

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

In the Matter of Kansas Electric Power Cooperative, Inc. Compliance with the Commission's Order in Docket No. 13-GIME-391-GIE.))))	Docket No. 13-KEPE-462-CPL
In the Matter of Kansas City Power & Light Company's Compliance with the Commission's Order in Docket No. 13-GIME-391-GIE.))))	Docket No. 13-KCPE-463-CPL
In the Matter of Westar Energy, Inc. and Kansas Gas & Electric Co., d/b/a Westar Energy's Compliance with the Commission's Order in Docket No. 13-GIME-391-GIE.))))	Docket No. 13-WSEE-464-CPL
In the Matter of Empire District Electric Company's Compliance with the Commission's Order in Docket No. 13-GIME-391-GIE.))))	Docket No. 13-EPDE-465-CPL
In the Matter of Midwest Energy, Inc.'s Compliance with the Commission's Order in Docket No. 13-GIME-391-GIE.))))	Docket No. 13-MDWE-466-CPL
In the Matter of Sunflower Electric Cooperative, Inc.'s Compliance with the Commission's Order in Docket No. 13-GIME-391-GIE.))))	Docket No. 13-SEPE-467-CPL
In the Matter of Kansas City Kansas Board of Public Utilities' Compliance with the Commission's Order in Docket No. 13-GIME-391-GIE.))))	Docket No. 13-KCKE-468-CPL

NOTICE OF FILING OF STAFF REPORT AND RECOMMENDATION

The Staff of the State Corporation Commission of the State of Kansas (Staff and Commission, respectively) files the attached Report and Recommendation (R&R) and states as follows:

1. Staff hereby files the attached R&R regarding the Kansas Renewable Energy Standards Act (RESA) and utility compliance for the year 2014. In its R&R, Staff reports that all Kansas utilities have sufficient capacity to meet 2014 RESA requirements. Therefore, Staff concludes all affected utilities met their renewable capacity and reporting requirements, and no Commission action is necessary at this time.

WHEREFORE Staff requests the Commission accept its Report and Recommendation for informational purposes and for such further relief as the Commission deems just and proper.

Respectfully submitted,



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**REPORT AND RECOMMENDATION
UTILITIES DIVISION**

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

FROM: Tyler Page, Research Economist
Luis Solorio, Senior Research Economist
Lana Ellis, Economics and Rates Deputy Chief
Robert Glass, Economics and Rates Chief
Jeff McClanahan, Director of Utilities

DATE: October 21, 2014

SUBJECT: The Renewable Energy Standards Act and Utility Compliance for the Year 2014.

EXECUTIVE SUMMARY

The Renewable Energy Standards Act (RESA) requires all affected utilities to have a certain amount of renewable generation capacity. For 2014, the capacity requirement is 10% of the average of each company's previous three-year retail peak demand. In addition, affected utilities are required to file Compliance Reports with the Kansas Corporation Commission (Commission). In accordance with the requirements, Compliance Reports were submitted to the Commission by the following Kansas utilities: Westar Energy, Inc. and Kansas Gas and Electric Company (Westar); Kansas City Power and Light (KCP&L); the Empire District Electric Company (Empire); the Sunflower Electric Power Corporation (Sunflower); Midwest Energy, Inc. (Midwest); and Kansas Electric Power Cooperative, Inc. (KEPCo). Kansas City Kansas Board of Public Utilities (BPU) is not an affected utility but voluntarily submitted an annual report for the third year.

Commission Staff reviewed the filed Reports to determine whether all affected utilities have met the requirements set by the statutes and regulations. Based on its analysis, Commission Staff has concluded that the affected utilities have met their 2014 RESA requirements and no further Commission action is required.

BACKGROUND

On May 22, 2009, HB 2369 became law. Part of this bill contained the RESA.¹ For 2014, the RESA requires all investor-owned and cooperatively-owned utilities in the State of Kansas to generate or purchase electricity generated from renewable resources and the renewable generation capacity must equal 10% of their three-year average retail peak demand.² Municipal utilities are exempt from these requirements.

¹ K.S.A. 66-1256, *et. seq.*

² K.S.A. 66-1258(a).

The RESA requires cooperatively-owned (co-ops) and investor-owned utilities (IOUs) to meet a portion of their three year average retail peak demands with renewable generation capacity. Specifically, affected utilities are required to have at least 10% of their three-year average peak demand³ come from renewable capacity for calendar years 2011 through 2015, at least 15% of their average peak demand come from renewable resources for calendar years 2016 through 2019, and at least 20% of their average peak demand come from renewable resources for calendar years 2020 onward.⁴ To encourage construction of renewable energy capacity in Kansas, an extra 10% is added to the renewable capacity rating for capacity built in Kansas after January 1, 2000.⁵ Furthermore, Renewable Energy Credits (REC) may be used to comply with the RESA capacity requirements in 2011, 2016, and 2020.⁶ Additionally, the affected utilities may request permission to use RECs to comply with RESA in years other than those specified above.⁷

For the purposes of enforcing the renewable energy portfolio standards established in K.S.A. 66-1258(a), the Commission was required to establish rules and regulations governing the certification of renewable energy resources.⁸ The rules and regulations describe the requirements for a Kansas utility which buys or sells RECs.⁹ To prevent double counting and misuse, all RECs sold or purchased by affected utilities must be reported in an approved registry.¹⁰ The North American Renewable Registry (NARR) is the approved registry for Kansas.¹¹ Therefore, any utility involved in the REC market is required to register and open an NARR account or request approval to use an alternative program. Empire, KCPL, Sunflower, and BPU have participated in the volunteer, non-regulated REC market. Currently, Empire, KCPL, and Sunflower each hold an account in the NARR as required by Commission regulations.

The Commission can impose penalties for failure to comply with the RES under its rules and regulations. However, the Commission has the discretion to consider mitigating circumstances in imposing penalties. Furthermore, under no circumstances shall the costs of administrative penalties be recovered from Kansas retail customers.¹² Also, the Commission shall exempt an affected utility from administrative penalties if the affected utility demonstrates that the utility's investment in renewable energy resources required to meet the renewable portfolio requirement has resulted in an increase of the utility's total revenue requirement by one percent or greater.¹³

Pursuant to K.A.R. 82-16-2(b), each utility shall submit a report to the Commission detailing that utility's compliance with the portfolio standards established by the Act. A generation and

³ Peak demand is the utilities' one-hour retail peak demand.

⁴ K.S.A. 66-1258(a).

⁵ K.S.A. 66-1258(c).

⁶ K.S.A. 66-1258(a). "Renewable energy credits may only be used to meet a portion of portfolio requirements for the years 2011, 2016 and 2020, **unless otherwise allowed by the Commission.**" (Emphasis added).

⁷ K.S.A. 66-1258(a).

⁸ K.S.A. 66-1262. Also, the criteria to be considered for the certification process shall include, but is not limited to: fuel type, technology and environmental impacts of renewable energy resources.

⁹ K.A.R. 82-16-1, *et seq.*

¹⁰ K.A.R. 82-16-6(d) (Nov. 19, 2010).

¹¹ See supporting documentation in Attachment 1.

¹² K.S.A. 1261(b).

¹³ K.S.A. 66-1261(b) and K.S.A. 66-1260(a)(1).

transmission cooperative may submit a collective report on behalf of the electric distribution cooperatives it represents.

ANALYSIS:

All affected utilities have submitted Compliance Reports to the Commission regarding their compliance with the RESA, as required. The IOUs submitted reports on their own behalf, and distribution co-ops submitted reports through their respective generation and transmission (G&T) co-ops. Specifically, Compliance Reports were submitted from the following utilities: Westar; KCPL; Empire; Sunflower; Midwest; and KEPCo.¹⁴ BPU is not an affected utility but voluntarily submitted an annual report for the third year in a row.

As discussed below, each utility's capacity requirement and capacity available for compliance have been examined, and Staff found that all affected utilities have met their RESA requirements. A list of required capacity facilities, ownership information, nameplate capacity ratings, capacity with an in-state multiplier, and capacity counted toward compliance are also provided for each utility in the tables below.

Westar

For 2014, Westar's three year average retail peak was 4,804.00 MW.¹⁵ Therefore, Westar is required to have 480.40 MW of renewable capacity to comply with the RESA this year, which represents a decrease of approximately 1.68% from 2013. Westar's renewable energy resources and capacity are very similar compared to last year. As shown in Table 1, Westar currently possesses 671.038 MW of renewable generation through a combination of purchase power agreements (PPAs), direct ownership, and net metering. All of these facilities are located within the State of Kansas, making them eligible for the in-state multiplier, resulting in 738.14 MW of capacity for compliance.¹⁶ KEPCo receives credit for 15.27 MW of Westar's renewable capacity under the terms of their PPA.¹⁷ When the in-state multiplier is added, KEPCo's portion is 16.80. Accordingly, Staff has excluded 16.80 MW of capacity from Westar's renewable generation portfolio. In addition, 7.09 MW for Westar's other Generation Formula Rates (GFR) and 0.45 MW for Westar's RENEW Tariff (7.8 MW and .5 MW respectively with the in-state multiplier) were excluded. This results in a total of 713.04 MWs of renewable capacity available for compliance.

Westar has a total of 713.04 MW, excluding the 25.01 MW discussed above. Thus, Westar has sufficient renewable energy capacity to meet this year's RESA requirement. A list of Westar's facilities, ownership information, nameplate capacity, Kansas jurisdictional allocation, and total capacity for compliance are provided in Table 1 below.¹⁸

¹⁴ The following compliance dockets were created to comply with the RESA Annual Report: 13-KEPE-462-CPL (13-462) for KEPCo; 13-KCPE-463-CPL (13-463) for KCPL; 13-WSEE-464-CPL (13-464) for Westar; 13-EPDE-465-CPL (13-465) for Empire; 13-MDWE-466-CPL (13-466) for Midwest; 13-SEPE-467-CPL (13-467) for Sunflower; and 13-KCKE-468-CPL (13-468) for BPU.

¹⁵ 13-464, July 1, 2014 – Renewable Energy Portfolio Report (2013 RESA Report 13-464), ¶ 4.

¹⁶ This includes a 10% in-state multiplier per K.S.A. 66-1258 (3) (C).

¹⁷ 13-462, Renewable Energy Standards Report for Kansas Electric Power Cooperative, Inc. July 22, 2013 (2013 RESA Report 13-462), Section 2.

¹⁸ 2013 RESA Report 13-464, Table 1, p. 1.

Table 1

Westar's Renewable Energy Resources				
Facility	Ownership	Nameplate Capacity	With Multiplier	Kansas Allocation
Post Rock Wind Farm	PPA	201.00	221.00	221.00
Ironwood Wind Farm	PPA	167.90	184.69	184.69
Meridian Way	PPA	96.00	105.60	105.60
Flat Ridge 1	PPA	50.00	55.00	55.00
Flat Ridge 2	Westar	50.00	55.00	55.00
Central Plains	Westar	99.00	108.90	108.90
Rolling Meadows	PPA	05.60	06.16	06.16
Net Metered Systems	Customer	01.538	01.69	01.69
Total Renewable Capacity		671.04	738.14	738.14
KEPCo allocated GFR	GFR/PPA	-15.27	-16.80	-16.80
Other GFRs allocated	GFR/PPA	-7.09	-7.80	-7.80
RENEW Tariff	Green Tariff	-0.45	-0.50	-0.50
Total Renewable Capacity for Compliance		648.23	713.04	713.04

KCPL

KCPL's 2014 Kansas three year average retail peak demand is 1,661.00 MW.¹⁹ Therefore, KCPL is required to possess 166.10 MW of renewable capacity for compliance this year.²⁰ This represents a decrease of approximately 2.24% from the 2013 compliance period. Like Westar, KCPL's renewable energy resources and capacity are very similar compared to last year. As shown in Table 2, KCPL currently possesses 380.40 MW of renewable generation from Spearville 1, Spearville 2, Spearville 3, and Cimarron II.²¹ KCPL entered into a PPA with CNPPID for a hydroelectric facility in Nebraska, which is the only added resource for this year. This facility consists of a 10-year PPA for the generation output of three hydroelectric plants with a total accredited capacity of 61.6 MW. KCP&L plans to allocate this hydro PPA 100% to KCP&L's Kansas jurisdiction for the purpose of Kansas RESA compliance. Because the facilities are not within Kansas, the capacity is not eligible for the in-state multiplier. In addition, KCPL possesses approximately 0.40 MW of net metered systems for a total of 239.40 MW of capacity allocated to Kansas for compliance.²² Thus, KCPL has met its renewable energy

¹⁹ This is the Kansas jurisdictional portion of KCPL's entire system.

²⁰ 13-463, Kansas Renewable Energy Standards Act 2014 Annual Compliance Report (2014 RESA Report 13-463), p. 9.

²¹ 2014 RESA Report 13-463, p. 5.

²² This allocation includes the Kansas multiplier.

resource requirement. A list of KCPL’s facilities, ownership information, nameplate capacity, Kansas jurisdictional allocation, and total capacity for compliance are provided in Table 2 below.²³

Table 2

KCPL’s Renewable Energy Resources				
Facility	Ownership	Nameplate Capacity	With Multiplier	Kansas Allocation
Spearville 1 and 2	KCPL	148.50	163.35	69.10
Spearville 3	PPA	100.80	110.88	46.90
Cimarron II	PPA	131.10	144.21	61.00
CNPPID Hydro	PPA	61.60	61.60	61.60
Net Metered Systems	Customer	00.40	00.44	00.44
Total MW Capacity		442.40	480.48	239.04²⁴

Empire

Empire’s Kansas jurisdictional average retail peak for the last three years was 60.10 MW, which requires the company to possess 6.01 MW of renewable generation this year.²⁵ This represents a decrease of approximately 5.50% from 2013. Empire’s renewable energy resources and capacity are identical compared to last year. As shown in Table 3, Empire currently has a PPA for 150.00 MW of wind from Elk River, PPAs for 105.00 MW of wind from Meridian Way, and owns 16.00 MW of hydroelectric generation in Missouri. Of this 271.00 MW of capacity, only 5.78 MW (6.36 MW with multiplier) of Elk River’s capacity is allocated toward Kansas compliance. Thus, Empire also met its renewable energy resource requirement. A list of Empire’s facilities, ownership information, nameplate capacity, Kansas jurisdictional allocation, and total capacity for compliance are presented in Table 3 below.²⁶

²³ 2014 RESA Report 13-463, p. 10.

²⁴ Slight difference in total reported in compliance filing is due to rounding.

²⁵ 13-465, 2014 Annual Renewable Energy Standard Report (2014 RESA Report 13-465), p. 6.

²⁶ 2014 RESA Report 13-465, p. 6 and Exhibit 1.

Table 3

Empire's Renewable Energy Resources				
Facility	Ownership	Nameplate Capacity	With Multiplier	Kansas Allocation
Elk River	PPA	150.00	165.00	06.36
Meridian Way	PPA	105.00	115.50	00.00
Ozark Beach	Empire	16.00	16.00	00.00
Total MW Capacity		271.00	296.50	06.36

Sunflower²⁷

Sunflower had a three year average retail peak of 758.00 MW, requiring it to have 75.80 MW of renewable generation for purposes of RESA compliance in 2014.²⁸ This represents an increase of approximately 1.34% from 2013. Sunflower's renewable energy resources and capacity are very similar compared to last year. As shown in Table 4, Sunflower currently has 253.66 MW of renewable generation acquired through PPAs. Thus, Sunflower also met its renewable energy resource requirement. A list of Sunflower's facilities, ownership information, nameplate capacity, Kansas jurisdictional allocation, and total capacity counted toward compliance are presented in Table 4 below.²⁹

Table 4

Sunflower's Renewable Energy Resources				
Facility	Ownership	Nameplate Capacity	With Multiplier	Kansas Allocation
Smoky Hills I	PPA	50.20	55.22	55.22
Smoky Hills II	PPA	23.70	26.07	26.07
Gray County	PPA	50.20	55.22	55.22
Shooting Star	PPA	103.50	113.85	113.85
Western Hydro	PPA	03.30	03.30	3.30
Total MW Capacity		230.90	253.66	253.66

²⁷ Sunflower is operated jointly with Mid Kansas Electric Company, LLC (MKEC) as a G&T co-operative. Its member distribution co-ops are Lane-Scott Electric Co-op, Inc.; Pioneer Electric Co-op, Inc.; Prairie Land Electric Co-op, Inc.; Victory Electric Co-op Association, Inc.; Western Co-op Electric Association, Inc.; Wheatland Electric Co-op, Inc.; and Southern Pioneer Electric Company.

²⁸ 13-467, Sunflower Electric Power Corporation 2014 Renewable Energy Standards Act Report (2014 RESA Report 13-467), Section 4.

²⁹ 2014 RESA Report 13-467, Section 2.

Midwest

Midwest had a three year average retail peak demand for the previous three years of 346 MW, requiring it to have 34.6MW of renewable generation this year.³⁰ This represents an increase of approximately 1.85% from 2013. Midwest’s energy resources and capacity are very similar compared to last year. As shown in Table 5, Midwest currently has 51.90 MW of renewable capacity. When the in-state multiplier is applied, the capacity available for compliance increases to 56.80.³¹ Thus, Midwest meets the 2014 RESA requirement. A list of Midwest’s facilities, ownership information, nameplate capacity, Kansas jurisdictional allocation, and total capacity counted toward compliance are presented in Table 5 below.

Table 5

Midwest’s Renewable Energy Resources				
Facility	Ownership	Nameplate Capacity	With Multiplier	Kansas Allocation
Smoky Hills I	PPA	25.00	27.50	27.50
Smoky Hills II	PPA	24.00	26.40	26.40
WAPA	PPA	02.90	02.90	02.90
Total MW Capacity		51.90	56.80	56.80

KEPCo³²

KEPCo had a three year average retail peak of 448.00 MW, requiring it to possess 44.80 MW of renewable generation for 2014 compliance.³³ This represents a decrease of approximately 0.22% from 2013. KEPCo’s renewable energy resources and capacity are very similar compared to last year. As shown in Table 6, KEPCo has PPAs for 113.00 MW of renewable generation— 13.00 MW of hydro from the Western Power Administration (WAPA) and 100.00 MW of hydro from the Southwestern Power Administration (SWPA). In addition, KEPCo receives credit for 15.2 MW of renewable capacity from a GFR with Westar, resulting in 129.8 MW total renewable capacity with the in-state multiplier. Thus, KEPCo has sufficient renewable energy resources to meet this year’s RESA requirement. A list of KEPCo’s facilities, ownership information, nameplate capacity, Kansas jurisdictional allocation, and total capacity available for compliance is provided in Table 6 below.³⁴

³⁰ 13-466, Annual Report to the Kansas Corporation Commission Renewable Energy Standard Compliance (2014 RESA Report 13-466), Table 4.

³¹ 2014 RESA Report 13-466, Table 4.

³² KEPCo is a G&T co-operative whose membership is comprised of the following nineteen distribution co-ops: Ark Valley Electric Co-op Assn. Inc.; Bluestem Electric Co-op. Inc.; Brown-Atchison Electric Co-op Assn., Inc.; Butler Rural Electric Co-op Assn. Inc.; Caney Valley Electric Co-op Assn., Inc.; CMS Electric Co-op, Inc.; DS&O Electric Co-op, Inc.; Flint Hills Rural Electric Co-op Assn., Inc.; Heartland Rural Electric Co-op, Inc.; Leavenworth-Jefferson Electric Co-op, Inc.; Lyon-Coffey Electric Co-op, Inc.; Ninnescah Electric Co-op Assn., Inc.; Prairie Land Electric Co-op, Inc.; Radiant Electric Co-op, Inc.; Rolling Hills Electric Co-op, Inc.; Sedgwick County Electric Co-op Assn., Inc.; Sumner-Cowley Electric Co-op, Inc.; Twin Valley Electric Co-op, Inc.; and Victory Electric Co-op, Inc.

³³ 2014 RESA Report 13-462, Section 4.

³⁴ 2014 RESA Report 13-462, Section 2.

Table 6

KEPCo's Renewable Energy Resources				
Facility	Ownership	Nameplate Capacity	With Multiplier	Kansas Allocation
WAPA	PPA	13.00	13.00	13.00
SWAPA	PPA	100.00	100.00	100.00
Total Renewable Capacity		113.00	113.00	113.00
Westar GFR	GFR/PPA	15.20	16.80	16.80
Total Renewable Capacity for Compliance		128.20	129.80	129.80

BPU

Although BPU is not an affected utility, it voluntarily filed a RESA report and has an attestation process which ensures that REC double counting or misuse will not occur. BPU had a three year average retail peak of 484.00 MW, which, if it were an affected utility, would require it to possess 48.4 MW of renewable generation for 2014 compliance.³⁵ A list of BPU's facilities, ownership information, capacity ratings, Kansas jurisdictional allocation, and total MW capacity counted toward compliance are provided in Table 7 below.

Table 7

BPU's Renewable Energy Resources				
Facility	Ownership	Nameplate Capacity	With Multiplier	Kansas Allocation
Smoky Hills Wind	PPA	25.2	27.7	N/A
Oak Grove Landfill	PPA	3.6	3.9	N/A
Bowersock Hydro North	PPA	4.7	5.1	N/A
Bowersock Hydro South	PPA	2.3	2.3	N/A
SWPA Hydro	PPA	38.6	38.6	N/A
WAPA Hydro	PPA	4.80	4.80	N/A
Total MW Capacity		79.2	82.4	N/A

³⁵ 2014 RESA Report 13-462, Section 4.

RECOMMENDATION

Because all utilities have sufficient capacity to meet their 2014 RESA requirement, Staff concludes that all affected utilities met their renewable capacity and reporting requirements. Therefore, no action by the Commission is required.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing Notice of Filing of Staff Report and Recommendations was served via electronic service this 10th day of November, 2014, to the following:

Contacts and entities on record in the following dockets:

13-KEPE-462-CPL

13-KCPE-463-CPL

13-WSEE-464-CPL

13-EPDE-465-CPL

13-MDWE-466-CPL

13-SEPE-467-CPL

13-KCKE-468-CPL



Vicki Jacobsen