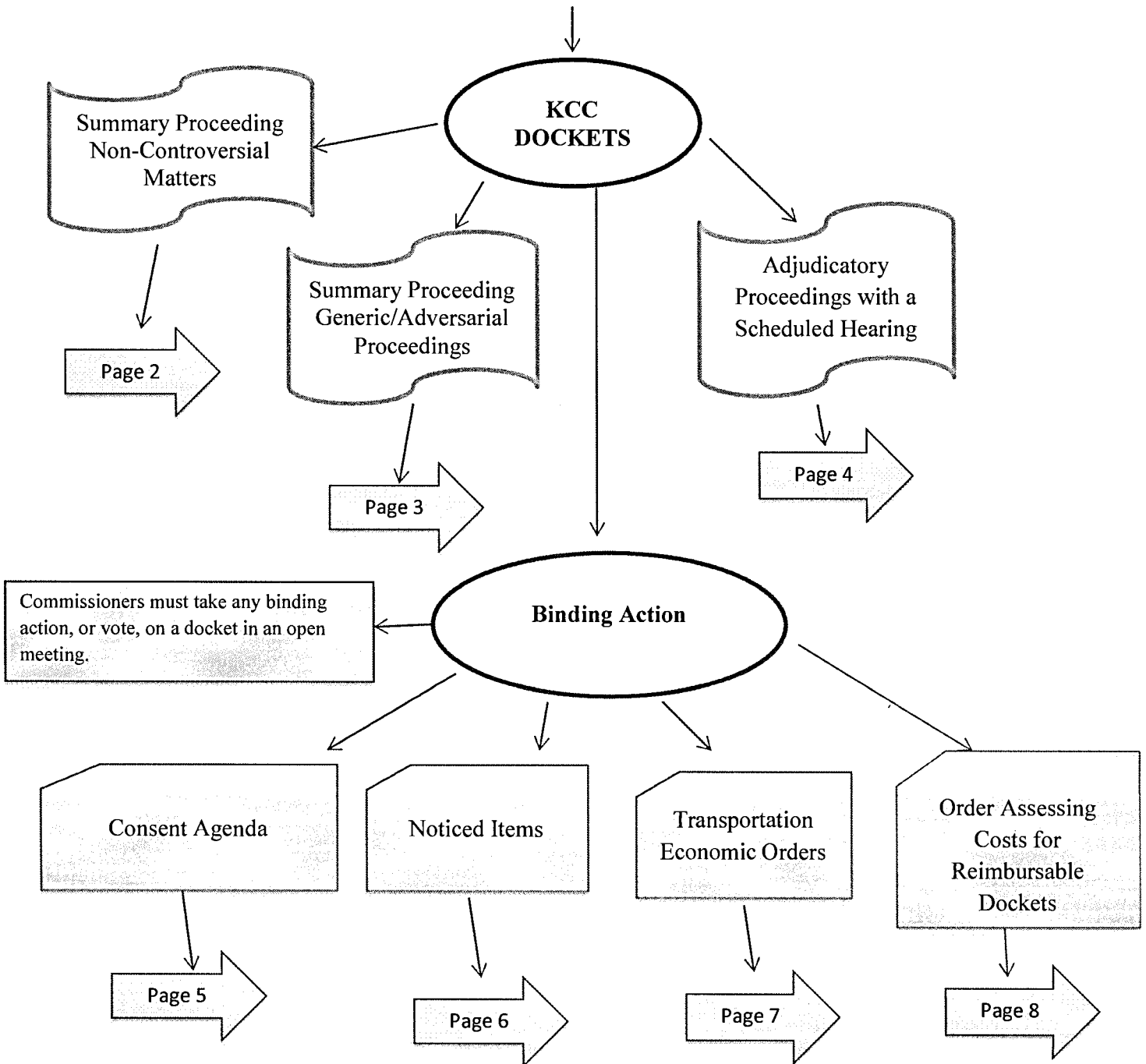
G. Transportation Economic Orders

- (Standing minutes approving 24 order types signed and posted in docket room and website here: http://kcc.ks.gov/trans/standing_minutes.htm)
- Transportation receives application (Private, Foreign, Certificate of Convenience and Necessity, Certificate of Public Service, Name Change, Transfer).
- Transportation Staff processes application.
- Application reviewed by PSA1 and assigned to staff.
- Staff then enters the application into the system and sends first requirement letter telling the carrier what our office still needs in order to complete the application.
- Documents are added to the file upon receipt and documented.
- After 2 weeks, if all requirements are not in, a second requirement letter is sent.
- After 30 days in house, if all documents are not received the file is dismissed and a dismissal order is generated. The order and file are sent to the carrier for re- application.
- If all requirements are submitted, the file is granted and a grant order is processed and mailed to the carrier along with KCC credentials.
- Oracle process generates appropriate Order based on templates approved by legal.
- The applications are scanned and entered into E-Star.
- Granted applications are then sent for microfilming.
- The public can view the application information online throughout the process at:
http://kcc.ks.gov/trans/mc_applications.htm

H. Orders Assessing Costs for reimbursable dockets pursuant to K.S.A. 66-1502

- (Standing minutes approving orders assessing costs for reimbursable dockets signed and posted in docket room and website as follows:
http://kcc.ks.gov/docket/standing_minutes.htm)

The Commission will address docket matters as Summary Proceedings under KAPA, K.S.A. 2012 Supp. 77-537, unless a hearing is scheduled pursuant to K.S.A. 2012 Supp. 77-513 through K.S.A. 77-533. When a hearing is scheduled, the proceeding becomes adjudicatory, triggering the ex parte rule K.S.A. 77-545 and the deliberation exception to KOMA per K.S.A. 75-4318(g)(1).



Non-Controversial Dockets

Litigation attorney drafts a proposed order from Staff R&R, comment summary or other template.

Attorney puts order on Consent Agenda in eStar. At their discretion they may place the order on "Noticed Items".

Commissioners view the proposed order prior to the Commission Meeting and may pull the order for discussion at the Commission Meeting.

When Notice of Commission Meeting is issued, order is viewable through the link provided in the Notice. Noticed Items can be viewed upon request.

Consent Agenda
(see page 5)

Generic/Adversarial Summary Proceedings

In both generic dockets and adversarial summary proceedings, the Commission and Advisory Council meet to discuss issues, policies, and necessary legal standards. This meeting should occur in a Commission Meeting and/or executive session if necessary and appropriate (attorney client privilege).

If there is a question on how to move forward procedurally, it should be addressed in the Commission Meeting. Deference should be given to any Commissioner wanting a hearing because any one or more members of the Commission may be the presiding officer at a hearing. K.S.A. 2012 Supp. 77-514(a). The Commission can set the matter for hearing any time in the process.

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Commissioners can discuss edits or modifications with Advisory or send comments, in a one way email without other Commissioners.

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If at any time in the process the Commission seeks legal advice, the Commission may convene an executive session in a Commission meeting.

Noticed Items
(see page 6)

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If substantive prehearing motions are received, the Commission can deliberate or convene a deliberative meeting outside KOMA.

Following hearing, a deliberative meeting is convened: Commissioners may deliberate freely, as they are outside the scope of KOMA. During deliberations, Advisory Counsel obtains Commissioner input on specific findings of fact, conclusions of law and determinations of policy. These deliberations are exempt from KOMA but any binding decision must occur in a Commission Meeting. At the conclusion of the deliberative meeting, Advisory Counsel prepares a first draft of the order and circulates it among the Commissioners to provide an opportunity for additional details and direction until a consensus is reached and the order is finalized. This is still part of the deliberative process.

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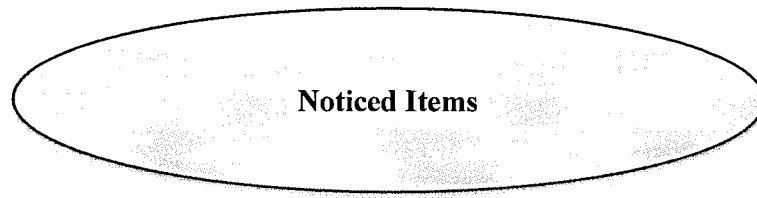
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Once a proposed order is placed in "Noticed Items," and the Notice of Commission Meeting has been sent, a copy of the proposed order is available to the public upon request.

Transportation Economic Orders

(Standing minutes approving 24 order types signed and posted in docket room and website here: http://kcc.ks.gov/trans/standing_minutes.htm)

Transportation receives application (Private, Foreign, Certificate of Convenience and Necessity, Certificate of Public Service, Name Change, Transfer).

Transportation Staff processes application. Application reviewed by PSA1 and assigned to staff. Staff then enters the application into the system and sends first requirement letter telling the carrier what our office still needs in order to complete the application. Documents are added to the file upon receipt and documented.

After 2 weeks, if all requirements are not in, a second requirement letter is sent.

After 30 days in house, if all documents are not received the file is dismissed and a dismissal order is generated. The order and file are sent to the carrier for re- application.

If all requirements are submitted, the file is granted and a grant order is processed and mailed to the carrier along with KCC credentials. Oracle process generates appropriate Order based on templates approved by legal. The applications are scanned and entered into E-Star.

The public can view the application information online throughout the process at: http://kcc.ks.gov/trans/mc_applications.htm

**Order Assessing Costs for
Reimbursable Dockets**



(Standing minutes approving orders assessing costs for reimbursable
dockets signed and posted in docket room and website as follows:
http://kcc.ks.gov/docket/standing_minutes.htm)

CERTIFICATE OF SERVICE

NOV 07 2013

14-GIMX-190-MIS

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing Amended Order Adopting Policies Regarding Commission Procedures was served by electronic mail this 7th day of November, 2013, to the following parties who have waived receipt of follow-up hard copies:

JAMES G. FLAHERTY, ATTORNEY
ANDERSON & BYRD, L.L.P.
216 S HICKORY
PO BOX 17
OTTAWA, KS 66067
Fax: 785-242-1279
jflaherty@andersonbyrd.com

GLEND A CAFER, ATTORNEY
CAFER LAW OFFICE, L.L.C.
3321 SW 6TH ST
TOPEKA, KS 66606
Fax: 785-233-3040
glenda@caferlaw.com

TERRI PEMBERTON, ATTORNEY
CAFER LAW OFFICE, L.L.C.
3321 SW 6TH ST
TOPEKA, KS 66606
Fax: 785-233-3040
terri@caferlaw.com

NIKI CHRISTOPHER, ATTORNEY
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3116
n.christopher@curb.kansas.gov

C. STEVEN RARRICK, ATTORNEY
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3116
s.rarrick@curb.kansas.gov

DAVID SPRINGE, CONSUMER COUNSEL
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3116
d.springe@curb.kansas.gov

SUSAN B. CUNNINGHAM, COUNSEL
DENTONS US LLP
7028 SW 69TH ST
AUBURN, KS 66402-9421
Fax: 816-531-7545
susan.cunningham@dentons.com

LINDA GARDNER, ATTORNEY
EMBARQ COMMUNICATIONS, INC.
D/B/A CENTURYLINK COMMUNICATIONS
KSOPKJ0701
5454 W 110TH ST
OVERLAND PARK, KS 66211-1204
Fax: 913-397-3598
linda.gardner@embarq.com

C. EDWARD PETERSON, ATTORNEY
FINNEGAN CONRAD & PETERSON LC
1209 PENNTOWER OFFICE CENTER
3100 BROADWAY
KANSAS CITY, MO 64111
Fax: 816-756-0373
epeters@fcplaw.com

C. EDWARD WATSON II, ATTORNEY
FOULSTON SIEFKIN LLP
1551 N WATERFRONT PKWY STE 100
WICHITA, KS 67206-4466
Fax: 316-267-6345
cewatson@foulston.com

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TERESA J. JAMES, ATTORNEY
MARTIN, PRINGLE, OLIVER, WALLACE & BAUER, LLP
6900 COLLEGE BLVD STE 700
OVERLAND PARK, KS 66211-1842
Fax: 913-491-3341
tjjames@martinpringle.com

ANNE E. CALLENBACH, ATTORNEY
POL SINELLI PC
900 WEST 48TH PLACE
SUITE 900
KANSAS CITY, MO 64112
Fax: 913-451-6205
acallenbach@polsinelli.com

FRANK A. CARO, JR., ATTORNEY
POL SINELLI PC
900 WEST 48TH PLACE
SUITE 900
KANSAS CITY, MO 64112
Fax: 913-451-6205
fcaro@polsinelli.com

CARSON M. HINDERKS, ATTORNEY
SMITHYMAN & ZAKOURA, CHTD.
7400 W 110TH ST STE 750
OVERLAND PARK, KS 66210-2362
Fax: 913-661-9863
carson@smizak-law.com

JAMES P. ZAKOURA, ATTORNEY
SMITHYMAN & ZAKOURA, CHTD.
7400 W 110TH ST STE 750
OVERLAND PARK, KS 66210-2362
Fax: 913-661-9863
jim@smizak-law.com

BRUCE A. NEY, GENERAL ATTORNEY
SOUTHWESTERN BELL TELEPHONE CO.
D/B/A AT&T KANSAS
220 SE 6TH AVE RM 515
TOPEKA, KS 66603-3596
Fax: 785-276-1948
bruce.ney@att.com

LINDSAY SHEPARD, EXECUTIVE MANAGER CORPORATE
COMPLIANCE & ASSOCIATE GENERAL COUNSEL
SUNFLOWER ELECTRIC POWER CORPORATION
301 W. 13TH
PO BOX 1020 (67601-1020)
HAYS, KS 67601
Fax: 785-623-3395
lshepard@sunflower.net

TIMOTHY E. MCKEE, ATTORNEY
TRIPLETT, WOOLF & GARRETSON, LLC
2959 N ROCK RD STE 300
WICHITA, KS 67226
Fax: 316-630-8101
temckee@twgfirm.com

MARK D. CALCARA, ATTORNEY
WATKINS CALCARA CHTD.
1321 MAIN ST STE 300
PO DRAWER 1110
GREAT BEND, KS 67530
Fax: 620-792-2775
mcalcara@wcrf.com

TAYLOR P. CALCARA, ATTORNEY
WATKINS CALCARA CHTD.
1321 MAIN ST STE 300
PO DRAWER 1110
GREAT BEND, KS 67530
Fax: 620-792-2775
tcalcara@wcrf.com

CATHRYN J. DINGES, CORPORATE COUNSEL
WESTAR ENERGY, INC.
818 S KANSAS AVE
PO BOX 889
TOPEKA, KS 66601-0889
Fax: 785-575-8136
cathy.dinges@westarenergy.com

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CURTIS M. IRBY, ATTORNEY
GLAVES IRBY & RHOADS
1050 MARKET CENTER
155 N MARKET
WICHITA, KS 67202
Fax: 316-264-6860
cmirby@sbcglobal.net

THOMAS E. GLEASON, JR., ATTORNEY
GLEASON & DOTY CHTD
PO BOX 6
LAWRENCE, KS 66049-0006
Fax: 785-856-6800
gleason@sunflower.com

JAMES M. CAPLINGER, ATTORNEY
JAMES M. CAPLINGER, CHARTERED
823 SW 10TH AVE
TOPEKA, KS 66612-1618
Fax: 785-232-0724
jim@caplinger.net

JAMES M. CAPLINGER, JR., ATTORNEY
JAMES M. CAPLINGER, CHARTERED
823 SW 10TH AVE
TOPEKA, KS 66612-1618
Fax: 785-232-0724
jrcaplinger@caplinger.net

COLLEEN R. HARRELL
JAMES M. CAPLINGER, CHARTERED
823 SW 10TH AVE
TOPEKA, KS 66612-1618
Fax: 785-232-0724
colleen@caplinger.net

JOHN R. WINE, JR.
410 NE 43RD
TOPEKA, KS 66617
Fax: 785-246-0339
jwine2@cox.net

ROGER W. STEINER, CORPORATE COUNSEL
KANSAS CITY POWER & LIGHT COMPANY
ONE KANSAS CITY PL, 1200 MAIN ST (64105)
PO BOX 418679
KANSAS CITY, MO 64141-9679
Fax: 816-556-2787
roger.steiner@kcpl.com

MELISSA R. DOEBLIN
KANSAS ELECTRIC COOPERATIVES, INC.
PO BOX 4267
TOPEKA, KS 66604-0267
Fax: 785-478-4852
mdoeblin@kec.org

WILLIAM G. RIGGINS, SR VICE PRES AND GENERAL
COUNSEL
KANSAS ELECTRIC POWER CO-OP, INC.
600 SW CORPORATE VIEW (66615)
PO BOX 4877
TOPEKA, KS 66604-0877
Fax: 785-271-4888
briggins@kepco.org

JOHN P. DECOURSEY, DIRECTOR, LAW
KANSAS GAS SERVICE, A DIVISION OF ONEOK, INC.
7421W 129TH ST
OVERLAND PARK, KS 66213-2634
Fax: 913-319-8622
jdecoursey@kgas.com

WALKER HENDRIX, DIR, REG LAW
KANSAS GAS SERVICE, A DIVISION OF ONEOK, INC.
7421W 129TH ST
OVERLAND PARK, KS 66213-2634
Fax: 913-319-8622
whendrix@oneok.com

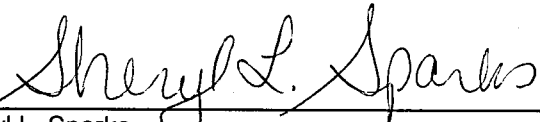
MARK E. CAPLINGER
MARK E. CAPLINGER, P.A.
7936 SW INDIAN WOODS PL
TOPEKA, KS 66615-1421
mark@caplingerlaw.net

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Sheryl L. Sparks
Administrative Specialist

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