

4. On June 7, 2018, Vote Solar, which asserted an interest in “bringing solar energy into the mainstream,” was granted intervention, “conditioned on combining its activities in the docket with Sierra Club pursuant to K.S.A. 77-521(c)(3).”⁴

5. On June 22, 2018, eleven (11) days after intervenor direct testimony was due, Climate and Energy Project (CEP) petitioned to intervene, claiming its “unique interest in promoting DG residential solar and energy efficiency which will in turn benefit the long-term economic, environmental and public health interests of the people of Kansas.”⁵ CEP asked for intervention under K.S.A. 77-521(b), which gives the Commission discretion to grant intervention upon determining that such is in the interests of justice and will not interfere with the orderly and prompt disposition of the matter.⁶ CEP claimed that it alone “has a demonstrated record of advocacy for adoption of policies and programs intended to promote and support increased use of residential DG, energy efficiency and conservation measures,” and therefore, full intervention is justified.⁷

Legal Standards

6. The Commission shall grant intervention if the petition: (1) is submitted in writing and properly served; (2) states facts demonstrating the petitioner's legal rights, duties, privileges, immunities or other legal interests may be substantially affected by the proceeding or that the petitioner qualifies as an intervenor under any provision of law; and (3) the interests of justice and the orderly and prompt conduct of the proceedings will not be impaired by allowing the intervention.⁸ The Commission has discretion to grant intervention at any time where intervention

⁴ *Order Consolidating Vote Solar and Sierra Club Interventions*, ¶ 3 and Ordering Clause A (June 7, 2018).

⁵ Petition to Intervene of Climate and Energy Project, ¶ 15 (June 22, 2018) (Petition).

⁶ Petition, ¶ 13.

⁷ Petition, ¶ 14.

⁸ K.S.A. 77-521(a); K.A.R. 82-1-225(a).

is in the interests of justice and will not impair the orderly and prompt conduct of the proceedings.⁹ At any time during a proceeding, the Commission may impose limitations on an intervenor's participation, which may include limiting an intervenor's participation to designated issues in which the intervenor has a particular interest demonstrated by the petition, limiting intervenor discovery, cross-examination and other procedures, and requiring intervenors to consolidate their participation in the proceedings.¹⁰

Findings and Conclusions

7. CEP submitted its Petition to Intervene in writing and properly served it, pursuant to K.S.A. 77-521(a)(1). The Commission agrees with CEP that consideration of its intervention request falls under the discretionary intervention provision of K.S.A. 77-521(b).

8. The Commission is unpersuaded by CEP's contention that it "has a unique interest in promoting DG residential solar and energy efficiency."¹¹ As stated above, both Sierra Club and Vote Solar promote policies and programs in favor the same. Nonetheless, the Commission finds no evidence that the interests of justice will be impaired by CEP's intervention on such matters.

9. However, the Commission finds that CEP's filing of its Petition eleven (11) days after the deadline for intervenor testimony and its failure to file any testimony concurrently with its Petition demonstrate that full intervention would impair the orderly and prompt conduct of the proceedings. Thus, the Commission elects to limit CEP's intervention pursuant to K.S.A. 77-521(c) and K.A.R. 82-1-225(c). Under K.S.A. 77-521(c)(1), CEP is limited to participation on the issues of DG residential solar and energy efficiency. Under K.S.A. 77-521(c)(2), CEP is limited to cross-examination at the hearing, if applicable, and submission of a post-hearing brief, if

⁹ K.S.A. 77-521(b); K.A.R. 82-1-225(b).

¹⁰ K.S.A. 77-521(c); K.A.R. 82-1-225(c).

¹¹ *Contra* Petition, ¶ 15.

applicable. Under K.S.A. 77-521(c)(3), CEP must combine any cross-examination at the hearing and any post-hearing brief with that of Sierra Club and Vote Solar.

10. The Commission finds the CEP should be granted limited intervention in this docket. CEP will be added to the mailing list, and electric service of pleadings, communications, and correspondence should be delivered to counsel of record as follows:

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THEREFORE, THE COMMISSION ORDERS:

- A. CEP is granted limited intervention in accordance with paragraph 9 above.
- 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).¹²
- 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: 07/10/2018



Lynn M. Retz
Secretary to the Commission

MJD

¹² K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

CERTIFICATE OF SERVICE

18-WSEE-328-RTS

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 07/10/2018.

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