

**THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS**

Before Commissioners:                    Shari Feist Albrecht, Chair  
   Jay Scott Emler  
   Dwight D. Keen

In the Matter of the Notice of Kansas    )  
Municipal Energy Agency, and its Election to    )    Docket No. 18-KAME-557-DRC  
Self Regulate Pursuant to K.S.A. 12-8,111.    )

**ORDER AFFIRMING ELECTION TO DEREGULATE**

This matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed the files and records, and being duly advised, the Commission finds and concludes the following:

**I.        BACKGROUND**

1.        During the 2018 Kansas legislative session, the Kansas legislature amended K.S.A. 12-8,111 to, among other things, allow municipal energy agencies to elect to be exempt from the jurisdiction, regulation, supervision and control of the Commission.<sup>1</sup>

2.        On June 13, 2018, the Kansas Municipal Energy Agency (KMEA), a municipal energy agency, held an election to determine whether KMEA should be exempt from the Commission's regulation. KMEA provided the results of this election in a Notice of Exemption Election dated June 21, 2018. That same day, the Commission received KMEA's Notice of Exemption Election and election results.<sup>2</sup>

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<sup>1</sup> See S.B. 323, 2018; Kan Sess. Laws 2018, ch. 6, § 1, eff. March 8, 2018.

<sup>2</sup> Report for Kansas Municipal Energy Agency, p. 1 (Notice of Exemption).

## **II. DISCUSSION**

3. Pursuant to K.S.A. 12-8,111(c) and subject to limited exceptions, a municipal energy agency may elect to be exempt from the jurisdiction, regulation, supervision and control of the Commission.<sup>3</sup>

4. To become exempt from Commission regulation, a municipal energy agency must hold an election of its voting members as established in the governing documents of the municipal energy agency.<sup>4</sup> Additionally, the municipal energy agency must follow the directives contained in K.S.A. 12-8,111(d)(1) through (5).

5. If a proposition for deregulation is approved by an affirmative vote of not less than a majority of members voting on the proposition, K.S.A. 12-8,111(d)(4) requires the municipal energy agency to notify the Commission in writing of the results within 10 days after the date of the election.

6. KMEA's Notice of Exemption Election submitted to the Commission is dated June 21, 2018, eight days after the election was held.<sup>5</sup> The record indicates KMEA notified the Commission within the 10-day statutory requirement.

## **III. FINDINGS AND CONCLUSIONS**

7. Pursuant to K.S.A. 12-8,111(b), municipal energy agencies created under the provisions of K.S.A. 12-885 through 12-8,109, and amendments thereto, shall be subject to the jurisdiction of the Commission in the same manner as a public utility. The Commission finds KMEA is a municipal energy agency subject to the Commission's jurisdiction.

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<sup>3</sup> See K.S.A. 12-8,111(c).

<sup>4</sup> See K.S.A. 12-8,111(d).

<sup>5</sup> See Notice of Exemption, p. 1.

8. Pursuant to K.S.A. 12-8,111(c) and subject to limited exceptions,<sup>6</sup> a municipal energy agency may elect to be exempt from the jurisdiction, regulation, supervision and control of the Commission. The Commission finds KMEA has elected to exempt itself, to the extent permitted by law, from the Commission's jurisdiction, regulation, supervision and control.

9. To exempt itself from Commission regulation, to the extent permitted by law, a municipal energy agency must follow the directives contained within K.S.A. 12-8,111(d)(1) through (5). The Commission finds KMEA has complied with these directives.

10. Accordingly, the Commission finds and concludes KMEA has satisfied the requirements necessary to exempt itself from the Commission's jurisdiction, regulation, supervision and control to the extent as permitted by law.

11. The Commission finds and concludes KMEA shall continue to remain subject to the Commission's jurisdiction, regulation, supervision and control to the extent permitted by K.S.A. 12-8,111, as amended.

**IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:**

A. The Kansas Municipal Energy Agency, a municipal energy agency, is hereby exempt from the jurisdiction, regulation, supervision and control of the Commission, subject to the Commission's continuing jurisdiction under K.S.A. 12-8,111(g) and (h), as amended.

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).<sup>7</sup>

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<sup>6</sup> Limited exceptions include: service territory; charges, fees or tariffs for transmission services, other than charges, fees or tariffs to its own members or those charges, fees or tariffs for transmission services that are recovered through an open access transmission tariff of a regional transmission organization which has its rates approved by the federal energy regulatory commission; sales of power for resale, other than sales to its own members; and wire stringing, transmission line siting and the extension of electric facilities used to transmit electricity pursuant to K.S.A. 66-131, 66-183, 66-1,170 *et seq.* or 66-1,177 *et seq.*, and amendments thereto. *See* K.S.A. 12-8,111(g). Additionally, the exemption provisions do not affect the authority of the Commission pursuant to K.S.A. 66-144, and amendments thereto. *See* K.S.A. 12-8,111(g).

<sup>7</sup> *See also* K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

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: 08/02/2018 \_\_\_\_\_

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Lynn M. Retz  
Secretary to the Commission

REV

**CERTIFICATE OF SERVICE**

18-KAME-557-DRC

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of  
08/03/2018  
first class mail/hand delivered on \_\_\_\_\_.

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/s/ DeeAnn Shupe  
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