

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

Before Commissioners: Pat Apple, Chairman
Shari Feist Albrecht
Jay Scott Emler

In the Matter of the Application of Mid-Kansas)
Electric Company, LLC for an Order Approving)
the Conversion of Mid-Kansas Electric) Docket No. 18-MKEE-014-MIS
Company, LLC to Mid-Kansas Electric)
Company, Inc.)

ORDER ADOPTING STAFF REPORT AND RECOMMENDATION

This matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having examined Staff's Report and Recommendation (Staff R&R) submitted in this matter and being duly advised in the premises, the Commission finds and concludes as follows:

1. On July 12, 2017, Mid-Kansas Electric Company, LLC (Mid-Kansas) filed an Application requesting Commission approval to convert from a limited liability company (LLC) to a nonprofit, non-stock membership corporation. in order to regain eligibility for Federal Energy Management Agency (FEMA) reimbursement in the event of a natural disaster.

2. Mid-Kansas states in its Application that it seeks to covert its business entity classification pursuant to K.S.A. 17-78-101, *et seq.* (the "Business Entity Transaction Act," hereinafter referred to as the "Act") which provides for the conversion of a legal entity.¹ The Act permits a domestic entity to convert to a different type of legal entity by approving an agreement of conversion as prescribed by the Act.²

¹ See Application for Approval of Conversion ¶ 19 (filed July 12, 2017).

² *Id* at ¶ 21.

3. Mid-Kansas seeks Commission approval of the conversion in accordance with 17-78-104(b) which states “A domestic or foreign entity subject to Chapter 66 of the Kansas Statutes Annotated shall obtain approval in accordance with the special requirements applicable thereto, including K.S.A. 66-127 and 66-136, and amendments thereto, prior to effecting a transaction under this act.”³

4. On July 25, 2017, Kansas Electric Power Cooperative, Inc. (KEPCo) filed a Petition to Intervene, which was granted on August 24, 2017.

5. On September 14, 2017, Western Kansas Industrial Electric Consumers Group (WKIEC) filed a Petition to Intervene, which was granted on September 26, 2017.

6. WKIEC states in its Petition that it supports the Application of Mid-Kansas because it believes that FEMA coverage for the Mid-Kansas Electric system is important for the preservation and protection of that system and recommends the Commission approve the Application.⁴

7. On September 25, 2017, Commission Staff filed its Report and Recommendation.

8. On September 27, 2017, Litigation Staff filed its Notice of Filing of Staff Report and Recommendation.

9. In Staff’s R&R, Staff notes that it has reviewed and analyzed the Mid-Kansas Application, as well as the supporting Testimony of Stuart S. Lowry and H. Davis Rooney, and Mid-Kansas’ responses to Staff’s discovery.

10. Staff’s R&R analyzes Mr. Lowry’s supporting testimony which uses the Commission’s Merger Standards, as recently affirmed in Docket No. 16-KCPE-593-ACQ, to

³ *Id* at ¶ 20.

⁴ *See* Petition to Intervene on Behalf of Western Kansas Industrial Electric Consumers Group (WKIEC) (filed September 14, 2017).

support his position that the conversion is in the public interest.⁵ Staff evaluated the testimony of Mr. Lowry and agrees that conversion of Mid-Kansas to a taxable, nonprofit corporation meets the applicable merger standards and is in the public interest.⁶

11. Staff's R&R evaluates Mr. Rooney's supporting testimony, which discusses the financial and accounting implications of conversion and concludes that the conversion is a non-taxable event with limited effect on Mid-Kansas financial statements. Mr. Rooney's testimony details the tax implications of Mid-Kansas electing to become a taxable corporation and concludes that the change will have a negligible impact on future tax liabilities due to patronage tax deductions. Mr. Rooney concludes that the effects of conversion will have a favorable impact on rates, since FEMA eligibility will reduce the ratepayer's liability for repair and replacement costs in the event of a disaster.⁷ Staff analyzed Mr. Rooney's testimony and agrees with Mr. Rooney's conclusions.

12. Staff recommends the Commission approve Mid-Kansas' Application to convert from a LLC to a taxable, nonprofit corporation because it meets the applicable Merger Standards, it is in the public interest, and it would allow Mid-Kansas to regain FEMA eligibility for reimbursement in the event of a natural disaster.⁸

13. Upon review of the record as a whole, the Commission agrees with Staff's analysis and recommendation to approve conversion of Mid-Kansas from a LLC to a corporation.

⁵ Mr. Lowry notes in his testimony that the Act requires the Commission approve Mid-Kansas' conversion in accordance with K.S.A. 66-136 and, therefore, he has decided to evaluate the Mid-Kansas Application through the scope of the merger standards.

⁶ See Staff Report and Recommendation (filed September 25, 2017).

⁷ *Id.*

⁸ *Id.*

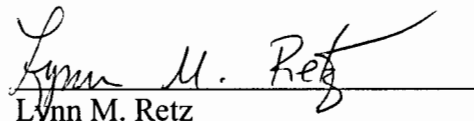
THEREFORE, THE COMMISSION ORDERS:

- A. Mid-Kansas' Application for Approval of Conversion is hereby granted.
- B. Electronic service shall be used in this proceeding, including this Order.
- C. The parties have 15 days from the date of electronic service of this Order to petition for reconsideration.⁹
- D. 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.

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: OCT 10 2017


Lynn M. Retz
Secretary to the Commission

SLS

EMAILED

OCT 10 2017

⁹ K.S.A. 66-118b; K.S.A. 77-529(a)(1).

CERTIFICATE OF SERVICE

18-MKEE-014-MIS

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 OCT 10 2017.

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/S/ DeeAnn Shupe
DeeAnn Shupe

EMAILED

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