

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

JAN 07 2013

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.)

by
State Corporation Commission
of Kansas

Docket No. 13-MKEE-447-MIS

DIRECT TESTIMONY

OF

ALLAN J. MILLER

PRAIRIE LAND ELECTRIC COOPERATIVE, INC.

JANUARY 7, 2013

1 **Q. Please state your name.**

2 A. My name is Allan J. Miller.

3 **Q. By whom are you employed and what is your business address?**

4 A. I am employed by Prairie Land Electric Cooperative, Inc. ("Prairie Land"). My
5 business address is 14935 U.S. Highway 36, Norton, Kansas.

6 **Q. Would you summarize your educational background?**

7 A. I graduated from Fort Hays State University with a Bachelor of Arts degree in
8 political science. I also have one year of work on a degree in public
9 administration at Fort Hays State University.

10 **Q. Please summarize your work experience.**

11 A. In 1975, I became employed by Norton-Decatur Cooperative Electric Company,
12 Inc., the predecessor company of Prairie Land. From 1977 to 1981, I was staff
13 assistant, and from 1981 to 1990, I was the office manager. In 1990, I was
14 promoted to general manager.

15 **Q. Are you also an officer of Mid-Kansas Electric Company, LLC?**

16 A. Yes. I am Chairman of the Board for Mid-Kansas Electric Company, LLC ("Mid-
17 Kansas"). I have served as Chairman of the Board since the inception of Mid-
18 Kansas and was intricately involved in the acquisition of Aquila-WPK.

19 **Q. Do you serve on any other boards for public utilities?**

20 A. Yes. Prairie Land is a member of both Sunflower Electric Power Corporation
21 (Sunflower) and Kansas Electric Power Cooperative, Inc. (KEPCo). I serve as a
22 Director on the Sunflower Board of Directors.

23

1 **Q. What is the purpose of your testimony?**

2 A. The purpose of my testimony is to provide background information on Prairie
3 Land and support for relief sought in the Joint Application filed by Mid-Kansas
4 and its Members¹, including Prairie Land.

5 **1. HISTORICAL INFORMATION ON MID-KANSAS**

6 **Q. Please provide an overview of your testimony.**

7 A. Mr. Lowry has already discussed the relationship of the Members to Mid-Kansas
8 and historical background, so I will not spend much time on such matters. He
9 also discussed why Mid-Kansas was formed and the original business plan or
10 model for purposes of separating the distribution services from generation and
11 transmission services after acquisition.

12 My testimony will primarily focus on a brief overview of Prairie Land, the terms of
13 the Shared Service Agreement, the determination of a KEPCo wholesale rate for
14 Victory and Prairie Land, and determination of the process for Member
15 exemption from regulation.

16 **Q. Please provide a brief overview of Prairie Land.**

17 A. Prairie Land is an electric cooperative formed under the Kansas Electric
18 Cooperative Act. It was formed for the purpose of supplying electric energy and

¹ The six Kansas entities, collectively referred to as Members of Mid-Kansas, and their headquarters are as follows: Lane-Scott Electric Cooperative, Inc., Dighton, Kansas; Southern Pioneer Electric Company, a subsidiary of Pioneer Electric Cooperative, Inc., Ulysses, Kansas; Prairie Land Electric Cooperative, Inc., Norton, Kansas; Victory Electric Cooperative Association, Inc., Dodge City, Kansas; Western Cooperative Electric Association, Inc., WaKeeney, Kansas; Wheatland Electric Cooperative, Inc., Scott City, Kansas.

1 promoting and extending the use of such energy in rural areas of northwest
2 Kansas. Prairie Land is the successor cooperative of the merger in 1997 of two
3 other electric cooperatives: Norton-Decatur Cooperative Electric Company, Inc.
4 and Northwest Kansas Electric Cooperative Association, Inc. Norton-Decatur
5 Cooperative Electric Company was formed in 1938. Prairie Land, therefore, has
6 been providing electric retail service in the northwest Kansas for over 74 years.

7 **Q. Would you provide a summary of the service area and the nature of service**
8 **Prairie Land provided before the acquisition of Aquila-WPK by Mid-**
9 **Kansas?**

10 A. Prior to the acquisition, Prairie Land provided electric retail service in eight (8)
11 counties with approximately 8,800 meters. Its service territory runs from Phillips
12 and Rooks counties on the eastern end to the Colorado border on the western
13 end. Prairie Land also served various cities within its certificated territory.
14 Although it did not operate generation or transmission lines, it operated and
15 maintained approximately 5,314 miles of distribution line and 72 miles of 34.5 kV
16 lines.

17 **Q. Would you provide a summary of the area served and scope by Prairie**
18 **Land after the acquisition of the Aquila-WPK by Mid-Kansas?**

19 A. After the acquisition, pursuant to a service contract with Mid-Kansas, Prairie
20 Land increased the number of meters by approximately 15,300 meters and
21 continues to serve approximately that number of meters in the Prairie Land
22 division. Through the acquisition, the service territory was extended easterly to
23 approximately Barnes, Kansas from the eastern edge of the original Prairie Land

1 service territory. With the acquisition of Aquila-WPK, the number of customers
2 served today is approximately 24,600.

3 **Q. Prior to the acquisition was Prairie Land a deregulated cooperative?**

4 A. Yes. In 1993, the member owners of Northwest Kansas Electric Cooperative
5 Association, Inc. voted to deregulate. The member owners of Norton-Decatur
6 Cooperative Electric Company, Inc. voted to deregulate in 1994 with
7 approximately 82% of those voting approving deregulation. Since those dates,
8 Prairie Land, or its predecessors, has operated as a deregulated cooperative.
9 The deregulation of the cooperative has allowed the member owners to govern
10 themselves with far less expense than Prairie Land could otherwise have done
11 had it continued to be regulated.

12 **Q. Why did the six Members of Mid-Kansas elect to pursue the acquisition of**
13 **Aquila-WPK?**

14 A. Prairie Land saw the acquisition as an opportunity to expand its service territory
15 next to its existing territory. Aquila-WPK's service territory was essentially in the
16 Members' backyard. The expansion into this territory could be done at far less of
17 a cost to Prairie Land than any other utility as we were already serving in the
18 general vicinity. It increased the number of customers per mile for distribution
19 lines and allowed Prairie Land to spread the general overhead costs across a
20 larger number of customers. There were a number of synergies associated with
21 the acquisition, all of which resulted in cost savings to both Prairie Land's existing
22 customers and those customers acquired in the acquisition.

23 **Q. Do you believe the synergies that you anticipated have been realized?**

1 A. Yes. We firmly believe the acquisition has been good for both the existing and
2 acquired customers. There have been cost savings as anticipated, and the
3 increases in cost have been slowed as a result of the synergies and ability to
4 spread costs across a larger segment of customers. Also, the diversity in
5 customers has been beneficial as economic conditions change throughout
6 northwest Kansas. The territory acquired by Mid-Kansas was more residential in
7 nature than the customer base served by Prairie Land in its certificated territory.
8 The diversity has helped in stabilizing load.

9 **Q. Do you believe Prairie Land is capable of succeeding to a portion of Mid-**
10 **Kansas' certificated service territory as contemplated in the application?**

11 A. Yes. Prairie Land has been serving the customers in the Prairie Land division
12 since the acquisition in 2007. We have no doubt that Prairie Land can manage
13 and operate the service territory at the same level of quality service as the
14 customers have been experiencing.

15 **Q. Is Prairie Land asking the Commission to approve the transfer of the**
16 **territory Prairie Land is currently serving pursuant to its service contract**
17 **with Mid-Kansas?**

18 A. Yes. However, there are several key issues related to the proposed Wholesale
19 Requirements Agreement and Shared Service Agreement that have to be
20 resolved satisfactorily, which, if not resolved satisfactorily, may compel the
21 unilateral withdrawal of Mid-Kansas' and Prairie Land's request for the transfer of
22 the subject certificated territory.

1 **Q. What factors might put in question the request for transfer of the**
2 **certificated territory as set forth in the application?**

3 A. It is difficult to list all factors, but, certainly, if there is not a binding commitment
4 that power for the service territory be purchased from Mid-Kansas, or if KEPCo is
5 allowed to charge a rate different then the currently approved Mid-Kansas
6 wholesale rate and such rate is not economical or just and reasonable, Prairie
7 Land and Mid-Kansas would be compelled to withdraw the application.

8 **2. APPROVAL OF SHARED SERVICE AGREEMENT**

9 **Q. The application seeks the approval of a Settlement Agreement and Shared**
10 **Service Agreement, as supplemented. Would you provide the background**
11 **of the Settlement and Shared Service Agreement?**

12 A. First, you need to understand that several years ago Victory and Prairie Land
13 entered into a Wholesale Power Contract with KEPCo. At the time both coops
14 also had existing Wholesale Power Contracts with Sunflower. Prairie Land
15 entered into the Wholesale Power Contract first with Sunflower which required
16 Prairie Land to purchase all its power requirements from Sunflower. However,
17 there were certain delivery points in the Prairie Land service territory that
18 Sunflower was not physically able to service. With the consent of Sunflower,
19 Prairie Land entered into a limited Wholesale Power Contract with KEPCo to
20 serve load at specific delivery points. As a result, Prairie Land became a
21 member of both Sunflower and KEPCo. It should be noted that the load to be
22 served under the KEPCo Wholesale Power Contract did not include any load

1 which is now served by Mid-Kansas.² Wheatland, Lane-Scott and Western only
2 have Wholesale Power Contracts with Sunflower. Southern Pioneer does not
3 have a Wholesale Power Contract, but its parent company, Pioneer Electric,
4 does with Sunflower.

5 After the execution of the Asset Purchase Agreement with Aquila for the
6 purchase of Aquila WPK and prior to the approval of the acquisition by the
7 Commission, KEPCo asserted, that under its Wholesale Power Contract with
8 Victory and Prairie Land, it had the right to provide all of the power supply for the
9 load in the certificated territory to be transferred to Victory and Prairie Land.

10 Although Prairie Land does not believe either Sunflower or KEPCo have a
11 contractual right to serve the territory, Sunflower probably has a better legal
12 argument than KEPCo to assert a claim to service the load. Regardless,
13 Sunflower was willing, if KEPCo was, to waive the application of its Wholesale
14 Power Contract to the service territory to be transferred herein. However, KEPCo
15 was not, resulting in a dispute which if left unresolved ran the risk of Mid-Kansas
16 defaulting on the purchase agreement with Aquila and subjecting all of the
17 Members to substantial liquidated damages. Although Victory and Prairie Land
18 took issue with KEPCo's claim, Mid-Kansas, Victory and Prairie Land were under
19 tremendous pressure to resolve the dispute in order to complete the acquisition
20 in time to avoid default under the contract to purchase the Aquila assets. Thus,
21 Sunflower, Mid-Kansas and KEPCo entered into the Settlement Agreement and

² The four KEPCo delivery points serve a small area in parts of two counties. The Aquila customers served by Prairie Land are spread out over eleven counties. Also the distribution voltage off the KEPCo delivery points is different from Aquila system.

1 Sunflower, KEPCo, Victory and Prairie Land entered in to the Shared Service
2 Agreement.

3 The Shared Service Agreement provides, in part, that upon transfer of the
4 Certificate of Convenience to Victory and Prairie Land, the load of Victory and
5 Prairie Land would be served, in equal shares, by Sunflower and KEPCo and
6 that KEPCo and Sunflower would be required to purchase all wholesale services
7 from Mid-Kansas to serve the Victory and Prairie Land load in their assigned
8 certificated territory. The Shared Service Agreement specifically provides that it is
9 subject to the approval of Commission and not effective until such approval is
10 received. The Settlement Agreement is subject to the approval of the
11 Commission, if required.

12 **Q. Are Mid-Kansas and Prairie Land seeking the approval of the Settlement**
13 **Agreement and Shared Service Agreement, as supplemented, in these**
14 **proceedings?**

15 **A.** Yes. In accordance with the terms of the Settlement Agreement and Shared
16 Service Agreement, as supplemented, Mid-Kansas and Prairie Land are
17 requesting both be approved. Approval will resolve any claims going forward as
18 to who serves the load under the competing Wholesale Power Contracts with
19 KEPCo and Sunflower.

20 **3. DETERMINATION OF RATE UNDER SHARED SERVICE AGREEMENT**

21 **Q. There is a provision under the Shared Service Agreement which speaks to**
22 **the possibility of KEPCo charging a wholesale rate different than the Mid-**

1 **Kansas wholesale rate for one-half of the load of Victory and Prairie Land.**

2 **Would you please explain this provision?**

3 A. As to the certificated territory to be transferred herein, the Shared Service
4 Agreement provides, in part, that KEPCo may seek approval by the Commission
5 of a charge of 1 mill per kW hour to the Mid-Kansas wholesale rate for the
6 duration of the retail rate freeze that was likely to be imposed under the 524
7 Docket. After the rate freeze (which has already passed), the rate for services
8 provided by KEPCo was to be set subject to the approval of the Commission and
9 must be recoverable in the Victory and Prairie Land's retail rates and be
10 economically viable.

11 **Q. Was it your understanding KEPCo was entitled to a charge in addition to**
12 **the Mid-Kansas wholesale rate?**

13 A. No. The purpose of the provision was to contractually require KEPCo to have the
14 wholesale rate approved by the Commission and to set conditions for approval of
15 the rate. I have been advised by KEPCo that it intends to charge the Mid-Kansas
16 wholesale rate plus an adder of so many additional mills. If that is the approach
17 they take, the wholesale rate has to be approved by the Commission. Therefore,
18 any wholesale rate other than the currently approved Mid-Kansas wholesale rate
19 requires Commission approval. This is a contractual obligation which we
20 bargained for in the Shared Service Agreement and is very important to Victory
21 and Prairie Land. Any wholesale rate charged by KEPCo other than the
22 Commission approved Mid-Kansas wholesale rate, is unacceptable to Prairie

1 Land and subject to the determination of the Commission as required by
2 contract.

3 **Q. You indicate that any wholesale rate, other than the Mid-Kansas wholesale**
4 **rate, is unacceptable to Prairie Land. Does the Commission have to also**
5 **approve the Mid-Kansas wholesale rate should KEPCo elect to pass**
6 **through that rate for the services it is to provide for one-half the load?**

7 A. I am not an attorney, but it was my understanding when we negotiated the
8 agreement and as confirmed by the language, the Shared Service Agreement
9 specifically requires the approval of the KEPCo wholesale rate. The application
10 requests approval of the KEPCo wholesale rate to Victory and Prairie Land.
11 However, this Commission previously approved the Mid-Kansas wholesale rate
12 in the 969 Docket. So from a contractual stand point, if KEPCo sets its wholesale
13 rate to Prairie Land and Victory at the currently approved Mid-Kansas wholesale
14 rate, then technically the wholesale rate has been already approved by the
15 Commission in the 969 Docket and no further approval is necessary. Prairie Land
16 has no objection to the wholesale rate being the Mid-Kansas' wholesale rate as
17 we believe that is the appropriate rate to be charged. The Mid-Kansas wholesale
18 rate correctly reflects the cost of wholesale service to Victory and Prairie Land
19 from the operation of the Aquila assets purchased by the retail customers to
20 serve their electric needs.

21 **Q. Can you give the historical background as to the nature and purpose of**
22 **this provision?**

1 A. As stated above, after Mid-Kansas entered into the Asset Purchase Agreement
2 Aquila for the purchase of Aquila-WPK, and before approval of the acquisition by
3 the Commission, KEPCo claimed it was entitled to serve the entire load of Victory
4 and Prairie Land upon transfer of the certificated territory and the customers.
5 When raised, Sunflower, Mid-Kansas, Victory and Prairie Land all objected to
6 KEPCo's claim to serve the load. You need to understand that in order for Mid-
7 Kansas to purchase Aquila-WPK, the Members, or their parent company in the
8 case of Southern Pioneer, all of whom at the time were RUS borrowers, required
9 RUS approval. Therefore, prior to even submitting a bid, all of the Members
10 sought and obtained the necessary RUS approvals to proceed. Certainly without
11 such approvals, none of the Members would have proceeded with a bid. Nor
12 would any have signed the individual Member guaranty of Mid-Kansas'
13 performance under the Asset Purchase Agreement with Aquila and subject our
14 individual coops to significant liability for liquidated damages. However, after the
15 Mid-Kansas bid was accepted and approval of the acquisition was pending
16 before the Commission, KEPCo asserted its claim to serve the load. When we
17 disagreed, KEPCo contacted RUS about their disputed claim under their
18 Wholesale Power Contract. Despite the prior RUS approvals, RUS advised that
19 the Members could not proceed with the acquisition until the issues with KEPCo
20 were resolved. We strenuously objected but recognized the consequences of not
21 resolving the issue quickly were catastrophic. Mid-Kansas would have been
22 unable to complete the purchase in the time allotted and the Members would
23 have had to make good on their performance guarantee. The dire situation

1 forced Sunflower, Mid-Kansas, Victory and Prairie Land to come to terms in order
2 to conclude the acquisition, or otherwise face the consequences of breaching the
3 Asset Purchase Agreement. This led to the agreement whereby Sunflower and
4 KEPCo would each share one-half the load transferred to Victory and Prairie
5 Land with the condition all power had to be provided by Mid-Kansas.

6 KEPCo also negotiated for an agreed upon adder to the Mid-Kansas wholesale
7 rate for the Victory and Prairie Land load to be served by KEPCo. Victory and
8 Prairie Land strenuously objected to any rate adder. After lengthy discussions,
9 the parties could not reach agreement. Recognizing we were at impasse, each
10 agreed that any wholesale rate charged by KEPCo would have to be approved
11 by the Commission, leaving the parties to argue later for or against a rate adder.
12 This left the issue open for future determination by the Commission. We have
13 now reached the point with spin down that the KEPCo rate issue has to be
14 determined.

15 **Q. Was it the intent of Sunflower to also charge an adder to the Mid-Kansas**
16 **wholesale rate for the load being served by Sunflower?**

17 A. No. From the outset, it was Sunflower's intention for the sale of power to occur
18 strictly between Mid-Kansas and the Members. However, the resolution of the
19 dispute over the shared Members resulted in interjecting Sunflower into the mix.
20 Sunflower did not believe a wholesale rate other than the Mid-Kansas wholesale
21 rate was appropriate as neither Sunflower nor KEPCo could or should try to
22 benefit from the acquisition, nor was there any conceivable reason for an

1 additional charge. Regardless, it was and still is Sunflower's intent to simply pass
2 through the wholesale rate to the Members without any additional charge.

3 **Q. What is your understanding of the terms "economically viable" as it is used**
4 **in the Shared Service Agreement?**

5 A. The Shared Service Agreement requires the wholesale rate to be economically
6 viable. Many factors could be considered to determine if a rate is economically
7 viable. Certainly, it needs to be acceptable to Mid-Kansas' lenders. Anything that
8 would undermine the capability of Mid-Kansas or its Members to meet their
9 financial obligations would put in question whether the transfer is economically
10 viable. Additionally, it should be just and reasonable to be economically viable
11 and it must be such that it does not economically disadvantage Victory and
12 Prairie Land or the customers they serve. For example, if the rates in Victory's
13 and Prairie Land's service territory would be less competitive than rates in other
14 service territories, the rate then may not be economically viable. Obviously, other
15 factors could also be a consideration.

16 **Q. Can you provide an indication of the magnitude in dollars as to the**
17 **imposition of an adder?**

18 A. If a 1 mill adder is charged to the current Mid-Kansas wholesale rate on one-half
19 the load in the Prairie Land division, the 1 mill adder would cost Prairie Land
20 customers approximately \$150,000 annually. Combined with the Victory load, the
21 cost to the retail customer is approximately \$400,000. Obviously, each additional
22 mill levied increases at the same magnitude. Plus, any increase in the current
23 load would increase the magnitude of the cost to customers.

1 **Q. Is it your understanding that the terms of the Shared Service Agreement**
2 **unquestionably provide for KEPCo to be granted an additional charge to**
3 **the wholesale rate charged by KEPCo?**

4 A. No. As I stated above, the wholesale rate is an unresolved issue for the
5 Commission to determine in accordance with the Settlement Agreement and
6 Shared Service Agreement contractual terms.

7 **Q. At this time, do you have a position on the wholesale rate Victory and**
8 **Prairie Land should pay?**

9 A. Yes. Our position has never changed. Prairie Land's Board of Directors believes
10 now as it did when KEPCo asserted its claim, the only appropriate wholesale rate
11 is the Mid-Kansas wholesale rate. This was an acquisition of a public utility by
12 Mid-Kansas and its Member owners and not by Sunflower or KEPCo. For KEPCo
13 to now impose itself on the transaction for purposes of reaping a profit at the
14 expense of the customers who own the assets and are shouldering the risk of the
15 acquisition is not just and reasonable. The only justifiable rate is the rate the
16 customers expected to pay when they undertook, through their member owned
17 cooperative, to purchase the Aquila assets and borrow the money to do so. The
18 customers bought the assets and, as any owner, expected to pay the costs of
19 service related to the operation of the assets they purchased. KEPCo should not
20 profit off of the retail customers who took the risk of ownership and combined
21 together to purchase the Aquila assets to meet their individual electric needs. To
22 do otherwise, is to allow KEPCo to enjoy the benefit of the "sweat off someone
23 else's brow".

1 **Q. If KEPCo wanted to profit off the acquisition of Aquila-WPK, could KEPCo**
2 **or its members have acquired the assets?**

3 A. Ironically, prior to submitting a bid for the purchase of Aquila-WPK, KEPCo and
4 its interested members were invited by the six members of Mid-Kansas to
5 participate in the purchase of Aquila-WPK. The concept was to logically divide
6 up the Aquila territory among the KEPCo and Sunflower members. After the
7 initial meeting and further discussion, KEPCo and its members declined to
8 participate in the bid for Aquila-WPK, so the Sunflower members formed Mid-
9 Kansas and successfully pursued it on their own. Therefore, for me personally,
10 it's upsetting for KEPCo to now attempt to be treated as an owner when they
11 declined the opportunity to own.

12 **Q. As one of the joint applicants, what are you asking the Commission to do?**

13 A. Certainly, prior to the transfer of the certificated territory to Victory and Prairie
14 Land, the Commission must determine whether or not the Settlement Agreement
15 and Shared Service Agreement, as supplemented, should be approved. If
16 approved, Mid-Kansas, Victory and Prairie Land request that the Commission
17 find and order that the terms of the wholesale services and rates provided by
18 KEPCo for the Victory and Prairie Land load be the same as the terms of the
19 currently approved wholesale services and rates provided by Mid-Kansas, as
20 may be modified by Mid-Kansas from time to time, and that the Commission
21 make such finding and order prior to the transfer of the Certificates to Victory and
22 Prairie Land as the determination may impact their request for the transfer of the

1 Certificates herein. Provided further, should KEPCo elect in the future to set
2 terms of wholesale service and rates different than the approved Mid-Kansas
3 wholesale terms of service and rates, Mid-Kansas, Victory and Prairie Land
4 request that Commission find and order that the wholesale terms of service and
5 rates can be modified only after approval by the Commission.

6 **Q. Does the same determination have to be made as to the load being served
7 by Sunflower?**

8 A. No. Sunflower will pass through Mid-Kansas' Commission approved wholesale
9 rate established in the 969 Docket to Victory and Prairie Land as well as for the
10 other Mid-Kansas Members.

11 **4. DETERMINATION OF PROCESS FOR EXEMPTION FROM REGULATION**

12 **Q. The application requests the determination of the process the Members are
13 to follow upon transfer of a Certificate to exempt themselves from
14 regulation under K.S.A. 66-104d. Would you explain why the applicants are
15 requesting a determination of the process?**

16 A. Mr. Lowry discussed this in his testimony, and I will defer to his legal analysis as
17 it pertains to the voting process and purpose of the statute. Prairie Land was not
18 regulated prior to the acquisition and is currently deregulated. Our member
19 owners supported the election to exempt themselves from regulation. Since
20 Prairie Land is a cooperative, the member owners set rates which they
21 themselves pay, and, therefore, you do not have the competing interest that you
22 have in an investor-owned utility where shareholders are the owners who set
23 rates for customers who are not. Over the years, our member owners have

1 benefited from not only the ownership arrangement but the ability to determine
2 when, and if, a rate increase should be implemented. Because they pay for the
3 services, they are much better at determining their needs and the rate needed to
4 provide affordable and reliable service to them. Prairie Land's Board of Directors
5 have done a very good job of controlling rates, which we think has been validated
6 by the member owners' satisfaction with being deregulated.

7 **Q. You recall that in the acquisition docket the Members stipulated to the**
8 **steps for deregulation upon transfer of the Certificate of Convenience. Are**
9 **the applicants now seeking a modification to that process?**

10 A. Yes. The stipulation in the 524 Docket provided that the Aquila-WPK customers
11 be given full cooperative membership rights. Prairie Land, upon the acquisition,
12 granted all of the former Aquila-WPK customers full cooperative membership
13 rights, including the right to vote and the right to patronage. Therefore, we have
14 already met part of the requirement of the stipulation. The remainder of the
15 stipulation requires a vote by the Aquila-WPK customers to determine whether
16 they should exempt themselves from regulation. The vote is limited to only those
17 customers in the former Aquila-WPK certificated territory being transferred to
18 Prairie Land. Although we are optimistic such a vote would be in favor of
19 exemption, a vote disapproving deregulation would raise serious legal and
20 practical questions as to the impact on the customers currently deregulated. As
21 Mr. Lowry has stated, the statute does not contemplate a partial deregulation of
22 the cooperative's members. As to its member owners, the cooperative is either
23 regulated or not regulated. Our Board of Directors do not believe it would be fair

1 or equitable to force our member owners that are currently satisfied with the
2 deregulated status of Prairie Land to become regulated by a vote solely of the
3 former Aquila-WPK customers. As Mr. Lowry has pointed out, the statute does
4 not allow another vote for a period of two years. Disapproval would subject
5 Prairie Land and its current customers to regulation for at least a two-year period
6 in which it would incur costs it is not currently incurring. It would further hinder the
7 combining the rates of the two divisions into one.

8 **Q. Does Prairie Land have a recommended solution?**

9 A. Yes. We seek the modification of the Order in the 524 Docket to provide that to
10 the extent any Member cooperative is exempt from regulation at the time of the
11 transfer of the Certificates, the Member cooperative would remain unregulated
12 subject to a future vote of the membership. Under the statute, customers of not
13 less than 10% of members of the cooperative may petition for a vote on being
14 regulated. This is in addition to the right for no less than 5% of all the
15 cooperative's customers or 3% of the cooperative's customers from any one rate
16 class to require the Commission to investigate all rates.³ Prairie Land believes
17 the ability of the former Aquila-WPK customers to petition for a vote or review of
18 rates upon petition provides adequate relief, is fair to the currently deregulated
19 customers, and falls within the spirit of the stipulation.

20 **Q. Does this conclude your testimony?**

21 A. Yes.

³ See K.S.A. 66-104d(g)(1).

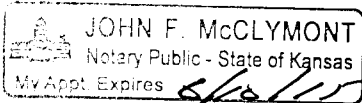
VERIFICATION

STATE OF KANSAS)
COUNTY OF Norton) ss:

Allan J. Miller, of lawful age, being first duly sworn, deposes and says that he is the Allan J. Miller referred to in the foregoing document entitled "Direct Testimony of Allan J. Miller" before the State Corporation Commission of the State of Kansas and that the statements therein were prepared by him or under his direction and are true and correct to the best of his information, knowledge, and belief.

Allan Miller
Allan J. Miller

SUBSCRIBED AND SWORN to before me this 26th day of December 2012.

JOHN F. McCLYMONT
Notary Public - State of Kansas
My Appt. Expires 6/12/15

[Signature]
Notary Public

My appointment expires: 6/12/15