

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

In the Matter of the Joint Application of)
Sunflower Electric Power Corporation and)
Mid-Kansas Electric Company, LLC, for an)
Order Approving the Merger of Mid-Kansas)
Electric Company, Inc. into Sunflower)
Electric Power Corporation)

Docket No. 19-SEPE-054-MER

**PETITION FOR RECONSIDERATION OF THE COMMISSION'S
ORDER GRANTING LIMITED INTERVENTION TO
WESTERN KANSAS INDUSTRIAL ELECTRIC CONSUMERS (WKIEC)
ISSUED ON JANUARY 4, 2019**

COMES NOW, the Western Kansas Industrial Electric Consumers Group ("WKIEC") and respectfully moves the State Corporation Commission of the State of Kansas ("Commission") for reconsideration of its Order Granting Limited Intervention to the Western Kansas Industrial Electric Consumers Group ("WKIEC") issued on January 3, 2019. In further support of its Petition for Reconsideration filed pursuant to K.S.A. 66-118b; and K.S.A. 77-529(a)(1), WKIEC would allege and state as follows:

1. The Western Kansas Industrial Electric Consumers Group is a voluntary association of Western Kansas Industrial Electric Consumers which represent the interests of Air Products and Chemicals, Inc.; Cargill, Inc.; National Beef Packing Co., L.L.C; and Linde, Inc. all large industrial customers who may be affected by any decision of the Commission in the proposed merger.

2. The Commission has broad discretion to grant a Petition for Intervention if it is in the interests of justice. In that regard, WKIEC would state that no other party in this proceeding represents the interests of Western Kansas Industrial Electric Consumers except WKIEC. WKIEC's intervention will not impair the orderly and prompt conduct of the proceedings and WKIEC has stated a factual basis demonstrating that its legal rights, duties, and privileges and/or immunities, or other legal

interests may be substantially affected by this proceeding. The Commission found in its Order of January 3, 2019, that "...other legal interests may be substantially affected by the proceeding."

3. In paragraph number 4 of the Order of January 3, 2019, the Commission found "As it seeks to represent large industrial consumers, WKIEC has stated facts demonstrating its legal rights or other interests may be substantially affected by the proceeding and that it qualifies as an intervenor pursuant to K.A.R. 82-1-225(c)."

4. The Commission further found that WKIEC has met the requirements of K.A.R. 82-1-225 and K.S.A. 77-521 and should be granted intervention in this docket.

5. However, the Commission found in paragraph number 6 and stated the following:

"6. In its Petition to Intervene, WKIEC requests the Commission approve the proposed merger of Mid-Kansas into Sunflower. Since WKIEC has already evaluated the Joint Application and provided its recommendation to the Commission, the Commission finds it appropriate to limit WKIEC's intervention to filing post-hearing briefs. In the interest of administrative efficiency, WKIEC is not permitted to engage in discovery or participate at the evidentiary hearing."

6. Said finding in paragraph 6 above interferes with the procedural due process of WKIEC and its members. WKIEC will not be permitted to engage in discovery, or apparently to participate in the settlement conference or evidentiary hearing. Presumably, a settlement agreement entered into by all parties to this proceeding, except for WKIEC, would not be subject to WKIEC's review and approval. Neither the Settlement Conference nor the Hearing will be open to WKIEC's participation. Likewise, while WKIEC will be allowed to file a post-hearing brief, evidence which might have been gathered or utilized by WKIEC to promote and/or protect its position can only be gathered by utilizing evidence of other parties. Finally, it appears that WKIEC will not be allowed to participate in the settlement conference and certainly could not be a party to a unanimous settlement agreement in the event it is not allowed to participate. In short, the limitations imposed on WKIEC's participation would prevent WKIEC from adequately representing the interests of its members.

7. As an example of the potential harm to WKIEC, since this Order was issued testimony has been filed by other parties. In particular, the testimony of KPP's witness, Larry Holloway, makes the following recommendation:

Q. What are your recommendations regarding conditions the Commission should establish to approve this merger?

A. I believe that the Commission should require Mid-Kansas and Sunflower to put all 34.5 kV transmission service under the SPP OATT. This does not mean that the members would give up ownership of their 34.5 kV transmission. Simply put, the revenue requirements each member currently uses to establish their 34.5 kV transmission rates would be used to collect these costs from the entire combined Mid-Kansas and Sunflower transmission zone. This would not only address the issue of how the transmission zones will be merged but would also eliminate the current discrimination between 34.5 kV retail, wholesale and generation customers, as discussed.¹

WKIEC understands that this proposal, if adopted, could force retail customers served by Mid-Kansas and Sunflower at higher voltages, who are not currently required to pay Local Access Delivery charges, to pay for a portion of the 34.5 kV costs. Thus, the WKIEC members that take service at voltages higher than 34.5 kV would clearly be harmed by the KPP proposal. WKIEC is still reviewing all of the filed testimony.

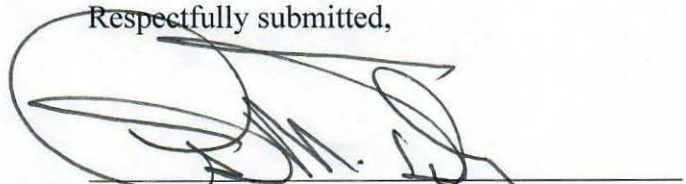
8. Based on its review of the filed testimony, WKIEC could determine that filing cross-answering and/or rebuttal testimony to address KPP's and other adverse recommendations would be essential to protecting WKIEC's interests, but it would be unable to do so because of the limitations imposed on the scope of WKIEC's participation. To bar WKIEC from its right to file testimony and fully participate in the evidentiary hearings or settlement negotiations would be extremely unusual and

¹ Direct Testimony of Larry W. Holloway at 16-17.

would also deny WKIEC's fundamental right to due process. It also is unusual for the Commission to acknowledge that an intervening party has a substantial interest but then is restricted in its ability to protect those interests.

THEREFORE, the Western Kansas Industrial Consumers Group ("WKIEC") respectfully moves the Commission to Reconsider its Order Granting Limited Intervention of January 3, 2019, and allow WKIEC's intervention without limits and that it be allowed to conduct discovery, if necessary, review discovery, submit data requests if needed, and fully participate in these proceedings, including the settlement conference and hearings, to the fullest extent of the law.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "C. Irby", is written over a horizontal line. The signature is stylized with loops and a long horizontal stroke extending to the right.

CURTIS M. IRBY, SCID#: 07274

WKIEC Counsel

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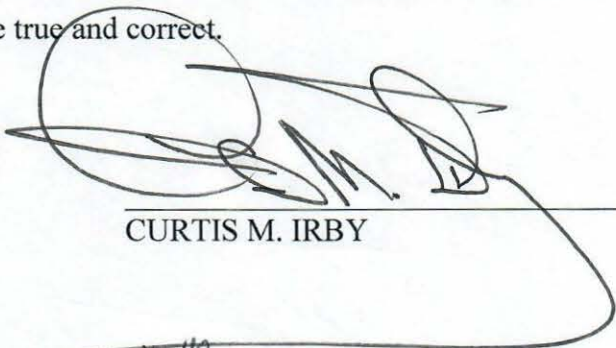
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VERIFICATION

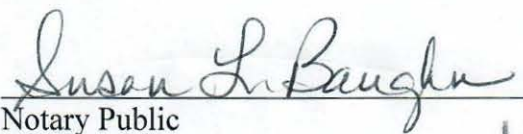
STATE OF KANSAS)
) ss:
COUNTY OF SEDGWICK)

I, Curtis M. Irby, of lawful age, being first duly sworn on his oath deposes and states that he is the attorney for the above named Petitioner; that he read the above and foregoing Petition for Reconsideration of the Commission's Order Granting Limited Intervention to Western Kansas Industrial Electric Consumers (WKIEC) issued on January 4, 2019; and upon information and belief, states that the matters therein appearing are true and correct.



CURTIS M. IRBY

SUBSCRIBED AND SWORN to before me on this 16th day of January, 2019.



Notary Public

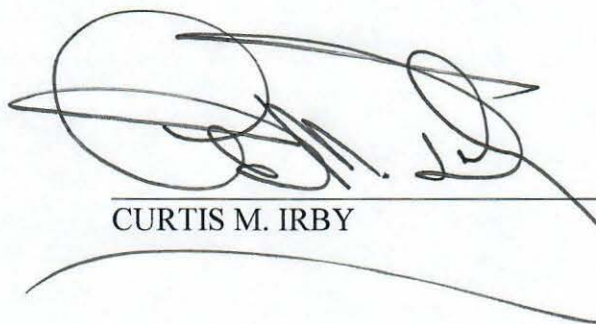
My Appointment Expires:

June 13, 2020



CERTIFICATE OF SERVICE

A true and correct copy of the foregoing was served via electronic mail or U.S. Mail on this 16th day of January, 2019, to the persons appearing on the Commission's service list, last modified on January 4, 2019.



CURTIS M. IRBY