

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

Before Commissioners: Mark Sievers, Chairman
 Thomas E. Wright

In the Matter of the Application of Mid-Kansas)
Electric Company, LLC for Approval to Make)
Certain Changes in Its Charges for Electric) Docket No. 12-MKEE-410-RTS
Services in the Geographic Service Territory)
Served by Lane Scott Electric Cooperative, Inc.)

**ORDER RESCINDING DISMISSAL OF APPLICATION AND
ON PETITION FOR RECONSIDERATION OF
MID KANSAS ELECTRIC COMPANY, LLC**

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having examined its files and records, and being duly advised in the premises, the Commission makes the following findings and conclusions:

I. Background

1. On December 5, 2012, Mid-Kansas Electric Company, LLC (Mid-Kansas) filed a Joint Petition for Waiver of Filing Requirements. On December 14, 2012, the Commission issued its Order Granting Waiver of Filing Requirements Under K.A.R. 82-1-231.

2. K.A.R. 82-1-214 requires that a utility provide the Commission with a letter of intent to file an application no more than 90 days prior to filing its Application.¹ As of July 19, 2012, Mid-Kansas had not filed its Application on behalf of Lane Scott

¹ K.A.R. 82-1-214.

Electric Cooperative, Inc. Mid-Kansas failed to file its Application within 90 days of its letter of intent, pursuant to K.A.R. 82-1-214.

3. In its July 26, 2012 Order Dismissing Application without Prejudice (July 26, 2012 Order), the Commission ordered that due to Mid-Kansas' failure to timely file its Application, Mid-Kansas' Application must be dismissed without prejudice and this docket closed. On August 1, 2012, Mid-Kansas filed its Petition for Reconsideration of Mid-Kansas Electric Company, LLC (Petition for Reconsideration). On August 6, 2012, Mid-Kansas filed its Application for Mid-Kansas Company, LLC and Lane Scott Electric Cooperative, Inc (Application).

4. Any party desiring to challenge agency action taken by the Commission in the July 26, 2012 Order was required to file a petition for reconsideration within 15 days of its filing, or by August 10, 2012.² Parties were required to respond within 10 days of filing of the Petition for Reconsideration, and no party has responded. The Commission must dispose of this petition within thirty days after its filing, by September 9, 2012, or the petition will be deemed denied.³

II. Rescission of July 26, 2012 Order Dismissing Application

5. The Commission has authority to change, abrogate, or modify any Commission Order so long as it is not a final order. According to the Kansas Court of Appeals in *Kansas Energy Group v. State Corporation Commission*,⁴ "a 'final order' has been defined as one that terminates litigation on the merits and leaves nothing to be done except to enforce the result."⁵

² K.S.A. 2011 Supp. 77-529(a)(1).

³ K.S.A. 2011 Supp. 77-529(b).

⁴ *Kan. Energy Group v. State Corp. Comm'n*, 30 Kan. App. 2d 57, 60, 40 P.3d 310, 312.

⁵ *Id.* (emphasis added).

6. As stated above, on August 6, 2012, Mid-Kansas and Lane Scott Electric Cooperative, Inc. (Lane Scott) filed its Application in this docket. Because no final order has been issued by the Commission in this docket and based on Mid-Kansas' and Lane Scott's filed Application, the Commission finds and concludes that its July 26, 2012 Order should be rescinded and withdrawn.

III. Petition for Reconsideration of Mid-Kansas Electric Company, LLC

7. On August 1, 2012, Mid-Kansas filed its Petition for Reconsideration and on August 6, 2012 Mid-Kansas filed its Application.

8. Under Kansas case law, an issue is moot when "the actual controversy has ended, the only judgment that could be entered would be ineffectual for any purpose, and it would not impact any of the parties' rights."⁶ Here, because the Commission rescinds its July 26, 2012 Order herein, Mid-Kansas' Petition for Reconsideration is moot, and therefore the Commission finds and concludes Mid-Kansas' Petition for Reconsideration should be denied.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. The Commission's July 26, 2012 Order Dismissing Application without Prejudice is hereby rescinded and withdrawn.

B. The Petition for Reconsideration of Mid-Kansas Electric Company, LLC, filed August 1, 2012, is hereby denied.

C. The parties have fifteen days, plus three days if service of this Order is by mail, from the date of service of this Order in which to request rehearing on any matter decided herein.⁷

⁶ *McAlister v. Fairway*, 289 Kan. 391, 400, 212 P.3d 184, 192 (2009).


⁷ K.S.A. 66-118b, K.S.A. 2011 Supp. 77-529.

D. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further order, or orders, as it may deem necessary.

BY THE COMMISSION IT IS SO ORDERED.

Sievers, Chairman; Wright, Commissioner

Dated: AUG 21 2012


ORDER MAILED AUG 21 2012
Patrice Petersen-Klein
Executive Director

HLF

PLEASE FORWARD THE ATTACHED DOCUMENT (S) ISSUED IN THE ABOVE-REFERENCED DOCKET TO THE FOLLOWING:

NAME AND ADDRESS	NO. CERT. COPIES	NO. PLAIN COPIES
GLENDA CAFER, ATTORNEY CAFER LAW OFFICE, L.L.C. 3321 SW 6TH STREET TOPEKA, KS 66606		
TERRI PEMBERTON, ATTORNEY CAFER LAW OFFICE, L.L.C. 3321 SW 6TH STREET TOPEKA, KS 66606		
NIKI CHRISTOPHER, ATTORNEY CITIZENS' UTILITY RATEPAYER BOARD 1500 SW ARROWHEAD ROAD TOPEKA, KS 66604 ***Hand Delivered***		
C. STEVEN RARRICK, ATTORNEY CITIZENS' UTILITY RATEPAYER BOARD 1500 SW ARROWHEAD ROAD TOPEKA, KS 66604 ***Hand Delivered***		
DELLA SMITH CITIZENS' UTILITY RATEPAYER BOARD 1500 SW ARROWHEAD ROAD TOPEKA, KS 66604 ***Hand Delivered***		
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RAY BERGMEIER, LITIGATION COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD ROAD TOPEKA, KS 66604-4027 ***Hand Delivered***		

ORDER MAILED AUG 21 2012

The Docket Room hereby certified that on this _____ day of _____, 20____, it caused a true and correct copy of the attached ORDER to be deposited in the United States Mail, postage prepaid, and addressed to the above persons.

PLEASE FORWARD THE ATTACHED DOCUMENT (S) ISSUED IN THE ABOVE-REFERENCED DOCKET TO THE FOLLOWING:

NAME AND ADDRESS	NO. CERT. COPIES	NO. PLAIN COPIES
HOLLY FISHER, ATTORNEY KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD ROAD TOPEKA, KS 66604-4027 ***Hand Delivered***		
MARK D. CALCARA, ATTORNEY WATKINS CALCARA CHTD. 1321 MAIN STREET SUITE 300 PO DRAWER 1110 GREAT BEND, KS 67530		

ORDER MAILED AUG 21 2012

The Docket Room hereby certified that on this _____ day of _____, 20____, it caused a true and correct copy of the attached ORDER to be deposited in the United States Mail, postage prepaid, and addressed to the above persons.