

Commission's approval of the 06-1203 S&A, Sunflower has subsequently filed several applications to modify the WHM Rate.³

3. On November 2, 2018, Sunflower filed an Application with the Commission requesting approval of a Wholesale Power Agreement Rate between Sunflower and KEPCo, which replaces Tariff Schedule WHM-17 with Tariff Schedule WHM-19 in Sunflower's Member Rate ("WHM Rate"). The lower WHM Rates reflect a reduction in Sunflower's revenue requirement. Under the terms of the Wholesale Power Agreement (WPA), Sunflower will sell power and energy to KEPCo at Sunflower's WHM Rate.⁴

II. JURISDICTION AND STANDARD OF REVIEW

4. Sunflower is an electric public utility under K.S.A. 66-101a, but meets the definition of a "cooperative" under K.S.A. 66-104d(a)(2). Therefore, the Commission's jurisdiction over Sunflower is limited.

5. With respect to the Application, the Commission holds subject-matter jurisdiction over a cooperative with regard to: "sales of power for resale, other than sales between a cooperative, as defined in subsection (a), that does not provide retail electric service and an owner of such cooperative" under K.S.A. 66-104d(f)(3).

6. The WPA constitutes a sale of power for resale because KEPCo, the buyer, is itself engaged in the business of providing power and energy to its 19 member distribution cooperatives in the State of Kansas. Therefore, the WPA is jurisdictional to the Commission. All rates

³ In the 06-1203 Docket, the Commission has approved six WHM Rate modifications. WHM-12 approved Mar. 16, 2012; WHM-13 approved Feb. 27, 2013; WHM-14 approved Apr. 24, 2014; WHM-15 approved Jan. 22, 2015; WHM-16 approved Mar. 15, 2016; and WHM-17 approved Jan. 9, 2018.

⁴ *Sunflower Electric Power Corporation Application for Approval of WPA Rate in WHM-19*, (WHM-19 Application) Docket No. 06-SEPE-1203-CON (Nov. 2, 2018).

requested by Sunflower pertaining to jurisdictional service must be approved by the Commission pursuant to K.S.A. 66-117.

7. The rates and terms of the WPA must be just and reasonable pursuant to K.S.A. 66-101b. Additionally, they may not be unreasonably discriminatory or unduly preferential.

III. STAFF'S REPORT AND RECOMMENDATION

8. On November 28, 2018, the Commission's Technical Staff ("Staff") submitted a Report and Recommendation (R&R) with respect to the Application and is attached to this Order.⁵

9. Staff's notes in its R&R that the 06-1203 S&A details how future modifications to the WHM Rates should be handled. The 06-1203 S&A states "Sunflower, KEPCo and Staff stipulate and agree that for future changes to the WHM rate, Sunflower will, after engaging in the discussions with KEPCo called for in the WPA, file its proposed new WHM rate for Commission approval for application to KEPCo, to be review under such scope of review as may be determined by the Commission."⁶

10. Staff then states that KEPCo has reviewed the application including a draft of the clean and redline versions of the Schedule WHM-19, an explanation of the key drivers of the rate reduction, the information presented to the Sunflower Board of Directors to recommend the rate change, interest and debt service coverage metrics and the financial ratio used to establish the appropriate target margin and the basis for the ratio.

11. Staff points out that Sunflower's Board of Directors implemented a rate reduction in the proposed WHM-19 Tariff Schedule due to Sunflower having a new contract with Mid-

⁵ *Staff Report and Recommendation*, (Staff R&R) Docket No. 06-SEPE-1203-CON (Nov. 28, 2018).

⁶ *Stipulation and Agreement*, at 3 (S&A) Docket No. 06-SEPE-1203-CON (Apr. 7, 2010).

Kansas Electric Company, Inc. (MKEC). The MKEC contract increases revenue and decreased Sunflower's fixed generation costs which are reflected in the lower rate.⁷

12. Because Sunflower has met the requirements listed above in the 06-1203 S&A and the WHM-19 coincides with Sunflower's 2019 revenue requirement, Staff concludes the WPA Rate reduction is just and reasonable.⁸

IV. FINDINGS AND CONCLUSIONS

13. The Commission finds that Staff's Report and Recommendation dated November 28, 2018, is reasonable and its recommendation shall be adopted.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

- A. Sunflower's Application is approved.
- 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)⁹.
- C. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further order, or orders, as it may deem necessary and proper.

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 12/06/2018



Lynn M. Retz
Secretary to the Commission

CAB/REV

⁷ Staff R&R at 3, Docket No. 06-SEPE-1203-CON (Nov. 28, 2018).

⁸ *Id.* at 4.

⁹ K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

STATE OF KANSAS



CORPORATION COMMISSION
UTILITIES DIVISION
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604-4027

PHONE: 785-271-3220
FAX: 785-271-3357
<http://kcc.ks.gov/>

GOVERNOR JEFF COLYER, M.D.

SHARI FEIST ALBRECHT, CHAIR | JAY SCOTT EMLER, COMMISSIONER | DWIGHT D. KEEN, COMMISSIONER

REPORT AND RECOMMENDATION UTILITIES DIVISION

TO: Chairman Shari Feist Albrecht
Commissioner Jay Scott Emler
Commissioner Dwight D. Keen

FROM: Darren Prince, Managing Research Economist
Justin Prentiss, Senior Research Economist
Lana Ellis, Deputy Chief of Economics and Rates
Robert Glass, Chief of Economics and Rates
Jeff McClanahan, Director of Utilities

DATE: November 28, 2018

SUBJECT: Docket No. 06-SEPE-1203-CON: In the Matter of the Application of Sunflower Electric Power Corporation and Kansas Electric Power Cooperative, Inc. For an Order Approving a New Wholesale Power Agreement.

EXECUTIVE SUMMARY:

On November 2, 2018, Sunflower Electric Power Corporation (Sunflower) submitted an Application for Commission approval of a Wholesale Power Agreement Rate (WPA Rate), which replaces Tariff Schedule SEPC WHM-17 (WHM Rates) with Tariff Schedule SEPC WHM-19 as the basis for the contract rates charged to Kansas Electric Power Cooperative, Inc. (KEPCo). The lower WHM Rates reflect a reduction in Sunflower's revenue requirement, and KEPCo has reviewed and does not object to the changes. Therefore, Staff recommends the Commission find the WPA Rate to be just and reasonable and approve the new WPA Rate reflected in Tariff Schedule WHM-19.

BACKGROUND:

On May 12, 2006, Sunflower and KEPCo filed a Joint Application for approval of the initial Wholesale Power Agreement (WPA),¹ which provided that KEPCo would purchase power and energy from Sunflower at Sunflower's Member Wholesale Rate (WHM Rate) under Tariff Schedule WHM-04 plus an adder (collectively, the "WPA Rate").² Both the WPA and WPA Rate were approved by the Commission on July 17, 2006, in Docket 06-SEPE-1203-CON (Docket 06-1203).³

¹In the Matter of the Application of Sunflower Electric Power Corporation and Kansas Electric Power Cooperative, Inc. for an Order Approving a New Wholesale Power Agreement, May 5, 2006, Docket No. 06-SEPE-1203-CON.

² Order Approving Wholesale Power Agreement, July 17, 2006. Docket 06-1203.

³ Order Approving Wholesale Power Agreement, July 17, 2006. Docket 06-1203.

On February 16, 2010, in Docket 06-1203, Sunflower filed an Application seeking Commission approval of a change to the WHM, which flows to KEPCo through the WPA.⁴ Sunflower and KEPCo met and negotiated a settlement approving the new rate and how to address similar rate changes going forward.⁵ The Commission approved the Stipulation and Agreement, which reiterated conditions established in the WPA to be met when Sunflower updates the WHM.⁶

On October 15, 2013, the Commission approved the Modification Agreement, which eliminated the adder and established the WHM Rate as the sole basis of the WPA Rate.⁷

On September 19, 2018, Sunflower's Board of Directors approved a change in its member Wholesale Rate in schedule SEPC WHM-17, to be replaced with SEPC WHM-19, and Sunflower filed an Application requesting Commission approval of the WPA rate change.

ANALYSIS:

Jurisdiction

The Commission initially approved the WPA on July 17, 2006.⁸ Subsequently, Sunflower and KEPCo exempted themselves from certain regulation by the Commission as authorized by K.S.A. 66-104d; however, the WPA Rate remains KCC-jurisdictional pursuant to Subsection 66-104d(f), which provides the following:

Nothing in this section shall be construed to affect the single certified service territory of a cooperative or the authority of the state corporation commission, as otherwise provided by law, over a cooperative with regard to service territory; charges, fees or tariffs for transmission services; sales of power for resale, other than sales between a cooperative, as defined in subsection (a), that does not provide retail electric service and an owner of such cooperative; and wire stringing and transmission line siting, pursuant to K.S.A. 66-131, 66-183, 66-1,170 et seq. or 66-1,177 et seq., and amendments thereto [emphasis added].

Hence, according to K.S.A. 66-104d(f), the wholesale rates charged by Sunflower to any entities other than its own member-cooperatives are still KCC-jurisdictional. The Commission approved Sunflower's deregulation in 2009. Per KSA 66-104d, Sunflower continued to file and the Commission approved modifications to the WPA after it was deregulated. The current Application represents another similar update to the WPA Rate caused by Sunflower's revision to its WHM Rate.

Standard of Review

K.S.A. 66-101b requires public utility rates to be "just and reasonable." Because special contract rates establish new rates or change current rates, the Commission must approve such contracts to ensure they meet the "just and reasonable" standard.

⁴ Order Approving Stipulating and Agreement, p. 2. April 19, 2010, Docket 06-1203.

⁵ Joint Motion for Approval of Stipulation and Agreement, April 16, 2010, Docket 06-1203.

⁶ Order Approving Stipulating and Agreement, p. 2. April 19, 2010, Docket 06-1203.

⁷ Unanimous Settlement Agreement, October 15, 2013, Docket No. 13-MKEE-447-MIS.

⁸ Order Approving Wholesale Power Agreement, issued on July 17, 2006, Docket 06-1203.

The Agreement set out the following requirements: (1) Sunflower will engage in the discussions with KEPCo as called for in the WPA;⁹ and (2) Sunflower will file its proposed new WHM Rate, as it applies to KEPCo, for Commission Approval.

(1) Discussions with KEPCo

KEPCo reviewed documentation Sunflower provided to support the rates to be applied under Schedule WHM-19, including a draft of the proposed Application; clean and redline versions of the draft Schedule WHM-19; a brief explanation of the key drivers of the rate reduction; materials presented to the Sunflower Board to recommend the rate change; interest and debt service coverage metrics; and the financial ratio used to establish the appropriate target margin and the basis for that ratio.¹⁰ Taking these metrics into account, KEPCo believes the WHM-19 is reasonable and does not object to the change as it applies to the WPA Rate.¹¹

(2) Proposed WHM Rate

The proposed new Tariff Schedule WHM-19 includes:

- (1) the Summer Season demand charge per kW-month of Coincident Demand decreased from \$10.37 to \$9.84;
- (2) the demand charge per kW-month for the months not included in the Summer Season decreased from \$7.77 to \$7.37;¹²
- (3) the Energy Charge per kWh decreased from \$0.017559 to \$0.016665; and
- (4) the customer charge remained the same at \$105 per delivery point.

Sunflower's Board of Directors meets to review and analyze its Member rates each year to achieve targeted revenue requirements and debt covenants. The latest update to the WHM Rate schedule occurred on September 19, 2018, when Sunflower's Board of Directors modified its current Member Wholesale Rate, replacing Tariff Schedule WHM-17 with the new Tariff Schedule WHM-19.

The Board implemented a rate reduction in the proposed WHM-19 Tariff Schedule due to Sunflower having a new contract with Mid-Kansas Electric Company, Inc. (MKEC), which increases revenue and decreases their fixed generation costs.¹³ As a result, the rates in WHM-19 reflect Sunflower's 2019 revenue requirement.¹⁴

⁹The WHM Rate will be modified from time to time, subject to approval by the KCC. In the event that Sunflower proposes to modify the WHM Rate, KEPCo retains the following rights prior to Sunflower's filing for such modification: 1) KEPCo shall have a right to audit the cost-based calculations associated with the WHM Rate and any changes to the WHM Rate proposed by Sunflower; and 2) Sunflower shall provide adequate documentation and information to KEPCo and allow KEPCo to participate in any discussions such that KEPCo can understand and comment on any rate actions considered by Sunflower pertaining to the WHM Rate.

¹⁰ KCC DR 2.

¹¹ KCC DR 2.

¹² According to Sunflower, the Summer Season runs from June 1 through August 31 each year. The remaining months, referred to as "Other Season" by Sunflower, include the time period September 1 through May 31.

¹³ Sunflower DR Response 1.

¹⁴ Sunflower DR Response 1.

Conclusion

Sunflower filed an Application for Commission review and approval of the WHM-19 Rate as it applies to KEPCo and discussed the changes with KEPCo. KEPCo reviewed and does not object to the changes to the WPA Rate. Additionally, the updated WHM-19 coincides with Sunflower's 2019 revenue requirement. Therefore, Staff determines the WPA Rate reduction to be "just and reasonable".

RECOMMENDATION:

Because the increased revenues and reduced fixed generation costs (resulting in a lower revenue requirement) from Sunflower's new contract with MKEC are reflected in the lower rate and Sunflower has met the requirements discussed above, Staff recommends the Commission find the resulting WPA Rate to be just and reasonable and approve the proposed WPA Rate.

CERTIFICATE OF SERVICE

06-SEPE-1203-CON

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 12/06/2018.

COLE BAILEY, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3354
c.bailey@kcc.ks.gov

MARK DOLJAC, DIR RATES AND REGULATION
KANSAS ELECTRIC POWER CO-OP, INC.
600 SW CORPORATE VIEW (66615)
PO BOX 4877
TOPEKA, KS 66604-0877
Fax: 785-271-4888
mdoljac@kepco.org

JAMES BRUNGARDT, MANAGER, REGULATORY
RELATIONS
SUNFLOWER ELECTRIC POWER CORPORATION
301W. 13TH
PO BOX 1020 (67601-1020)
HAYS, KS 67601
Fax: 785-623-3395
jbrungardt@sunflower.net

MARK D. CALCARA, ATTORNEY
WATKINS CALCARA CHTD.
1321 MAIN ST STE 300
PO DRAWER 1110
GREAT BEND, KS 67530
Fax: 620-792-2775
mcalcara@wcrf.com

SUSAN B. CUNNINGHAM, SVP, REGULATORY AND
GOVERNMENT AFFAIRS, GENERAL COUNSEL
KANSAS ELECTRIC POWER CO-OP, INC.
600 SW CORPORATE VIEW (66615)
PO BOX 4877
TOPEKA, KS 66604-0877
Fax: 785-271-4888
scunningham@kepco.org

RENEE BRAUN, CORPORATE PARALEGAL &
CONTRACTS SUPERVISOR
SUNFLOWER ELECTRIC POWER CORPORATION
301W. 13TH
PO BOX 1020 (67601-1020)
HAYS, KS 67601
Fax: 785-623-3395
rbraun@sunflower.net

STUART LOWRY, PRESIDENT AND CEO
SUNFLOWER ELECTRIC POWER CORPORATION
301W. 13TH
PO BOX 1020 (67601-1020)
HAYS, KS 67601
Fax: 785-623-3395
slowry@sunflower.net

/S/ DeeAnn Shupe
DeeAnn Shupe
