

3. With respect to the Joint Application, the Commission holds subject-matter jurisdiction over a cooperative with regard to: “sales of power for resale, other than sales between a cooperative, as defined in subsection (a), that does not provide retail electric service and an owner of such cooperative” under K.S.A. 66-104d(f)(3).

4. The Master Agreement constitutes a sale of power for resale because KEPCo, the buyer, is itself engaged in the business of providing power and energy to its 19 member distribution cooperatives in the State of Kansas. Therefore, the Master Agreement is jurisdictional to the Commission. All rates requested by Sunflower pertaining to jurisdictional service must be approved by the Commission pursuant to K.S.A. 66-117.

5. The rates and terms of the Master Agreement must be just and reasonable pursuant to K.S.A. 66-101b. Additionally, they may not be unreasonably discriminatory or unduly preferential.

III. Staff’s Report and Recommendation

6. On November 20, 2018, the Commission’s technical staff (Staff) filed a Report and Recommendation (R&R) with respect to the Joint Application.

7. In its R&R, Staff provided a brief history of the contractual arrangements between Sunflower and KEPCo dating back to June 26, 2009. Staff noted that the Commission has approved prior contracts between the two parties in Docket Nos. 09-SEPE-1013-CON, 14-KEPE-171-CON, and 16-KEPE-542-CON.

8. Staff also explained that Commission orders approving the prior wholesale power agreements between Sunflower and KEPCo relied on a “mutually beneficial analysis” to determine whether the contract rates were just and reasonable.

9. Staff then provided an analysis of the Master Agreement's impacts on Sunflower, KEPCo, and KEPCo's members to determine whether the rates were mutually beneficial to these parties.

10. For KEPCo, Staff presumed that the Master Agreement provided a benefit to it because it was competitively bid, freely entered-into, and KEPCo is presumed to be acting in the best interests of its members. Therefore, in the absence of evidence to the contrary, Staff would not second guess KEPCo's decision making. However, Staff did review the competitive bidding process and found that KEPCo utilized a consulting firm to secure bids. It received six offers and narrowed its selection to two. After the two finalists updated their offers, KEPCo determined that Sunflower's offer was the most economical.

11. For KEPCo's members, Staff found that the Master Agreement would benefit them. Staff explained that by comparing the new Master Agreement with the prior agreement approved in Docket No. 16-KEPE-542-CON, the new contract would put downward pressure on KEPCo's blended supply costs.

12. Finally, with respect to Sunflower, Staff found that it has sufficient capacity to supply the required energy without the need to acquire additional generation capacity at an additional cost. Therefore, the Master Agreement will benefit Sunflower.

13. Staff recommended approval of the proposed Master Agreement because the proposed Master Agreement was produced through a competitive bid process, would put downward pressure on KEPCo's supply costs, and Sunflower has sufficient capacity to supply the contract without having to acquire additional capacity.

IV. Findings and Conclusions

14. The Commission finds that Staff's findings are reasonable and its recommendation should be adopted.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

- A. Sunflower and KEPCo's Joint Application is approved.
- B. 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).
- C. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further order, or orders, as it may deem necessary and proper.

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 11/27/2018



Lynn M. Retz
Secretary to the Commission

MRN

CERTIFICATE OF SERVICE

19-KEPE-063-CON

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 11/27/2018.

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