

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

Received
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In the Matter of the Application of)
Mid-Kansas Electric Company, LLC for)
Approval to Make Certain Changes in its)
Charges for Electric Services in the)
Geographic Service Territory Served by)
Lane Scott Electric Cooperative, Inc.)

by
State Corporation Commission
of Kansas

Docket No. 12-MKEE-410-RTS

**PETITION FOR RECONSIDERATION OF
MID-KANSAS ELECTRIC COMPANY, LLC**

Mid-Kansas Electric Company, LLC ("Mid-Kansas" or "Company"), pursuant to K.S.A. § 66-118b, K.S.A. § 77-529, and K.A.R. § 82-1-235, hereby respectfully petitions the State Corporation Commission of the State of Kansas ("Commission") for reconsideration of the Order of the Commission issued in this docket on July 26, 2012.

I. INTRODUCTION AND BACKGROUND

1. On December 5, 2011, the Commission Staff ("Staff"), the Citizens' Utility Ratepayer Board ("CURB") and Mid-Kansas opened this docket by filing a Joint Petition For Waiver of Filing Requirements ("Joint Petition"). Under the Joint Petition, the parties agreed that, when Mid-Kansas filed its anticipated rate case for the geographic area served by Lane-Scott Electric Cooperative, it could omit certain information normally required for a general rate case application under K.A.R. 82-1-231. The parties stated that the filing requirements of K.A.R. 82-1-231 were more applicable to investor-owned utilities, and that the modified filing agreed to by the parties would allow a thorough review of the cost-of-service for Mid-Kansas'

divisional rate for the Lane-Scott division. The Joint Petition stated that the current target date for Mid-Kansas to make its general rate case filing was on or about December 19, 2011.¹

2. On December 7, 2011, the Commission issued an Order Assessing Costs.

3. On December 14, 2011, the Commission granted the Joint Petition.

4. On January 6, 2012, CURB filed a Petition to Intervene in the docket, and on April 4, 2012, Ray Bergmeier filed an entry of appearance on behalf of Staff.

5. On July 26, 2012, the Commission issued an Order Dismissing Application Without Prejudice (“Order”). The Commission based its dismissal upon a finding that Mid-Kansas had failed to comply with K.A.R. 82-1-214, which states,

A proceeding shall be commenced either by the filing of an application, a complaint or a petition, or by the issuance of an order of the commission initiating a proceeding on its own motion. However, an application filed by an *investor-owned utility* for permission to make changes in its rates and tariffs shall not commence a proceeding under these regulations unless the commission has received written notification of the intent to file the application no fewer than 30 and not more than 90 days before the application filing date. (Emphasis added.)

6. Mid-Kansas respectfully requests the Commission reconsider and revoke its dismissal and allow this docket to go forward. K.A.R. 82-1-214 is not applicable to Mid-Kansas because Mid-Kansas is not an “investor-owned utility”. Furthermore, even if the regulation were applicable to Mid-Kansas, it does not require the dismissal of this pending docket. It would require only that Mid-Kansas provide the Commission with written notice and then wait at least 30 days to file the application. Dismissing the docket at this time serves no useful purpose to the parties or to customers, it will cause the parties to incur additional and unnecessary work and expense, and the Order was issued by the Commission without providing notice to the parties or allowing them the opportunity to object or otherwise respond before dismissal was ordered.

¹ *Joint Petition*, para. 7.

7. While Mid-Kansas recognizes that an extended period of time has passed since the opening of this docket and the rate filing has not yet been made, there are valid reasons for the delay. First, this filing is based upon the cost-of-service of Lane Scott, a very small electric distribution cooperative. Lane Scott does not have the in-house resources or expertise to prepare and present a general rate case and, therefore, it contracts for the services of the Kansas Electric Cooperative (“KEC”) staff, specifically, Mr. Doug Shepherd. Many cooperatives in Kansas use the services of Mr. Shepherd, somewhat restricting his availability. As such, Mr. Shepherd is not “on-call” to Lane Scott as an in-house employee would be, and this has an impact on the timing of the filing of this case.

8. Second, Mr. Shepherd not only prepares the cost-of-service filing and supporting testimony and schedules for the application, he also assists the cooperative in preparing data request responses. Around November 17, 2011, Staff served upon Lane Scott approximately seventy (70) data requests, advising that one-half should be answered when the application was filed and the other half should be answered a week thereafter. This added to the delay in making the initial filing.

9. Finally, in March of 2012, the General Manager of Lane Scott resigned and the cooperative has been operating under Interim General Manager, Mr. Dow Morris, since that time while conducting a search for a permanent replacement.

II. ISSUES FOR RECONSIDERATION

A. *The 30/90 Day Notice Requirement of K.A.R. 82-1-214 is not applicable to Mid-Kansas, Nor Does It Require Dismissal of This Docket.*

10. K.A.R. 82-1-214 applies only to an “investor-owned utility”. Mid-Kansas is owned by five Kansas consumer-owned cooperatives and one corporation wholly owned by a

sixth consumer-owned cooperative. As recognized by Chairman Sievers in his concurring opinion in a recent Mid-Kansas docket,

But, Mid-Kansas, LLC is not an investor owned utility. It is owned by several cooperatives that are, in turn, owned by their customers who are also their members.”
(In the Matter of the Application of Mid-Kansas Electric Company, LLC, for Approval to Make Certain Changes in Its Charges for Electric Service, Docket No. 11-MKEE-439-RTS, Order issued June 30, 2011.)

Mid-Kansas is not an investor-owned utility, and therefore, the requirement under K.A.R. 82-1-214 that written notice of a rate case be provided to the Commission no fewer than 30 and no more than 90 days before the application filing date is not applicable. As such, the stated reason for the dismissal set forth in the Commission’s Order does not provide a basis for the dismissal.

11. It is important to note that, even if the 30/90 day notice provision of K.A.R. 82-1-214 were applicable to Mid-Kansas, the regulation does not require dismissal of this docket. The regulation states only that an application in a rate case must be filed between 30 and 90 days after written notice is given. In this docket, the application has not yet been filed², thus, the regulation has not been violated. If the 30/90 day notice requirement were applicable to Mid-Kansas, its impact would be only to mandate that Mid-Kansas give the Commission written notice and then not file its application until at least 30 (and no more than 90) days have passed after the notice is given.

B. Dismissal Serves No Useful Purpose and Will Cause the Parties Additional, Unnecessary Expense.

12. Mid-Kansas still intends to file this rate case, with a revised target date no later than August 10, 2012. As such, if the Commission dismisses this docket, the parties will have to repeat the efforts already expended simply to get to the same point in the process as they are now. There are no statutory or regulatory deadlines for filing this rate case, and the 240-day

² The Order states that “due to Mid-Kansas’ failure to timely file its Application, Mid-Kansas’ Application must be dismissed without prejudice and this docket closed.” (Order, para. 3.) Since no Application has ever been filed, it is unclear what “Application” is being dismissed.

timeline of K.S.A 66-117 is not running. There appears to be no reason for dismissal other than the fact that the docket has been pending for several months. Dismissal of the docket at this time is not necessary; it serves no useful purpose and it will only cause the parties to incur additional expenses related to re-filing pleadings already on file.

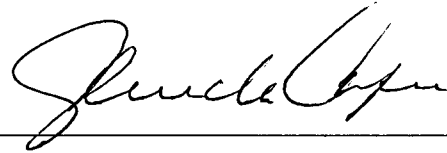
C. *The Order Was Issued by the Commission Without Providing Notice to the Parties or Allowing Them the Opportunity to Object or Otherwise Respond Before Dismissal was Ordered.*

13. The Commission's Order dismisses this docket *sua sponte* and without notice. There was no motion filed that would have allowed Mid-Kansas the opportunity to respond, nor did the Commission's Order give notice of its intent by setting a future date by which dismissal would occur if the filing was not completed. As the Commission can see from the foregoing explanation, events have occurred that have contributed to the delay in filing this rate case. These events could have been explained had notice been given to the company of the Commission's intent to dismiss. Instead, Mid-Kansas has had to provide its response in the form of this Petition For Reconsideration. Hopefully the Commission will grant reconsideration, consider the circumstances of this case, and revoke its Order of dismissal.

WHEREFORE, Mid-Kansas respectfully requests the Commission reconsider its Order Dismissing this docket for the reasons set forth above, allowing Mid-Kansas to file its application on or before August 10, 2012.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the above *Petition For Reconsideration of Mid-Kansas* was electronically served, hand-delivered or mailed, postage prepaid, this 1st day of August, 2012 to:

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