

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of a General Investigation to)
Determine the Commission's Jurisdiction over) Docket No. 18-GIME-217-GIE
Municipal Energy Agencies.)

**BRIEF OF THE EMPIRE DISTRICT ELECTRIC COMPANY ON
COMMISSION'S JURISDICTION OVER MUNICIPAL ENERGY AGENCIES**

The Empire District Electric Company ("Empire") submits the following brief addressing the four questions set forth in the Kansas Corporation Commission's ("Commission") Order dated November 28, 2017, in the above captioned docket ("Order"), regarding the Commission's jurisdiction over municipal energy agencies ("MEAs").

I. RESPONSES TO COMMISSION QUESTIONS

1. Empire's responses to the questions set forth in the Order are as follows:

QUESTION 1: Do the MEAs' enumerated powers under K.S.A. 12-895 fall outside the scope of the Commission's jurisdiction authority under K.S.A. 12-8,111?

RESPONSE: No. As specifically set forth in K.S.A. 12-8,111(b), any MEA shall be subject to the jurisdiction of the Commission "in the same manner as a public utility."

QUESTION 2: Does K.S.A. 12-885, *et seq.* limit the Commission's jurisdiction over MEAs?

RESPONSE: With the one exception that MEAs are allowed to operate as public utilities without first obtaining a certificate of convenience and authority under K.S.A. 66-131 from the Commission, MEAs are subject to the jurisdiction of the Commission "in the same manner as a public utility." K.S.A. 12-8,111(a) states that the MEA Act, as opposed to a certificate issued by the Commission under K.S.A. 66-131, shall constitute an MEA's certificate of convenience and

authority.

QUESTION 3: Other than for purposes of certification under K.S.A. 66-131, is the Commission's authority to regulate MEAs the same as its authority to regulate public utilities, including actions taken by MEAs pursuant to the MEA Act?

RESPONSE: Yes. As specifically set forth in K.S.A. 12-8,111 (b) any MEA shall be subject to the jurisdiction of the Commission "in the same manner as a public utility" with the one exception that MEAs are allowed to operate as public utilities without first obtaining a certificate of convenience and authority under K.S.A. 66-131.

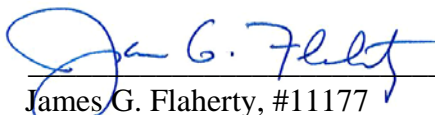
QUESTION 4: List the areas of operation where the Commission lacks authority or jurisdiction to regulate an MEA as if it were a public utility. State the legal authority denying the Commission's authority or jurisdiction.

RESPONSE: Under K.S.A. 12-8,111(a) an MEA is not required to obtain a certificate of convenience and authority under K.S.A. 66-131 from the Commission to operate as a public utility. Instead, the MEA Act shall constitute an MEA's certificate of convenience and authority. K.S.A. 12-8,111 (a). Otherwise, the Commission has the same type of authority or jurisdiction to regulate an MEA as it does any other electric public utility.

II. COMMISSION'S AUTHORITY TO PROHIBIT THE UNNECESSARY AND WASTEFUL DUPLICATION OF FACILITIES AND SERVICES IN DOCKET NO. 17-KPPE-092-COM

2. The fact that MEAs are granted their authority to operate as public utilities by the MEA Act and not by K.S.A. 66-131, does not mean that once MEAs become public utilities the Commission loses its jurisdiction under its broad general regulatory powers under K.S.A. 66-101a

through 66-101g to review and approve all contracts between electric public utilities pertaining to any and all jurisdictional services to be rendered under the contracts or to prohibit the unnecessary and wasteful duplication of facilities and services that cause harm to electric utility customers in Kansas and the public interest.



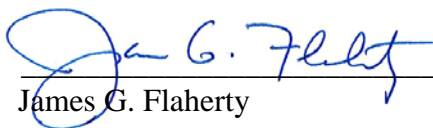
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VERIFICATION

STATE OF KANSAS, COUNTY OF FRANKLIN, ss:

James G. Flaherty, of lawful age, being first duly sworn on oath, states that he is attorney for The Empire District Electric Company; that he has read the above and foregoing Brief of The Empire District Electric Company on Commission's Jurisdiction over Municipal Energy Agencies, and the statements contained therein are true.


James G. Flaherty

SUBSCRIBED AND SWORN to before me this 15th day of December, 2017.



Notary Public

Appointment/Commission Expires:

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing was sent via electronic mail this 15th day of December, 2017, addressed to:

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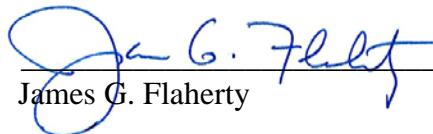
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