

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

Before Commissioners:                Shari Feist Albrecht, Chair  
   Jay Scott Emler  
   Pat Apple

In the Matter of the General Investigation        )  
to Examine the Effect of Kansas Senate        ) Docket No. 16-GIME-258-GIE  
Bill No. 91 Regarding Renewable Energy        )  
Standards.    )

**MOTION TO OPEN DOCKET**

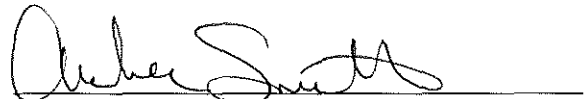
The Staff of the State Corporation Commission of the State of Kansas (“Staff” and “Commission,” respectively) files its Motion to Open Docket to request a general investigation to examine the effect of Kansas Senate Bill No. 91 regarding renewable energy standards. Staff states as follows:

1.        On May 22, 2009 the Renewable Energy Standards Act (RESA), part of Kansas House Bill 2369, became law. It established a renewable energy standard for the state. RESA authorized and required the Commission to formulate regulations in regards to the established renewable energy standard. See Staff’s Report and Recommendation attached hereto as Attachment “A”.
2.        On May 28, 2015, Kansas Senate Bill No. 91 (SB 91) was signed into law. SB 91 repeals and amends sections of RESA which, in turn, affects the Commission’s regulations that were authorized and required by RESA.
3.        Because SB 91 amends and repeals sections of RESA that directly affect the Commission’s regulatory policy, Staff is recommending the Commission open a general investigation docket to allow Staff to evaluate SB 91’s impact upon the Commission’s rules and regulations. Specifically, Staff recommends the Commission direct Staff to investigate the

impact of SB 91 on the Commission regulations and then file a Report and Recommendation that advises on that impact and outlines Staff's recommended course of action.

WHEREFORE, for the reasons stated above, Staff requests the Commission issue an order opening a General Investigation docket in the above matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Amber Smith", is written over a horizontal line.

Amber Smith, #23911  
Chief Litigation Counsel  
Kansas Corporation Commission  
1500 SW Arrowhead Rd.  
Topeka, Kansas 66604-4027  
Phone: (785) 271-3119  
Fax: (785) 271-3167

FOR COMMISSION STAFF

## **ATTACHMENT “A”**

**REPORT AND RECOMMENDATION  
UTILITIES DIVISION**

**TO:** Chair Shari Feist Albrecht  
Commissioner Jay Scott Emler  
Commissioner Pat Apple

**FROM:** Josh Frantz, Research Economist  
Lana Ellis, Economics and Rates Deputy Chief  
Robert Glass, Economics and Rates Chief  
Jeff McClanahan, Director of Utilities

**DATE:** November 19, 2015

**SUBJECT:** Request to Open a General Investigation to Examine the Effect of Kansas Senate Bill No. 91 Regarding Renewable Energy Standards

**EXECUTIVE SUMMARY:**

The Renewable Energy Standards Act (RESA), part of Kansas House Bill 2369 which became law on May 22, 2009, established a renewable energy standard for the state. RESA authorized and required the Commission to formulate regulations in regards to the established renewable energy standard. Kansas Senate Bill No. 91 (SB 91), which was signed into law May 28, 2015, repeals and amends sections of RESA which, in turn, affects the Commission's regulations that were authorized and required by RESA. Therefore, Staff recommends the Commission order the opening of a general investigation to examine the effect of SB 91 upon the Commission's rules and regulations regarding renewable energy standards and determine a course of action in response to the changes caused by SB 91.

**BACKGROUND:**

RESA was part of Kansas House Bill 2369, which became law on May 22, 2009.<sup>1</sup> The Kansas legislature declared that it is in the public interest to promote renewable energy development; thus, RESA established a renewable energy standard for the state. RESA authorized and required the Commission to formulate regulations in regards to the established renewable energy standard. SB 91 was signed into law May 28, 2015. Under SB 91, certain sections of RESA were repealed effective July 1, 2015, and certain sections will be repealed effective January 1, 2016.<sup>2</sup>

<sup>1</sup> K.S.A. 2014 Supp. 66-1256, *et seq.*

<sup>2</sup> Pursuant to §§ 8 and 9 of SB 91, K.S.A. 2014 Supp. 66-1259, 66-1260, 66-1261, and 66-1262 were repealed July 1, 2015. K.S.A. 2014 Supp. 66-1256, 66-1257, and 66-1258 will be repealed January 1, 2016. Further, K.S.A. 2014 Supp. 66-1256, 66-1257, and 66-1259 are also amended effective the date they are repealed.

## **ANALYSIS:**

Prior to the passage of SB 91, RESA either specifically authorized or required the Commission to formulate the following regulations:

- Establish a portfolio requirement for all affected utilities to generate or purchase electricity generated from renewable energy resources or purchase renewable energy credits;<sup>3</sup>
- Establish rules for the administration of RESA, including reporting and enforcement mechanisms;<sup>4</sup> and
- Establish rules for administration of a certification process for use of renewable energy resources.<sup>5</sup>

Each of the sections requiring the rules and regulations described above were repealed with the passage of SB 91, including the section regarding the annual reporting requirement. However, the Commission is still required to allow recovery of reasonable costs incurred to meet the renewable energy resource goal or past RESA requirements.<sup>6</sup> Also, SB 91 states that all rules and regulations and Orders relating to recovery of such costs shall continue to be effective.

Because of these statutory changes, the Commission will need to reevaluate its rules and regulations regarding renewable energy standards.<sup>7</sup> Therefore, Staff recommends a general investigation be opened to analyze the effects of SB 91 upon the Commission's rules and regulations for renewable energy standards and to determine a course of action in response to the changes authorized by SB 91.

## **RECOMMENDATION:**

Because SB 91 amends and repeals sections of RESA that directly affect the Commission's regulatory policy, Staff recommends the Commission order the opening of a general investigation that will evaluate SB 91's impact upon the Commission's rules and regulations. Specifically, Staff recommends the Commission direct Staff to investigate the impact of SB 91 on the Commission regulations and then file a Report and Recommendation that advises on that impact and outlines Staff's recommended course of action.

---

<sup>3</sup> K.S.A. 2014 Supp. 66-1258(a).

<sup>4</sup> K.S.A. 2014 Supp. 66-1261.

<sup>5</sup> K.S.A. 2014 Supp. 66-1262.

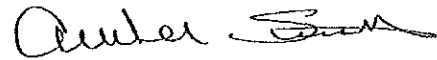
<sup>6</sup> SB 91, § 3, Amended K.S.A. 2014 Supp. 66-1259.

<sup>7</sup> Regulations promulgated in response to RESA are found at K.A.R. 82-16-1 through 82-16-5.

**VERIFICATION**

STATE OF KANSAS                     )  
  ) ss.  
COUNTY OF SHAWNEE            )

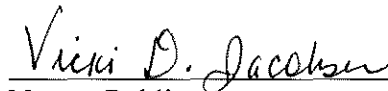
Amber Smith, of lawful age, being duly sworn upon her oath deposes and states that she is Chief Litigation Counsel for the State Corporation Commission of the State of Kansas; that she has read and is familiar with the foregoing *Motion to Open Docket*, and attests that the statements therein are true to the best of her knowledge, information and belief.



Amber Smith, S. Ct. #23911  
Chief Litigation Counsel  
The State Corporation Commission  
of the State of Kansas

SUBSCRIBED AND SWORN to before me this 11<sup>th</sup> day of December, 2015.



  
Notary Public

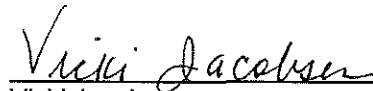
My Appointment Expires: 6-30-18

**CERTIFICATE OF SERVICE**

16-GIME-258-GIE

I, the undersigned, certify that a true and correct copy of the above and foregoing Motion to Open Docket was via electronic service this 11th day of December, 2015, to the following:

AMBER SMITH, CHIEF LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604-4027  
Fax: 785-271-3167  
a.smith@kcc.ks.gov

  
\_\_\_\_\_  
Vicki Jacobsen