

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

DEC 06 2013

by
State Corporation Commission
of Kansas

In the Matter of the Application of Wheatland)
Electric Cooperative, Inc. for Approval to) Docket No. WHLW-218-RTS
Make Certain Changes in Its Charges for)
Water Service to Tyson Fresh Meats, Inc.)

In the Matter of the Application of Wheatland)
Electric Cooperative, Inc. for a Regulatory)
Order Establishing and Approving) Docket No. 14-WHLW-217-CON
Amendment No. 1 to Agreement on Facilities)
Between Sunflower Electric Power)
Corporation and Wheatland Electric)
Cooperative, Inc.)

In the Matter of the Application of Wheatland)
Electric Cooperative, Inc. for a Regulatory)
Order Establishing and Approving)
Amendment No. 2 of Joint Agreement for) Docket No. 14-WHLW-176-CON
Water Purchase Treatment and Distribution)
Between the City of Garden City, Kansas, and)
Wheatland Electric Cooperative, Inc.)

In the Matter of the Application of Wheatland)
Electric Cooperative, Inc. for Regulatory)
Order Establishing and Approving)
Amendment No. 1 to Agreement on Facilities) Docket No. 14-WHLW-157-CON
Between Finney County Rural Water District)
No. 1 and Wheatland Electric Cooperative,)
Inc.)

**MOTION OF TYSON FRESH MEATS, INC. TO INTERVENE
AND FOR THE CONVENING OF A PREHEARING CONFERENCE**

In support of its Motion to Intervene and for Convening of a Prehearing Conference,
Tyson Fresh Meats, Inc. ("Tyson"), by and through its counsel, states:

1. On or about November 13, 2012, Wheatland Electric Cooperative, Inc.
("Wheatland") filed its application in this matter for approval to make certain changes in its
charges for water service to Tyson. On December 3, 2013, the State Corporation Commission of
the State of Kansas ("Commission") issued its order consolidating Wheatland's application with

three other pending applications seeking approval of special rate contracts to three other of its water customers. In each of the four consolidated dockets, Wheatland proposed to implement significant increases in rates to its customers. The Commission suspended the effective date of each of the proposed increases to July 11, 2014. By separate order, the Commission assigned a Prehearing Officer to preside over any prehearing conference but did not order the convening of such a conference.

2. Tyson is an industrial water customer of Wheatland at its Finney County Plant in Holcomb, Kansas. At its plant, Tyson uses significant amounts of treated and untreated water and a reliable and reasonably priced supply of water is essential to its plant operations. In consequence of its need for water, Tyson entered into a 20-year contract for the purchase of water from Wheatland. By its application, Wheatland proposes to increase its rates for the sale of water to Tyson by approximately 94% -- an increase in excess of \$900,000 per year. Such an increase would have a severe impact of Tyson's cost of operations. As a result of such proposed increase, Tyson clearly has an interest in this matter that is distinct from that of the general public such that it should be allowed to intervene and fully participate in any proceedings related to the proposed rate increase. No other party can adequately represent Tyson's interest in this matter.


3. Despite the significant increases in rates to Tyson and Wheatland's other customers, the Commission has not set this matter for hearing or order the convening of a prehearing conference for the purpose of setting a procedural schedule. At this early stage of the proceeding, when the parties have yet to begin discovery, it is impossible to determine whether this matter is capable of settlement. Therefore, the convening of a prehearing to establish a

schedule for the filing of testimony and for hearings should be established in case settlement cannot be achieved.

4. In proceedings before this Commission, the right to cross-examine witnesses "is one of fundamental importance and is generally, if not universally, recognized as an important requirement of due process." *Farmland Industries, Inc. v. KCC*, 25 Kan. App. 2d 849, 859 (1999), citing *Adams v. Marshall*, 212 Kan. 595, 599-600 (1973). In recognition of the parties' due process rights, the Commission should order the Prehearing Officer to convene a prehearing conference to set a procedural schedule complete with dates for the filing of written testimony, settlement conferences and hearing dates.

WHEREFORE, Tyson Fresh Meats, Inc. moves the Commission for an order granting it intervention and the right to fully participate in any and all proceedings in this docket, requiring the Prehearing Officer to set a prehearing conference for the purpose of establishing a complete procedural schedule in this matter, and for such other and further relief as may be appropriate.

Respectfully submitted,

By 
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ATTORNEYS FOR INTERVENOR,
TYSON FRESH MEATS, INC.

STATE OF MISSOURI)
)
COUNTY OF JACKSON) ss.

VERIFICATION

Martin J. Bregman, of lawful age, being first duly sworn, upon oath states:

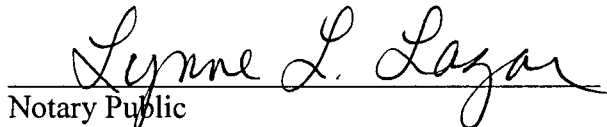
That he is one of the attorneys for the Intervenor, Tyson Fresh Meats, Inc., and that he has read the above and foregoing **Motion of Tyson Fresh Meats, Inc. To Intervene and for the Convening of a Prehearing Conference**, knows the contents thereof, and knows that all of the statements made therein are true.



Martin J. Bregman

Subscribed and sworn to before me this 5th day of December, 2013.

LYNNE L. LAZAR
Notary Public - Notary Seal
STATE OF MISSOURI
Clay County
Commission # 10394409
My Commission Expires: 8-18-2014



Notary Public

CERTIFICATE OF SERVICE

I hereby certify that, on the 5th day of December, 2013, the above and foregoing document has been served by electronic mail (e-mail), hand delivery or by depositing a copy in the United States mail, postage prepaid, addressed to the parties of record.

A handwritten signature, appearing to be "Mark B.", is written over a horizontal line.



**STINSON
MORRISON
HECKER**
— LLP —

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December 6, 2013

VIA U.S. MAIL

Kim Christiansen
Executive Director
Kansas Corporation Commission
1500 S.W. Arrowhead Road
Topeka, KS 66604-4027



DEC 06 2013

by
State Corporation Commission
of Kansas

Re: Motion of Tyson Fresh Meats, Inc. to Intervene and For The Convening
of a Prehearing Conference
Docket Nos. 14-WHLW-218-RTS; 14-WHLW-217-CON; 14-WHLW-
176-CON; and 14-WHLW-157-CON

Dear Ms. Christiansen:

Please file the enclosed Motion of Tyson Fresh Meats, Inc. to Intervene and for
the Convening of a Prehearing Conference in the above-captioned matter.

I would appreciate receiving a file-stamped copy of this cover letter as well as a
file-stamped copy of the document for my files. An envelope is enclosed for your use.

Thank you for your assistance. If you have any questions, please call.

Sincerely,

STINSON MORRISON HECKER LLP

Dena M. Martin
Legal Administrative Assistant

:dm

Enclosures