

THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

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

Received  
on

JAN 15 2013

**CURB'S MOTION TO ALLOW ADDITIONAL  
LIVE DIRECT EXAMINATION AND TESTIMONY TO  
ADDRESS PROPOSED SETTLEMENT AGREEMENT AND  
TESTIMONY IN SUPPORT OF SETTLEMENT AGREEMENT**

by  
State Corporation Commission  
of Kansas

COMES NOW, the Citizens' Utility Ratepayer Board ("CURB"), and files this motion to allow additional live direct examination and testimony to address the proposed settlement agreement and testimony in support of the proposed settlement agreement filed by MKEC and Staff on the afternoon of January 14, 2013. In support of its motion, CURB states as follows:

1. The Commission's September 19, 2012, Order Setting Procedural Schedule requires the filing of any proposed settlement agreement and the pre-filing of any testimony in support on or before January 14, 2013. On the afternoon of January 14, 2013, MKEC and Staff filed a Joint Motion for Approval of Settlement Agreement, and pre-filed testimony of Staff witnesses John Bell and James Sanderson and MKEC witness Douglas Shepherd in support of the settlement agreement.
2. CURB did not receive the proposed settlement agreement and MKEC testimony in support until 2:07 p.m. on January 14, 2013, and Staff testimony in support until 1:22 p.m. on January 14, 2013.

3. The September 19, 2012, Order Setting Procedural Schedule does not require the pre-filing of testimony in opposition to a non-unanimous settlement agreement, but merely the filing of a list of contested issues on or before January 15, 2013, at 5:00 p.m. Further, CURB witnesses Andrea Crane and Stacey Harden are currently unavailable to prepare and pre-file testimony in opposition to the settlement because of other commitments.

4. The proposed settlement agreement and testimony in support constitutes new evidence that CURB is unable to respond to in pre-filed testimony prior to the evidentiary hearing scheduled in this docket for January 22 -23, 2013, four business days from today's date. This new evidence, which MKEC and Staff are offering in support of their proposed settlement, effectively denies CURB the opportunity to respond to or address without leave to offer additional live direct examination and testimony at the January 22 – 23, 2013, evidentiary hearing.

5. CURB suggests that the Commission will want to hear testimony from CURB's witnesses regarding why CURB opposes the proposed settlement, and that allowing CURB the opportunity to address the proposed settlement with additional direct examination and testimony will not prejudice MKEC or Staff. Allowing CURB the opportunity to allow its witnesses to respond to the settlement proposal is reasonable given the timing of the settlement proposal in relation to the hearing dates, the fact the procedural schedule did not provide for additional pre-filed testimony by parties opposing a non-unanimous settlement, and the fact that two of CURB's witnesses are unavailable to pre-file additional direct testimony prior to the hearing.

6. Finally, nothing in the Commission's regulations prohibit additional live examination and testimony even when pre-filed testimony is allowed under K.A.R. 82-1-229. In fact, the

Commission has previously granted additional direct examination and testimony in at least one prior docket in similar circumstances. <sup>1</sup>

7. CURB therefore respectfully requests that the Commission grant CURB's motion to allow additional live direct examination and testimony at the evidentiary hearing to address the proposed settlement agreement and testimony in support of the proposed settlement agreement filed by MKEC and Staff on the afternoon of January 14, 2013.

Respectfully submitted,



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<sup>1</sup> See, Order Denying Request To Strike Rebuttal Testimony Of KCPL Witness Tim Rush But Granting Additional Direct Examination Limited To KCPL's Alternative Rate Design Proposal, August 9, 2010, KCC Docket No. 10-KCPE-415-RTS.

VERIFICATION

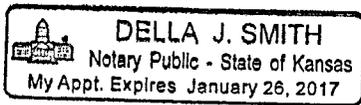
STATE OF KANSAS )  
 ) ss:  
COUNTY OF SHAWNEE )

I, C. Steven Rarrick, of lawful age, being first duly sworn upon his oath states:

That he is an attorney for the above named petitioner; that he has read the above and foregoing document, and, upon information and belief, states that the matters therein appearing are true and correct.

  
C. Steven Rarrick

SUBSCRIBED AND SWORN to before me this 15<sup>th</sup> day of January, 2013.



  
Notary Public

My Commission expires: 01-26-2017.

**CERTIFICATE OF SERVICE**

12-MKEE-410-RTS

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing document was served by electronic service this 15<sup>th</sup> day of January, 2013, to the following parties who have waived receipt of follow-up hard copies:

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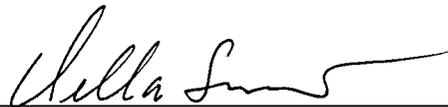
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Administrative Specialist