

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

Before Commissioners: Dwight D. Keen, Chair
 Shari Feist Albrecht
 Susan K. Duffy

In the Matter of a General Investigation)
Regarding the Rate Study and Assessment) Docket No. 20-GIME-068-GIE
Expenses Resulting from Substitute for Senate)
Bill No. 69)

ORDER GRANTING INTERVENTION TO KEC, KMEA, AND KMU;
ORDER GRANTING PETITIONS FOR RECONSIDERATION

This matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed the pleadings and record, the Commission makes the following findings and conclusions:

1. Senate Bill No. 69 (SB 69), signed by the Governor on April 10, 2019, and effective on April 19, 2019,¹ directs the Legislative Coordinating Council (LCC) to authorize a rate study of Kansas electric utilities. The utilities subject to the study include electric public utilities, electric cooperative public utilities exempt from Commission jurisdiction, and the three (3) largest municipally-owned or operated electric utilities by customer count.

2. SB 69 directs the Commission to pay the costs of the study through assessments upon the utilities that are subject to the study, pursuant to K.S.A. 66-1502, regardless of whether the utilities are subject to the jurisdiction of the Commission.²

3. On August 20, 2019, the Commission issued an Order Opening General Investigation to: (1) track time assigned to the rate study; (2) issue assessments to all affected electric public utilities; and (3) to create a permanent repository for the rate study.³

¹ Substitute for S.B. 69 (2019).

² *Id.*, Sec. 5.

³ Order Opening General Investigation, Aug. 20, 2019, ¶ 11.

4. On August 20, 2019, the Commission issued an Order Assessing Costs, assessing the costs of the investigation to electric public utilities, electric cooperative public utilities exempt from Commission jurisdiction, and the three (3) largest municipally-owned or operated electric utilities by customer count.⁴

5. On September 3, 2019, Kansas Electric Cooperatives, Inc. (KEC) filed its Petition to Intervene, explaining its members will be directly affected by this Docket because they will be required to supply data for the study and will be assessed the costs of the study.⁵

6. On September 9, 2019, KEC filed a Petition for Reconsideration of Order Assessing Costs, objecting to the assessment methodology in the Commission's Order Assessing Costs, which KEC alleges results in some cooperative revenues being assessed more than once.⁶ Specifically, KEC explains the majority of its members are also member of either Kansas Electric Power Cooperative, Inc. (KEPCo) or Sunflower Electric Power Corporation (Sunflower).⁷ The costs incurred by generation and transmission (G&T) cooperatives are passed on to their members through rates.⁸ As a result, assessing both the G&T cooperatives and their individual members would assess KEPCo's and Sunflower's revenues twice.⁹ Therefore, KEC requests the Commission exclude any sales from other utilities subject to this assessment from the assessment calculations.¹⁰

⁴ Order Assessing Costs, Aug. 20, 2019, ¶ A.

⁵ Kansas Electric Cooperative, Inc.'s Petition to Intervene, Sept. 3, 2019, ¶ 4.

⁶ Petition for Reconsideration of Order Assessing Costs (KEC PFR), Sept. 9, 2019, ¶ 6.

⁷ *Id.*, ¶ 2.

⁸ *Id.*, ¶ 10.

⁹ *Id.*

¹⁰ *Id.*, ¶ 12.

7. On September 9, 2019, KEPCo, Sunflower, and Mid-Kansas Electric Company, Inc. (Mid-Kansas) filed a Petition for Reconsideration of Order Assessing Costs, raising nearly identical concerns to those raised by KEC and seeking the same relief.¹¹

8. On September 11, 2019, The Kansas Municipal Energy Agency (KMEA) and Kansas Municipal Utilities (KMU) filed a Petition to Intervene, explaining SB 69 includes the three largest municipally owned electric utilities to be part of the study and that those three municipal electric utilities¹² are members of KMEA and KMU.¹³

9. The Commission has broad discretion to grant a petition for intervention if it is in the interest of justice, if the intervention will not impair the orderly and prompt conduct of the proceedings, and if the party has stated facts demonstrating its legal rights, duties and privileges, immunities, or other legal interests may be substantially affected by the proceeding.¹⁴ Furthermore, at any time during a proceeding, the Commission may impose limitations on an intervenor's participation.¹⁵

10. The Commission finds and concludes KEC, KMEA, and KMU have met the requirements of K.A.R. 82-1-225 and K.S.A. 77-521 and should be granted intervention in this Docket. KEC, KMEA, and KMU will be added to the mailing list, and electronic service of pleadings, communications, and correspondence should be delivered to counsel of record and their designees as follows:

¹¹ Petition for Reconsideration of Order Assessing Costs (KEPCo PFR), Sept. 9, 2019, ¶ 12.

¹² The Kansas City, Kansas Board of Public Utilities; the City of Garden City, Kansas; and the City of Gardner, Kansas.

¹³ Petition to Intervene, Sept. 11, 2019, ¶¶ 3-4.

¹⁴ K.S.A. 77-521; K.A.R. 82-1-225.

¹⁵ K.S.A. 77-521(c).

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11. On October 2, 2019, Commission Staff (Staff) filed its Response to the Petitions for Reconsideration of KEPCo and KEC and Request to File Out of Time, concurring that sales for resale to an entity also receiving assessment costs in this Docket should be removed from the assessment calculation.¹⁶ Staff suggests directing the parties on the service list to provide an itemized list of sales for resale (by entity included in the assessment) that is included in their gross intrastate operating revenue, to allow Staff to update the assessment percentages.¹⁷ Additionally, Staff suggests the Commission adopt Staff's proposed service list, which includes electric public utilities, electric cooperative public utilities exempt from Commission jurisdiction, and the three (3) largest municipally owned or operated electric utilities by customer count, as the official service list for the docket.¹⁸

12. K.A.R. 82-1-217(b) allows the Commission to grant extensions of time for good cause shown. The Commission believes Staff's perspective is beneficial to the Commission in evaluating the parties' Petitions for Reconsideration. Accordingly, the Commission finds there is good cause to grant Staff's Request to File Out of Time.

¹⁶ Staff's Response to the Petitions for Reconsideration of KEPCo and KEC and Request to File Out of Time, Oct. 2, 2019, ¶ 16.

¹⁷ *Id.*

¹⁸ *Id.*

13. The Commission shares Staff's, KEPCo's, and KEC's concerns that the Order Assessing Costs subjected entities to double assessments and grants the Petitions for Reconsideration. Therefore, the Commission adopts Staff's proposal and directs all parties on the service list to file an itemized list of sales for resale (by entity included in the assessment) that is included in their gross intrastate operating revenue, in this Docket by October 18, 2019. Staff is directed to review the itemized lists and update the assessment percentages. Staff shall report the updated assessment percentages by October 25, 2019, to allow the Commission to issue an Amended Order Assessing Costs.

14. The Commission also adopts Staff's proposed service list, with the addition of the KEC, KMEA, and KMU designees identified in paragraph 10 of this Order, as the official service list for the Docket.

THEREFORE, THE COMMISSION ORDERS:

- A. KEC's and KMEA and KMU's Petitions to Intervene are granted.
- B. Staff's Request to File Out of Time is granted.
- C. The Petitions for Reconsideration are granted. By October 18, 2019, all parties on the service list are directed to file an itemized list of sales for resale (by entity included in the assessment) that is included in their gross intrastate operating revenue. By October 25, 2019, Staff is directed to report the updated assessment percentages to the Commission.
- D. 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).¹⁹
- E. The Commission retains jurisdiction over the subject matter and the parties to enter further orders as it deems necessary.

¹⁹ K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

BY THE COMMISSION, IT IS SO ORDERED.

Keen, Chair; Albrecht, Commissioner; Duffy, Commissioner

Dated: 10/08/2019



Lynn M. Retz
Executive Director

BGF

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20-GIME-068-GIE

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of
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