

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

Before Commissioners: Thomas E. Wright, Chairman
Michael C. Moffet
Joseph F. Harkins

In the Matter of the Application of) Docket No. 09-WHLE-681-RTS
Wheatland Electric Cooperative, Inc. for)
Approval to Make Certain Changes in)
Their Charges for Electric Service)

**ORDER GRANTING INTERVENTION TO WOODFORD-O'BRATE, INC.,
PALMER MFG. & TANK, INC., AND AMERICAN WARRIOR, INC., AND
APPOINTING PREHEARING OFFICER**

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:

Petition to Intervene

1. On March 2, 2009, Wheatland Electric Cooperative, Inc. (Wheatland) filed its Petition for Approval to Make Certain Changes in Their Electric Service, seeking certain increases in its electric rates. Wheatland filed its petition pursuant to K.A.R. 82-1-231a, which provides for certain filing requirements and procedures for rate proceedings by rural electric distribution cooperative systems providing service to fewer than 15,000 customers.

2. On March 18, 2009, Petrosantander (USA) Inc. filed a petition to intervene. The petition was granted by the Commission on April 6, 2009.

3. On April 2, 2009, Gerald O. Schultz, attorney at law, filed a petition requesting intervention in this docket on behalf of Woodford-O'Brate, Inc. (WOB), Palmer Mfg. & Tank, Inc. (Palmer), and American Warrior, Inc. (AWI) (Petition).

4. In its Petition, WOB, Palmer and AWI (collectively the O'Brate Companies) state that WOB is a Kansas family farm corporation, with its corporate office in Garden City, Kansas in which Cecil O'Brate is the principal owner thereof. Palmer is a Kansas corporation engaged in the business of commercial tank manufacturing with its principal place of business in Garden City, Kansas in which Cecil O'Brate is the President and principal owner thereof. AWI is a Kansas corporation engaged in the business of oil and gas exploration, production and ownership of oil and gas properties with its corporate office in Garden City, Kansas in which Cecil O'Brate is the President and principal owner thereof. The O'Brate Companies state they are each in good standing with the State of Kansas.

5. The O'Brate Companies state that they are rate payers adversely affected by the proposed rate changes and the proposed rate changes will diminish each company's economic viability and its ability to be competitive in the current economic recession. The O'Brate Companies state the proposed rate changes would adversely affect WOB's ability to produce crops at current prices, Palmer's ability to utilize commercial electricity, and AWI's ability to produce marginal wells, resulting in loss of valuation, loss of jobs, and waste. The O'Brate Companies state the proceedings will not be impaired by allowing their intervention and they will not duplicate or delay the proceedings.

6. The Commission has broad discretion to grant a petition for intervention at any time if it is in the interests 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, privileges, immunities or other legal interests may be substantially affected by the proceeding. K.S.A. 77-521; K.A.R. 82-1-225. At any time during a proceeding, the Commission may impose limitations on an intervener's participation. K.A.R. 82-1-225(c). See K.S.A. 77-521(c). This can include limiting an intervener's participation to designated issues in which the intervenor has a particular interest and its use of discovery and other procedures. The Commission also may require two or more interveners to combine their presentation of evidence and argument, cross-examination, discovery, and other participation in the proceedings. K.A.R. 82-1-225(c)(1) – (3)

7. The Commission finds and concludes that the O'Brate Companies have met the requirements for intervention and should be granted intervention. The Commission notes that the O'Brate Companies (and all interveners) are subject to the Protection Order issued April 6, 2009 in this docket.

8. Counsel for the O'Brate Companies should receive service of all pleadings in this matter. Service of all pleadings, communications and correspondence should be directed to the interveners' counsel of record as follows:

Gerald O. Schultz
Attorney at Law
302 Fleming, Suite 5
Garden City, Kansas 67846
(620) 276-3728
(620) 276-3798 Fax
gos@cox.net

Appointment of Prehearing Officer

9. The Commission finds a prehearing officer should be designated for this proceeding. The Commission designates a prehearing officer to conduct any necessary prehearing conferences and to address any matters that may arise that might be appropriately considered in such conferences, including all items listed in the Kansas Administrative Procedure Act (KAPA) at K.S.A. 77-517(b), and any matters that may otherwise be addressed by the prehearing officer pursuant to the KAPA. The Commission designates Charles R. Reimer, Advisory Counsel, 1500

21SW Arrowhead Road, Topeka, KS 66604-4027, telephone 785-271-3361, email address c.reimerr&kcc.ks.gov, to act as the prehearing officer in this proceeding.

K.S.A. 2008 Supp. 77-514; K.S.A. 77-516; K.S.A. 2008 Supp. 77-551. The

Commission, as it deems necessary, may designate other staff members to serve in this capacity.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. WOB, Palmer, and AWI are granted intervention in this docket, as discussed above, and counsel of record shall receive service of all pleadings in this matter.

B. The Commission appoints Charles R. Reimer, as discussed above, as Prehearing Officer for this docket.

C. A party may file a petition for reconsideration of this order within 15 days of the service of this order. If this order is mailed, service is complete upon mailing and 3 days may be added to the above time frame. K.S.A. 66-118b; K.S.A. 2008 Supp. 77-529(a)(1).

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

BY THE COMMISSION IT IS SO ORDERED.

Wright, Chmn; Moffet, Com.; Harkins, Com.

Dated: APR 20 2009

ORDERED MAILED

APR 21 2009

 EXECUTIVE
DIRECTOR

Susan K. Duffy
Executive Director

crr