

II. DISCUSSION

3. Pursuant to K.S.A. 12-8,111(c) and subject to limited exceptions, a municipal energy agency may elect to be exempt from the jurisdiction, regulation, supervision and control of the Commission.³

4. To become exempt from Commission regulation, a municipal energy agency must hold an election of its voting members as established in the governing documents of the municipal energy agency.⁴ Additionally, the municipal energy agency must follow the directives contained in K.S.A. 12-8,111(d)(1) through (5).

5. If a proposition for deregulation is approved by an affirmative vote of not less than a majority of members voting on the proposition, K.S.A. 12-8,111(d)(4) requires the municipal energy agency to notify the Commission in writing of the results within 10 days after the date of the election.

6. KPP's Notice of Exemption Election submitted to the Commission is dated April 29, 2018, 10 days after the election was held.⁵ However, the Commission did not receive KPP's Notice of Exemption Election until May 3, 2018, more than 10 days following the date of the election. Although the Commission did not receive KPP's Notice of Exemption Election until 14 days after the election, the record indicates KPP attempted to notify the Commission within the 10-day statutory requirement.

³ See K.S.A. 12-8,111(c).

⁴ See K.S.A. 12-8,111(d).

⁵ See Notice of Exemption, p. 1.

III. FINDINGS AND CONCLUSIONS

7. Pursuant to K.S.A. 12-8,111(b), municipal energy agencies created under the provisions of K.S.A. 12-885 through 12-8,109, and amendments thereto, shall be subject to the jurisdiction of the Commission in the same manner as a public utility. The Commission finds KPP is a municipal energy agency subject to the Commission's jurisdiction.

8. Pursuant to K.S.A. 12-8,111(c) and subject to limited exceptions,⁶ a municipal energy agency may elect to be exempt from the jurisdiction, regulation, supervision and control of the Commission. The Commission finds KPP has elected to exempt itself, to the extent permitted by law, from the Commission's jurisdiction, regulation, supervision and control.

9. To exempt itself from Commission regulation, to the extent permitted by law, a municipal energy agency must follow the directives contained within K.S.A. 12-8,111(d)(1) through (5). The Commission finds KPP has complied with these directives.

10. Accordingly, the Commission finds and concludes KPP has satisfied the requirements necessary to exempt itself from the Commission's jurisdiction, regulation, supervision and control to the extent as permitted by law.

11. The Commission finds and concludes KPP shall continue to remain subject to the Commission's jurisdiction, regulation, supervision and control to the extent permitted by K.S.A. 12-8,111, as amended.

⁶ Limited exceptions include: service territory; charges, fees or tariffs for transmission services, other than charges, fees or tariffs to its own members or those charges, fees or tariffs for transmission services that are recovered through an open access transmission tariff of a regional transmission organization which has its rates approved by the federal energy regulatory commission; sales of power for resale, other than sales to its own members; and wire stringing, transmission line siting and the extension of electric facilities used to transmit electricity pursuant to K.S.A. 66-131, 66-183, 66-1,170 *et seq.* or 66-1,177 *et seq.*, and amendments thereto. *See* K.S.A. 12-8,111(g). Additionally, the exemption provisions do affect the authority of the Commission pursuant to K.S.A. 66-144, and amendments thereto. *See* K.S.A. 12-8,111(g).

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. The Kansas Power Pool, a municipal energy agency, is hereby exempt from the jurisdiction, regulation, supervision and control of the Commission, subject to the Commission's continuing jurisdiction under K.S.A. 12-8,111(g) and (h), as amended.

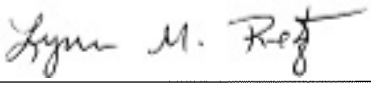
B. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).⁷

C. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further orders as it deems necessary.

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 06/21/2018



Lynn M. Retz
Secretary to the Commission

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⁷ K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

CERTIFICATE OF SERVICE

18-KPPE-527-DRC

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of electronic service on 06/21/2018.

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/S/ DeeAnn Shupe

DeeAnn Shupe