

granted intervenor status in this 16-258 Docket⁴ and provides the following comments regarding Staff's R&R.

II. General Comments

3. Overall, KCP&L agrees with most of Staff's recommended changes to K.A.R. 82-16-1 through 82-16-6. Staff's proposed amendments have the effect of not only creating consistency with the revisions to the RES Act but also providing additional streamlining of the Commission's Rules and Regulations. Staff also recommends modifications to reflect differences in practice, the evolution of processes, and better alignment with processes. Such review and improvement is important to create effective, efficient and clear requirements for the affected utilities. KCP&L believes the additional recommended changes set out below will further Staff's goal and result in more effective rules and regulations related to the RES Act.

III. Specific Recommendations

K.A.R. 82-16-1. Definitions.

4. Staff recommends multiple definition changes under this section. KCP&L reviewed these changes and provides comments below on three of the definitions.

- a. Capacity from renewable energy credits ("RECs") – Staff recommends changes to this definition to apparently expand it beyond purchased RECs. KCP&L requests clarification as to what such expansion is intended to cover. KCP&L assumes RECs associated with purchase power agreements are not envisioned to be accounted for under this definition.
- b. Data year – Staff recommends the addition of a new defined term – "data year".
KCP&L agrees with Staff's addition and with Staff's proposed definition;

⁴ 16-258 Docket, *Order Granting Kansas City Power & Light's Petition to Intervene*, issued Feb. 2. 2016.

however, as will be discussed later, KCP&L believes this new defined term can help reduce confusion by changing the annual in-service threshold date for reporting from July 1 to December 31. Such change would not conflict with Staff's new defined term.

- c. REC – The definition of a REC was previously contained within the RES Act, specifically in K.S.A. 66-1257, but was deleted by the 2015 amendments. Staff recommends the definition be reinstated in the regulations with one difference – Staff proposes to remove the language specifying that the source of the REC must be either located in the State of Kansas or serving the ratepayers of the State of Kansas. KCP&L is agreeable to Staff's recommended removal.

KCP&L does recommend changes to the statement “a credit representing energy produced by renewable energy resources issued as part of a program that has been approved by the state corporation commission.” KCP&L proposes this statement should instead read “a credit representing energy produced by renewable energy resources *accounted for* as part of a *renewable energy registry such as the North American Renewable Registry (“NARR”)* that has been approved by the *commission*.” [Changes shown in italics.] This language provides greater clarity than the original language of the statute which Staff inserted into the Rules and Regulations.

K.A.R. 82-16-2. Renewable energy standards and report.

5. Staff makes multiple recommended changes to this section including (a) changes to reflect the RES Act revision from a mandatory requirement to a voluntary goal; (b) changes to tie annual reporting to a utility's ability to recover costs associated with the RES Act; (c) changes regarding the due date for annual reporting by affected utilities; (d) changes to the information required to be included in the annual reporting; and (e) changes to update references to the revised RES Act. KCP&L has concerns with several of Staff's changes in this section and proposes additional changes not included in Staff's recommendations.

Reporting Requirement Tie to Cost Recovery

6. In the first sentence of section 82-16-2(b), Staff appears to tie the requirement for utilities to file annual reports with the opportunity to request recovery of reasonable costs associated with the RES Act; however, Staff's changes appear to be either incomplete or unnecessary as Staff includes language related only to the statutorily allowed recovery of costs associated with meeting the voluntary RES Act goal and makes no mention of the statutorily allowed recovery of costs incurred as a result of the previous mandatory RES Act requirement. Such amendment to the RES Act was effective January 1, 2016. To date, affected utilities have only reported through July 1, 2015.

7. The statute is clear on a utility's ability to recover reasonable costs incurred for both mandatory compliance with the statute prior to amendment and voluntary compliance after amendment. Specifically, the statute states,

Sec. 3. K.S.A. 2014 Supp. 66-1259 is hereby amended to read as follows: 66-1259. (a) The commission shall allow affected utilities to recover reasonable costs incurred or committed to be incurred as a result of compliance with the renewable energy resource requirements required in K.S.A. 2014 Supp. 66-1258, prior to its repeal. All rules and regulations and orders of the state corporation commission that relate to allowing a utility to recover costs incurred to meet such

requirement, and that are in effect on June 30, 2015, shall continue to be effective. The commission shall allow affected utilities to recover reasonable costs incurred as a result of meeting the voluntary 20% goal in K.S. A. 2014 Supp. 66-1256, and amendments thereto.

KCP&L recommends the first sentence of section 82-16-2(b) be modified to read “Each utility planning to seek recovery of reasonable costs incurred under the RES Act, related to either the previous mandatory requirement or the current voluntary requirement, shall submit a report to the commission detailing that utility’s efforts related to the RES Act.” Such language encompasses both the pre- and post-amended RES Act requirements and defers to the RES Act regarding recovery.

8. KCP&L also seeks clarification as to whether Staff envisions a point at which utilities would no longer need to provide annual reporting, *e.g.*, after a utility has attained the 20 percent voluntary goal and is no longer adding new renewable resources for the purpose of the RES Act.

Annual Report Due Date

9. First, KCP&L agrees with Staff’s recommendation to move the annual report due date from August 1 to March 31 of the following year. However, KCP&L believes that with the addition of the newly defined term “data year” and the movement of the reporting deadline, the in-service date for renewable generation and other sources should be moved to a calendar year basis to avoid confusion and tie out to other reports filed with the Commission. Choosing an in-service date in the middle of a calendar year was meant to show that renewable capacity resources were in place for at least half of the compliance reporting year. However, the voluntary nature of the revised statute and the complexity of reporting to mid-year rather than on a calendar year basis make such mid-year convention unnecessary. Therefore, KCP&L proposes that affected utilities report the required information based on a calendar year basis with, as Staff

proposed, the annual report due the following March 31. Such recommendation would require the reference to July 1 under sections 82-16-2(b) and (b)(1) to be changed to December 31. The same change would be required twice in section 82-16-2(b)(2) if Staff's recommended changes there are accepted. Additionally, KCP&L recommends the last sentence of section 82-16-2(b) be modified as follows – "Each report shall contain the following information *from the data year.*"

10. One component of the annual report is net metering systems put into service on or before July 1 of the "data year". Utilities are already required to report their net metering information on an annual basis each March 1 for the previous calendar year. Accepting KCP&L's recommendation would avoid affected utilities reporting two sets of net metering numbers every year and the associated workload in preparing two sets of information.

11. Calendar year reporting is also consistent with most other utility reporting and is common practice for many Commission reports including net metering information, reliability data, tree trimming reports, and numerous other data provided annually to the Commission.

12. In order to transition from a July 1 in-service threshold date for reporting to a December 31 threshold in-service date, the Commission and affected utilities could simply provide for the first report due under the revised rules and regulations to be on a calendar year basis for year 2015 at a reasonable time following final approval of such rule changes. Thereafter, affected utilities would report each March 31, starting with March 31, 2017, on the prior calendar year. Language for such transitional reporting should be added under section 82-16-2(b).

13. Finally, KCP&L recommends changes to Staff's recommended language for the new section 82-16-2(b)(2). We believe it should read "...a narrative supporting the rationale for selecting each renewable resource purchased or put into service during the data year."

K.A.R. 82-16-4. Retail revenue requirement.

14. Staff's recommended changes to this section appear to simplify the retail revenue requirement calculation; however, it also changes the calculation from addressing only new renewable capacity resources added in the applicable year to all renewable capacity resources regardless of when added that are used toward attainment of the voluntary goal. This would require affected utilities to provide revenue requirements for every renewable capacity resource every year. KCP&L does not see the benefit in this change to the reporting requirements and requests that the language of the first two sentences of section 82-16-4(a) read as follows "In conjunction with the reports required by K.A.R. 82-16-2, each affected utility shall calculate the retail revenue requirement for each new renewable capacity resource added during the data year and used to attain the renewable energy goal of the RES Act. A renewable capacity resource may result from new sources of generation, purchased energy, RECs, or net metering systems." KCP&L also requests that Staff provide further information and guidance on what is expected to be provided to meet this requirement.

K.A.R. 82-16-5. Certification of renewable energy resources.

15. The RES Act, as revised, deleted from the listing of renewable energy sources the statement "other sources of energy, not including nuclear power, that become available after the effective date of this section, and that are certified as renewable by rules and regulations established by the commission pursuant to K.S.A. 2014 Supp. 66-1262, and amendments thereto." In addition, K.S.A. 66-1262 was repealed in its entirety. Staff's proposed changes to the rules and regulations include retention of the language that allows a utility to seek approval from the Commission to classify as renewable any generation capacity from a source not listed in the RES Act. While KCP&L agrees that this provision is desirable, it is questionable whether

the Commission can, by regulation, enlarge the list of renewable capacity sources beyond that contained in the statute.

K.A.R. 82-16-6. Renewable energy credit program.

16. KCP&L has two concerns regarding Staff's recommended change to section 82-16-6(a). First, this section now appears to apply to any and all RECs and not just to RECs intended to be used to meet the RES Act as previously written. KCP&L recommends this language continue to tie back to RECs used in association with the RES Act. Second, KCP&L recommends changes to the language consistent with KCP&L's recommended changes under the definition of REC. Specifically, KCP&L recommends the first sentence of section 82-16-6(a) read "(a) Renewable energy credits intended to be used to meet the goal of the RES Act stated in K.S.A. 66-1256 shall be accounted for as part of a renewable energy registry either established or approved by the commission." The title to this section should also be changed to "Renewable energy credit registration."

17. Staff's recommended changes to section 82-16-6(b) appear to streamline the language without changing the intent for affected utilities. However, with the advent of the Environmental Protection Agency's Clean Power Plan ("CPP"), the language in section 82-16-6(b) requires modification. The provision that requires a REC to be counted only once may prevent utilities from using the same renewable resources to meet both the Kansas RES Act goal and the CPP requirements. An exception needs to be included to allow double counting for federal compliance purposes.

18. KCP&L also disagrees with some of Staff's recommended modifications to the language of section 82-16-6(c) and also recommends additional changes to this section. First, KCP&L does not believe it is necessary to require a utility to permanently retire unused RECs at

the end of two years. There is a cost to retire RECs and there is no need to incur these costs. Additionally, other jurisdictions have different rules regarding the period of time a REC remains valid. For example, Missouri allows a three year window for RECs from creation to use. Therefore, an unused REC that is invalid in Kansas may have value elsewhere. Additionally, the language currently reflects that RECs remain valid in Kansas for up to two years *from the date that the associated electricity is generated*. This is incorrect. The language should reflect that RECs remain valid in Kansas for up to two years *from the end of the calendar year that the associated electricity was generated*. In other words, a REC generated at any point in time during calendar year 2015 may be used for compliance in calendar year 2016 or 2017. Therefore KCP&L proposes the following alternative language: “For purpose of the Kansas RES Act, unused RECs shall remain valid for up to two years from the end of the calendar year that the associated electricity was generated and shall be permanently retired when used for attainment of the voluntary 20 percent goal prescribed by the RES Act.”

19. Section 82-16-6(c) also requires an exception for federal compliance under CPP requirements both in the language of the section as well as in the definitional language of the equation components.

20. Additionally, the term “Total Renewable Capacity for Compliance” used in the equation set out in this section should be changed to “Total Renewable Capacity for Voluntary Attainment”.

21. KCP&L recommends one change to Staff’s modifications to section 82-16-6(d) from “Each REC sold or purchased by any Kansas utility” to “Each REC created, purchased or sold by any Kansas utility”.

WHEREFORE, KCP&L respectfully requests that the Commission accept these comments and give them due consideration when determining changes to K.A.R. 82-16-1 through 82-16-6.

Respectfully submitted,

/s/ Robert J. Hack

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VERIFICATION

STATE OF MISSOURI)
) ss
COUNTY OF JACKSON)

The undersigned, Mary Britt Turner, upon oath first duly sworn, states that she is the Director, Regulatory Affairs of Kansas City Power & Light Company, that she has reviewed the foregoing Comments, that she is familiar with the contents thereof, and that the statements contained therein are true and correct to the best of her knowledge and belief.

Mary Britt Turner
Mary Britt Turner
Director, Regulatory Affairs
Kansas City Power & Light Company

Subscribed and sworn to before me this 1st day of March 2016.

Karen M. Smith
Notary public

My commission expires:

April 16, 2016



KAREN M. SMITH
My Commission Expires
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CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that on this 1st day of March, 2016, a true and correct copy of the above and foregoing was electronically served, hand-delivered or mailed, postage prepaid, to the below-named individuals:

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