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Kansas Corporation Commission
/S/ Kim Christiansen

BEFORE THE CORPORATION COMMISSION
OF THE STATE OF KANSAS

IN THE MATTER OF THE JOINT APPLICATION OF MID-KANSAS ELECTRIC COMPANY, LLC, LANE-SCOTT ELECTRIC COOPERATIVE, INC., PRAIRIE LAND ELECTRIC COOPERATIVE, INC., SOUTHERN PIONEER ELECTRIC COMPANY, VICTORY ELECTRIC COOPERATIVE ASSOCIATION, INC., WESTERN COOPERATIVE ELECTRIC ASSOCIATION, INC. AND WHEATLAND ELECTRIC COOPERATIVE, INC., JOINT APPLICANTS, FOR AN ORDER APPROVING THE TRANSFER OF CERTIFICATES OF CONVENIENCE WITH RESPECT TO ALL OF MID-KANSAS' RETAIL ELECTRIC SERVICES AND FOR OTHER RELATED RELIEF.	]	KCC Docket No. 13-MKEE-447-MIS

Received
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of Kansas

SUPPLEMENTAL DIRECT TESTIMONY OF

ANDREA C. CRANE

ON BEHALF OF

THE CITIZENS' UTILITY RATEPAYER BOARD

July 24, 2013

Q. Please state your name and business address.

A. My name is Andrea C. Crane and my business address is 90 Grove Street, Suite 211, Ridgefield, Connecticut 06877. (Mailing Address: PO Box 810, Georgetown, Connecticut 06829)

Q. Did you previously file testimony in this proceeding?

A. Yes, on May 14, 2013, I filed Direct Testimony on behalf of the Citizens' Utility Ratepayer Board ("CURB"). My Direct Testimony addressed one issue related to the filing made by Mid-Kansas Electric Company, LLC ("MKEC" or "Mid-Kansas") on January 13, 2013 seeking approval to transfer MKEC's Certificates of Convenience ("Certificates") to its Members.[1] As stated in that Direct Testimony, the KCC originally limited CURB's participation in this proceeding to Issue 7, "determining the process to be followed by the member cooperatives to become or remain exempt from Commission regulation pursuant to K.S.A. 66-104d after the transfer of the Certificate, and modifying the Commission's Order in the 524 Docket as necessary to reflect such a determination."[2]

Q. Did MKEC make a subsequent filing in this proceeding?

A. Yes, on July 1, 2013, MKEC filed a Modification Agreement and Supporting Testimony in an attempt to resolve several issues relating to MKEC, Sunflower Electric Power Corporation ("Sunflower"), and Kansas Electric Power Cooperative ("KEPCo") regarding which entities would supply power to Victory and Prairie Land in the event that

[1] MKEC is a Kansas cooperative utility that is owned by six Members: Prairie Land Electric Cooperative, Inc. ("Prairie Land"), Victory Electric Cooperative Association, Inc. ("Victory"), Western Cooperative Electric Association, Inc. ("Western"), Lane Scott Electric Cooperative, Inc. ("Lane Scott"), Wheatland Electric Cooperative, Inc. ("Wheatland"), and Southern Pioneer Electric Company ("Southern Pioneer").

[2] Order on Jurisdiction and Standing, ¶ 3, pages 2-3, KCC Docket No. 13-MKEE-447-MIS.

the Certificates are transferred, and at what price. On June 28, 2013, CURB filed a motion requesting that the KCC allow CURB to participate in discovery, to file testimony, and to participate at any evidentiary hearing on all issues related to the Modification Agreement. The KCC approved CURB's participation on July 16, 2013.

Q. What is the purpose of your Supplemental Direct Testimony?

A. The purpose of my Supplemental Direct Testimony is to address the Modification Agreement. Since the KCC did not approve CURB's participation on this issue until July 16, 2013, my Supplemental Direst Testimony is limited in scope and does not constitute a comprehensive evaluation of the Modification Agreement.

Q. Please summarize the major provisions of the Modification Agreement.

A. As shown in Exhibit SSL-1 to Stuart Lowry's Testimony filed on July 1, 2013, the Modification Agreement: 1) eliminates a 4 mill adder that is currently being paid to Sunflower by KEPCo,[3] 2) extends the duration of a Wholesale Power Agreement ("WPA") between Sunflower and KEPCo from December 31, 2018 to December 13, 2020, 3) requires MKEC to make a make-whole payment of $1.1 million annually to Sunflower until December 31, 2018, 4) provides for the recovery of the make-whole payment in rates paid by all MKEC Members and their retail customers, and 5) resolves certain legal issues regarding which entity should provide power to Victory and Prairie Land.

[3] Testimony in Support of Modification Agreement of Stuart Lowry, pp. 2-3 ("It [Modification Agreement] resolves the issue of the KEPCo rate and adder under the Shared Service Agreement trading Sunflower's adder on its Wholesale Power Agreement (WPA) with KEPCo in lieu of any undefined adder on KEPCo's share of Victory and Prairie Land load under the Shared Service Agreement. (See Modification Agreement, Section 3).").

Under the current WPA, KEPCo acquires power from Sunflower to serve a portion of the loads of Prairie Land and Victory, for which it pays Sunflower the tariff rate plus a 4 mill adder. The Modification Agreement seeks to replace this 4 mill adder from KEPCo with a fixed payment of $1.1 million, which will be paid to Sunflower annually by MKEC for a five-year period beginning January 1, 2014. Moreover, the Modification Agreement would permit MKEC to recover this $1.1 million annual payment from all MKEC Members through the wholesale rates paid by each Member. The make-whole fee would then ultimately be recovered from MKEC's retail ratepayers through the Energy Cost Adjustment ("ECA") charges.

Q. Do you have any concerns about the Modification Agreement?

A. Yes, I am concerned about the implications of allowing any make-whole payment to be recovered from Kansas ratepayers. Moreover, I am concerned about allowing these payments to be recovered from the retail ratepayers of all MKEC Members, including those Members that currently have no commitment to take power from KEPCo.

Q. Is it appropriate to include a make-whole payment in utility rates?

A. No, it is not. Utility rates are traditionally established on a cost basis. The make-whole payment does not represent an actual cost to Sunflower or to MKEC. Instead, it is simply a mechanism to provide Sunflower with revenues that are comparable to those currently being paid by KEPCo through the 4 mill adder. Hence, there is no underlying actual cost to Sunflower associated with the make-whole payments. The make-whole payment is especially troubling since in this case it is being paid by MKEC to its affiliate, Sunflower. The owners of MKEC are, directly or indirectly, the owners of Sunflower.

It is my understanding that the KCC has not traditionally approved make-whole payments. Thus, the make-whole payment could establish a dangerous precedent and provide an incentive for other utilities in Kansas to attempt to charge customers on a basis other than cost. Moreover, allowing affiliates to pass through a make-whole payment is especially problematic, as affiliated transactions generally require greater regulatory scrutiny than transactions between non-affiliated entities.

Q. If a make-whole payment is approved by the KCC, is it appropriate to recover the costs from the retail customers of all MKEC Members?

A. No, it is not. The dispute between Sunflower and KEPCo related to two service areas, Prairie Land and Victory. In Direct Testimony filed in this case on January 7, 2013, Prairie Land and Victory both opposed the inclusion of any adder to MKEC's wholesale power rate. Mr. Janson on behalf of Victory testified that "At the time [of the Aquila acquisition] KEPCo asserted that it was entitled to charge an adder to Mid-Kansas' wholesale rate, Prairie Land and Victory objected to KEPCo's position then, as it does now, and refused to agree to it."[4] Mr. Miller, on behalf of Prairie Land, raised similar objections.[5]

Now, instead of two companies being subject to an adder from KEPCo, a make-whole payment is proposed to be recovered from all six of the MKEC Members. This make-whole payment is similar to the adder addressed and opposed by Prairie Land and

[4] Direct Testimony of Terry Janson, p. 8.
[5] Direct Testimony of Allan Miller, pp. 9-14.

Victory in their Direct Testimony. Moreover, there is no basis to recover a make-whole payment from the MKEC Members that were not part of the KEPCo dispute.

Q. Please comment on the July 1, 2013 testimony of Mr. Gulley that the make-whole payment should be allocated to all of the MKEC Members because all ratepayers will benefit from lower regulatory costs.

A. On page 4 of his testimony, Mr. Gulley suggests that it is reasonable to allocate the make-whole payment to all of MKEC's Members, since all ratepayers will benefit from (1) a reduction in quarterly assessments from CURB and the KCC and (2) avoidance of rate case costs. However, Mr. Gulley's argument is based on an assumption that ratepayers will vote to deregulate. Approval of the make-whole payment is not contingent upon the ratepayers voting to deregulate and therefore Mr. Gulley's analysis is flawed. While Mr. Gulley quantifies an annual benefit to ratepayers of $375,000, there will no regulatory savings unless deregulation is approved. Moreover, even if ratepayers vote to deregulate, this annual regulatory "benefit" is likely to be entirely offset by the negative consequences of deregulation, including higher utility rates that are no longer constrained by the regulatory process. Thus, I believe that the $375,000 in "savings" estimated by Mr. Gulley should be discounted by the KCC.

Q. Is it possible that resolution of the Sunflower/KEPCo dispute and transfer of the Certificates to the MKEC Members could result in some wholesale cost savings, as discussed by Mr. Rooney?

A. Yes, that is possible. At page 3 of his testimony, Mr. Rooney notes that absent the Modification Agreement, KEPCo "has a range of rates it could set." Moreover, Mr. Rooney goes on to state that the average KEPCo rate in 2012 was considerably higher than the average MKEC Member rate. Based on the Prairie Land and Victory loads, he estimates that the savings to Prairie Land and Victory customers could range from $2.6 million to $9.5 million.[6] However, these cost savings would accrue only to the Prairie Land and Victory customers, in spite of the fact that the make-whole payments would be borne by the retail ratepayers of all MKEC Members. Moreover, it is interesting to note that while Mr. Gulley emphasizes the cost savings that could accrue to ratepayers as a result of deregulation, Mr. Rooney also emphasizes the rate uncertainty and the high costs that could be passed through to ratepayers as a result of KEPCo being <u>deregulated</u>.[7]

Q. Please comment on Mr. Rooney's testimony that a modification of the current business structure could result in lower borrowing costs, as discussed on pages 4-9 of his July 1, 2013 testimony.

A. Mr. Rooney suggests that a revision of the current business structure, which he claims would not be possible unless the Modification Agreement is approved, could reduce the Company's borrowing costs. I don't disagree with Mr. Rooney that a simplified structure may have a beneficial impact on financing costs. However, Mr. Rooney has not provided

[6] Testimony in Support of Modification Agreement of Davis Rooney, pp. 3-4.
[7] *Id.*

a reliable quantification of this benefit, and in fact reliable quantification may be impossible at this time. Mr. Rooney states that he "has been told informally from more than one source that our atypical structure will add 1/8 to 1/4 of a percent to our borrowing costs", which he quantified as $3.5 to $7.0 million over the 30-year life of the most recent borrowing. But this "informal" estimate from unnamed sources is far too nebulous to use as support for MKEC's proposal in this case. Mr. Rooney also points out that a review of 37 recent debt offerings by utilities indicated that MKEC had the largest spread at issuance of any of the other 37 debt offerings. One flaw in Mr. Rooney's analysis is that he did not use a consistent benchmark to measure the spread, but used different benchmarks for different issuances. In addition, there is no evidence that MKEC's spread, which was based on the ten-year Treasury rate, was due to MKEC's business structure. There are many factors that contribute to a company's debt costs, including the term of the loan, the underlying credit worthiness, the quality of the underlying revenue stream, the quality of company management, and others. As shown on page 6 of Mr. Rooney's July 1, 2013 testimony, MKEC does not have a credit rating from a major rating agency, unlike most of the other companies that have issued debt recently. The absence of a credit rating would certainly have an impact on the cost of a company's debt. Therefore, it is impossible to accurately quantify the impact, if any, of MKEC's business structure on its borrowing costs relative to other factors. Moreover, on page 7 of his testimony, Mr. Rooney states that it is important to retain MKEC's ability to access the private placement market. Since MKEC has been able to access this market under its current business structure, there is no reason to believe that such access would be curtailed in the future.

Q. Please comment on Mr. Rooney's statement on page 9 of his testimony that eventually combining MKEC with Sunflower would improve MKEC's equity profile.

A. I agree with Mr. Rooney that a combination of MKEC and Sunflower could improve MKEC's equity profile. However, equity is a zero sum game. Thus, to the extent that such a combination would improve MKEC's equity position, it would have a detrimental effect on the equity profile of Sunflower. This detrimental impact on Sunflower was not considered in Mr. Rooney's analysis.

Q. Please summarize your Supplemental Direct Testimony.

A. The Company has not demonstrated that the make-whole payment included in the Modification Agreement is based on the actual cost of providing generation service. Approving such a payment could establish a poor precedent for future cases. Moreover, the dispute that is addressed in the Modification Agreement involves only two of the six MKEC Members. Therefore, even if a make-whole payment was approved, there is no justification for recovering this payment from MKEC customers in systems other than Prairie Land and Victory.

In addition, the Modification Agreement will not result in a reduction to regulatory costs for the MKEC Members unless the customers of each member vote to deregulate. Any subsequent reduction in regulatory costs is likely to be offset by higher utility rates since these rates will no longer be subject to regulatory oversight. Finally, while transferring the Certificates may result in lower debt financing costs, it is impossible to quantify such savings at this time. Moreover, there is no assurance that any such savings will be flowed through to the retail ratepayers of MKEC's Members unless the retail rates of the members continue to be regulated.

Q. Does this complete your testimony?

A. Yes, it does.

<u>VERIFICATION</u>

STATE OF CONNECTICUT)

COUNTY OF FAIRFIELD) ss:

Andrea C. Crane, being duly sworn upon her oath, deposes and states that she is a consultant for the Citizens' Utility Ratepayer Board, that she has read and is familiar with the foregoing testimony, and that the statements made herein are true to the best of her knowledge, information and belief

Andrea C. Crane
Andrea C. Crane

Subscribed and sworn before me this 18 day of July, 2013.

Notary Public Benjamin D Cotton

BENJAMIN D COTTON
Notary Public-Connecticut
My Commission Expires
June 30, 2017

My Commission Expires: ______

CERTIFICATE OF SERVICE

13-MKEE-447-MIS

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing document was served by electronic service on this 24th day of July, 2013, to the following parties who have waived receipt of follow-up hard copies:

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