

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

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

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

ORDER REQUESTING FURTHER INVESTIGATION

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:

I. Background

1. On November 7, 2013, the Commission issued its Amended Order Adopting Policies Regarding Commission Procedures. In its Order, the Commission set forth proposed internal procedures. Furthermore, the Commission invited interested entities to file written comments on the procedures by January 3, 2014. The Commission also noted, "The proposed internal procedures are subject to modification following receipt of public input and comments on those procedures. They shall not become effective until after comments are received and reviewed. Therefore, the effective date shall be January 17, 2014, unless otherwise stayed."¹

2. On November 22, 2013, Commission Staff (Staff) filed its Legal Analysis Involving Quasi-Judicial Deliberations. In its legal analysis, Staff concludes the Commission is authorized by law to exercise a quasi-judicial function, and, therefore, the Kansas Open Meeting

¹ Amended Order Adopting Policies Regarding Commission Procedures, November 7, 2013, ¶ 3.

Act's (KOMA's) exemption for quasi-judicial deliberations is available to the Commission at such times.²

3. On January 2, 2014, the Citizens' Utility Ratepayer Board (CURB) filed Comments in response to the Commission's Order. In its Comments, CURB argues the Commission will violate KOMA if it adopts and utilizes the proposed internal procedures. In general, CURB contends the Commission does not exercise a quasi-judicial function during rate proceedings. Therefore, CURB argues, KOMA's exemption for quasi-judicial deliberations is unavailable to the Commission during such proceedings.³

4. On January 3, 2014, Kansas City Power & Light Company (KCP&L) filed Comments in response to the Commission's Order. In its Comments, KCP&L reaches similar conclusions to those of CURB. Like CURB, KCP&L argues the Commission is exercising a legislative function in rate-setting proceedings, and KOMA's exemption for quasi-judicial deliberations is not available in such proceedings.⁴

5. On January 13, 2014, Commission Staff filed its Response to Filed Comments of CURB and KCP&L. In its Response, Staff contends CURB and KCP&L "stop short of addressing the foundation of Staff's legal analysis. Though the Commission exercises legislative power in setting rates, it is also authorized by law to exercise a quasi-judicial function in such cases."⁵

II. Findings and Conclusions

6. On January 14, 2014, the Commission took up this matter at its regularly-scheduled Commission meeting. At the meeting, Commission Staff recommended approval of a

² Staff's Legal Analysis, November 22, 2013, p. 5.

³ Comments of CURB, January 2, 2014, ¶¶ 83-84.

⁴ Comments of KCP&L, January 3, 2014, ¶ 13.

⁵ Staff's Response, January 13, 2014, ¶ 5.

proposed order adopting no policy and closing the docket. Following discussion of the matter, the Commission chose to keep this docket open but stay any effectiveness of the internal procedures set forth in its Amended Order dated November 7, 2013. The Commission also ordered Staff to further investigate legal issues implicated in this docket and report its findings within six months. Six months from the date of this Order is July 16, 2014.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. The internal procedures set forth in the Amended Order dated November 7, 2013, shall not become effective.

B. This docket shall remain open for further investigation by Commission Staff. Staff shall report to the Commission on its investigation by July 16, 2014.

C. Parties have 15 days from the date of service of this Order in which to petition the Commission for reconsideration.⁶

D. 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.

Albrecht, Chair; Wright, Commissioner; Sievers, Commissioner.

Dated: 1-16-2014


Kim Christiansen
Executive Director

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⁶ K.S.A. 66-118b; K.S.A. 77-529(a)(1).

CERTIFICATE OF SERVICE

JAN 16 2014

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I, the undersigned, hereby certify that a true and correct copy of the above and foregoing Order Requesting Further Investigation was served by electronic mail this 16th day of January, 2014, to the following parties who have waived receipt of follow-up hard copies:

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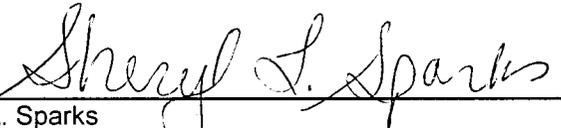
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