

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

In the Matter of the Annual Compliance)
Docket for Electric Supply Line Filings.) Docket No. 24-GIME-002-CPL

**RESPONSE OF 4 RIVERS ELECTRIC COOPERATIVE, INC. AND
HEARTLAND RURAL ELECTRIC COOPERATIVE, INC.
TO MOTION FOR RECONSIDERATION**

COME NOW, 4 Rivers Electric Cooperative, Inc. (“4 Rivers”) and Heartland Rural Electric Cooperative, Inc. (“Heartland”) (collectively, “Joint Respondents”) and, pursuant to K.A.R. 82-1-218(d), submits their Response to the Motion for Reconsideration (“Motion”) filed by NextEra Transmission Southwest, LLC (“NEET Southwest”) on August 8, 2024. Additionally, Joint Respondents respectfully request the Commission to exercise its discretion as permitted by K.A.R. 82-1-217(b) and allow Joint Respondents to submit their Response two days past the August 19, 2024,¹ 10-day deadline for responsive pleadings. For their Response and request for extension of time, Joint Respondents state as follows:

I. Background

1. On July 9, 2024, the State Corporation Commission of the State of Kansas (“Commission”) issued its Order Granting Joint Respondents’ Request to File Out of Time; and Protective and Discovery Order (“July 9 Order”). The July 9 Order *inter alia* accepted Joint Respondents’ response to NEET Southwest’s waiver request out of time, denied NEET Southwest’s waiver request, issued a Protective Order to include a designation for “Highly Confidential-Competitive” information per NEET Southwest’s request, and issued a Discovery Order for parties to seek access to such information.

¹ The 10-day response deadline is August 18, 2024, which fell on a weekend, so the next business day is August 19, 2024.

2. On August 8, 2024, NEET Southwest sought reconsideration of the Discovery Order portion of the Commission’s July 9 Order. In its Motion, NEET Southwest recognizes that the Commission often issues protective orders and discovery orders in tandem, but that the annual repository docket(s) for Form EL compliance filings is different than typical contested dockets and, therefore, a discovery order isn’t appropriate or necessary.² NEET Southwest mentioned that it only learned of the July 9 Order “by chance, through discussions with counsel for another party to the Compliance Docket,” but notwithstanding that procedural issue, believes issuing a discovery order in this case is in error because it authorizes formal discovery procedures in the context of a compliance docket that has already been resolved and merely serves as a repository for Staff to “approve EL applications during the normal course of business.”³ Finally, NEET Southwest argues that if the Commission doesn’t strike this portion of its July 9 Order, it will set up future EL repository dockets to become “burdensome, inefficient, and potentially unending forums for discovery requests and disputes.”⁴

II. Objection to Motion for Reconsideration

3. Joint Respondents submit that the in the ordinary course, they do not disagree that allowing discovery in an EL compliance repository docket is not necessary or appropriate and could, in fact, lead to a burdensome and inefficient forum for discovery requests and disputes. However, in this specific context, Joint Respondents maintain that the issuance of the Discovery Order is proper.

² Motion at ¶¶ 1-2.

³ *Id.* at ¶ 6, citing the Commission’s Order Opening Docket for Fiscal Year 2024 Electric Supply Line Filings, ¶ 1 (July 6, 2023).

⁴ *Id.* at ¶ 7.

4. NEET Southwest fails to recognize that it was its own action in seeking a waiver of the Wire Stringing Rules⁵ that led to this case becoming something other than a mere compliance repository docket. Thus, in this specific context, Joint Respondents do not believe that a discovery order is out of line.

5. Moreover, procedurally, without a discovery order, there is not a clear path for the Joint Respondents to compel production of NEET Southwest's full, unredacted Form EL application without the right to ask for it. In other words, as a compliance docket, there is no procedural mechanism to compel disclosure without a discovery order. Thus, a discovery order in this case is both necessary and appropriate.

III. Good Cause for Extension of Time to Submit Response

6. Pursuant to K.A.R. 82-1-218(d), responsive pleadings are due 10 days after service of an application, petition, notice, and similar filings.⁶ As noted above, NEET Southwest's Motion was filed on August 8, 2024, and thus, Joint Respondents' response was due August 19, 2024. Joint Respondents respectfully request the Commission to exercise its discretion as permitted by K.A.R. 82-1-217(b) and allow Joint Respondents to submit their Response subsequent to the August 19, 2024, deadline. K.A.R. 82-1-217(b) provides that when an act is required to be done at or within a specified time, the Commission may exercise its discretion and extend the time for good cause.

7. First, this Response is only two days past the deadline. Additionally, pursuant to K.S.A. 77-529(b), the Commission has 30 days to issue its order on reconsideration, which makes it due not later than September 9, 2024,⁷ or the request is deemed denied by operation of

⁵ See NEET Southwest's Motion for Waiver Or in the Alternative for Protective Order (May 8, 2024).

⁶ See K.A.R. 82-1-218(d).

⁷ The 30-day order on reconsideration deadline is September 7, 2024, which falls on a weekend, so the next business day is September 9, 2024

law. Joint Respondents' request does not appear to interfere with the Commission's order date; therefore, the orderly and prompt conduct of this proceeding will not be impaired by allowing Joint Respondents to submit their Response two days out of time.

WHEREFORE, for the above and foregoing reasons, Joint Respondents respectfully request that the Commission (1) deny NEET Southwest's Motion for Reconsideration of the Discovery Order portion of the Commission's July 9 Order, (2) allow Joint Respondents to submit their Response two days out of time, and (3) for such other relief that the Commission deems just and proper.

Respectfully submitted,

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Dated this 21st day of August, 2024.

VERIFICATION
(K.S.A. 53-601)

STATE OF KANSAS)
) ss.
COUNTY OF SHAWNEE)

I, Mark Scheibe, verify under penalty of perjury that I have caused the foregoing Response to be prepared on behalf of 4 Rivers Electric Cooperative, Inc. and Heartland Rural Electric Cooperative, Inc; that I have read and reviewed the Response; and that the contents thereof are true and correct to the best of my information, knowledge, and belief.

/s/ Mark Scheibe

Mark Scheibe
CEO, Heartland Rural Electric Cooperative

Executed on this 21st day of August, 2024.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Response of 4 Rivers Electric Cooperative, Inc. and Heartland Rural Electric Cooperative, Inc. was electronically served on this 21st day of August, 2024, to the following named persons appearing on the Commission's service list as last modified on August 14, 2024.

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