

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

JAN 07 2013

In the Matter of the Joint Application of)
Mid-Kansas Electric Company, LLC,)
Lane-Scott Electric Cooperative, Inc.,)
Prairie Land Electric Cooperative, Inc.,)
Southern Pioneer Electric Company,)
Victory Electric Cooperative Association, Inc.,)
Western Cooperative Electric Association, Inc., and)
Wheatland Electric Cooperative, Inc., Joint Applicants,)
for an Order approving the transfer of Certificates of)
Convenience with respect to all of Mid-Kansas' retail)
electric services and for other related relief.)

by
State Corporation Commission
of Kansas

Docket No. 13-MKEE-447-MIS

DIRECT TESTIMONY

OF

TERRY JANSON

VICTORY ELECTRIC COOPERATIVE ASSOCIATION, INC.

JANUARY 7, 2013

Q. Please state your name.

A. My name is Terry Janson.

Q. By who are you employed and what is your current business address?

A. I am employed by Victory Electric Cooperative Assn., Inc. ("Victory"). My business address is 3230 North 14th Avenue, Dodge City, Kansas.

Q. Would you summarize your educational background?

A. I have a two year degree from Dodge City Community College.

Q. Please summarize your work experience.

A. I have over 40 years working experience in the electric utility business.

Q. Are you also an officer of Mid-Kansas Electric Company, LLC?

A. Yes. I am a member of the Board and serve as Vice-Chairman of the Board for Mid-Kansas Electric Company ("Mid-Kansas"). I have served as Vice-Chairman of the Board since the inception of Mid-Kansas and was intricately involved in the acquisition of Aquila – WPK.

Q. Do you serve on any other boards for public utilities?

A. Yes. Victory is a member of both Sunflower Electric Power Corporation (Sunflower) and Kansas Electric Power Cooperative, Inc. (KEPCo). I serve as a Director on the Sunflower Board of Directors and a Trustee on the Board of Trustees for KEPCo.

Q. What is the purpose of your testimony?

A. The purpose of my testimony is to provide background information on Victory and support for the relief sought in the Joint Application filed by Mid-Kansas and its Members¹, including Victory.

1. HISTORICAL INFORMATION ON MID-KANSAS

Q. Please provide an overview of your testimony.

A. Mr. Lowry has already discussed the relationship of the Members to Mid-Kansas and historical background, so therefore, I will not spend much time on such matters. He also discussed why Mid-Kansas was formed and the original business plan or model for purposes of separating the distribution services from generation transmission services after acquisition. My testimony will primarily focus on brief overview of Victory, the terms of the Shared Service Agreement, the determination of KEPCo wholesale rate and determination of the process for exemption from regulation.

Q. Please provide a brief overview of Victory.

A. Victory is an electric cooperative formed under the Kansas Electric Cooperative Act. It was formed for the purpose of supplying electric energy and promoting and extending the use of such energy in rural areas of west central Kansas. Victory was formed in 1947, and therefore, has been providing electric retail service in the west central Kansas for over 65 years.

¹ The six Kansas entities, collectively referred to as Members of Mid-Kansas, and their headquarters are as follows: Lane-Scott Electric Cooperative, Inc., Dighton, Kansas; Southern Pioneer Electric Company, a subsidiary of Pioneer Electric Cooperative, Inc., Ulysses, Kansas; Prairie Land Electric Cooperative, Inc., Norton, Kansas; Victory Electric Cooperative Association, Inc., Dodge City, Kansas; Western Cooperative Electric Association, Inc., WaKeeney, Kansas; Wheatland Electric Cooperative, Inc., Scott City, Kansas.

Q. Would you provide a summary of the service area and the nature of service Victory provided before the acquisition on Aquila- WPK by Mid-Kansas?

A. Prior to the acquisition, Victory served part or all of 9 counties, with 4,508 meters. Its service territory primarily was Ford and Gray Counties and parts of seven other counties, including Kiowa, Edwards, Hodgeman, Finney, Haskell, Meade, and Clark. Although it did not operate generation or transmission lines, it operated and maintained approximately 1,966 miles of distribution line and 44 miles of 34.5 kV lines.

Q. Would you provide a summary of the area served and scope by Victory after the acquisition of the Aquila-WPK by Mid-Kansas?

A. After the acquisition, pursuant to a service contract with Mid-Kansas, Victory increased the number of meters to approximately 18,589 and continues to serve approximately that number of meters in the Victory service area. With the acquisition of Aquila-WPK, the number of total customers served is approximately 18,589 in the Victory division.

Q. Is Victory a deregulated cooperative?

A. Yes. In 1999, the member customers of Victory voted to deregulate. Of the member customers voting, 98 percent approved the deregulation of Victory. Since that date, Victory's legacy system has operated as a deregulated cooperative. The deregulation of the cooperative has served the member owners very well.

Q. Why did the six members of Mid-Kansas elect to pursue the acquisition of Aquila-WPK?

A. Victory felt the acquisition was in the public's and the member owners' best interest. It enabled Victory to increase the number of customers without largely expanding the geographical area served. Through the acquisition, Victory now serves the City of Dodge which was located in its existing territory. The expansion allowed Victory to spread some of its cost over a larger number of meters, thus reducing the overall customer costs. There were a number of synergies associated with the acquisition, all of which resulted in cost savings to both Victory's existing customers and those customers acquired in the acquisition.

Q. Do you believe the synergies which you anticipated have been realized?

A. Yes. We firmly believe the acquisition has been good for both the existing and acquired customers. The acquired territory by Mid-Kansas was more residential in nature than the customer base served by Victory on its native system. Plus, the diversity has helped in stabilizing load.

Q. Do you believe Victory is capable of succeeding to a portion of Mid-Kansas' certificated service territory as contemplated in the application?

A. Yes. Victory, like the other member owners, has been serving the customers in the Victory division since the acquisition in 2007. We have no doubt that Victory can manage and operate the service territory at the same level of quality service as the customers have been experiencing.

Q. Is Victory asking the Commission to approve the transfer of the territory Victory is currently serving pursuant to its service contract with Mid-Kansas?

A. Yes. However, there are several key issues related to the proposed Wholesale Requirements Agreement and Shared Service Agreement that have to be resolved satisfactory which if not resolved satisfactory may compel the unilateral withdraw of Mid-Kansas and Victory's request for the transfer of the certificated territory.

Q. What factors might put in question the request for transfer of the certificate territory as set forth in the application?

A. Mr. Miller has addressed several of the factors in his testimony. I would agree that it is difficult to list all factors, but certainly, if there is not a binding commitment that power for the service territory be purchased from Mid-Kansas or if KEPCo is allowed to charge a rate different than the Mid-Kansas wholesale rate which is not economical or just and reasonable, Victory and Mid-Kansas would be compelled to withdraw the application.

2. APPROVAL OF SHARED SERVICE AGREEMENT

Q. The application seeks the approval of the Settlement Agreement and Shared Service Agreement, as supplemented. Would you provide the background of the Settlement Agreement and Shared Service Agreement?

A. Victory and Prairie Land each have Wholesale Power Contracts with Sunflower and KEPCo. The Wholesale Power Contract with Sunflower was entered into first and it committed Victory to purchase all of its power supply requirements from Sunflower. Later, Victory also entered into a Wholesale Power Contract with KEPCo that was basically subordinate to the Sunflower Wholesale Power Contract to service specific delivery points not served by Sunflower. Because of

the two power suppliers, Victory became a member of both Sunflower and KEPCo.

In 2005, Aquila elected to accept bids to purchase Aquila-WPK. The assets were to be sold to a single purchaser for the entire Kansas electric assets. The assets and service territory were essentially located adjacent to the six distribution cooperatives that owned Sunflower. So purchase of Aquila-WPK was a natural extension of the then current service territory of the six members. It was the intention of the Members to acquire the vertically integrated utility and transfer the certificated retail service territory and customers to the Members. The six Members formed Mid-Kansas to purchase the assets and were successful in reaching agreement with Aquila. However, it required approval by the Kansas Corporation Commission. After filing for approval, but before an approval was granted, KEPCo asserted that it had the right to provide all the power supply for the retail certificated territory of Aquila-WPK to be transferred to Victory and Prairie Land. Both Prairie Land and Victory disagreed with the claim. Sunflower disagreed as well but was willing, if KEPCo was, to waive the application of its contractual claim to serve the service territory. KEPCo was unwilling to do so. Mr. Miller's has recited the facts surrounding the dispute and the resolution in his testimony. I concur with his review of the facts leading up to the execution of the Settlement and Shared Service Agreements and the significant repercussions to Victory and the other Members had we not resolved the dispute. From a practical stand point, Sunflower, Mid-Kansas, Victory and Prairie Land had to resolve the dispute in a timely manner to avoid default under the Asset Purchase

Agreement with Aquila or suffer significant monetary damages. This led to entering into the Settlement Agreement and Shared Service Agreement, as supplemented. Under the Shared Service Agreement the load of Victory and Prairie Land is to be served, in equal shares, by Sunflower and KEPCo, while power to serve the load was to be provided from Mid-Kansas. It was then decided that the Settlement Agreement and the Shared Service Agreement would be submitted to the Commission for approval at the time the certificated territory was to be transferred to Victory and Prairie Land.

Q. Is Mid-Kansas and Victory Land seeking the approval of the Shared Service Agreement in these proceedings?

A. Yes. In accordance with the terms of the Settlement Agreement and Shared Service Agreement, as supplemented, Mid-Kansas and Victory are requesting that both be approved.

3. DETERMINATION OF RATE UNDER SHARED SERVICE AGREEMENT

Q. There is a provision under the Shared Service Agreement which speaks to the possibility of KEPCo charging a wholesale rate different than the Mid-Kansas wholesale rate for the one-half of the load of Victory and Prairie Land. Would you please explain this provision?

A. The Shared Service Agreement provides, in part, that KEPCo may seek approval by the Commission of a charge of 1 mill per kW hour to the Mid-Kansas wholesale rate for the duration of the retail rate freeze that was likely to be imposed under the 524 Docket. After the rate freeze (which is already passed), the wholesale rate at which KEPCo sells to Victory and Prairie Land was to be

set subject to the approval of the Commission and must be recoverable in the Members' retail rates. Victory has been advised that KEPCo intends to charge the Mid-Kansas wholesale rate plus an additional charge or adder to the wholesale rate. As Mr. Miller explained, during the negotiation of the Shared Service Agreement, we objected to any such adder. Because we could not reach agreement, we eventually agreed this would be an open issue to be determined, if necessary, by the Commission upon the transfer of the Certificates of Convenience to Victory and Prairie Land. With the filing of this application, the wholesale rate now needs to be determined and approved by the Commission.

Q. Was it your understanding KEPCo was entitled to a charge in addition to the Mid-Kansas wholesale rate?

A. No. At the time KEPCo asserted that it was entitled to charge an adder to Mid-Kansas' wholesale rate, Prairie Land and Victory objected to KEPCo's position then, as it does now, and refused to agree to it. We could not conceive of a rational justification for the additional charge by KEPCo. Again, because of the pressure to complete the acquisition or be in default and subject to significant damages for non-performance, and since we could not agree on the merits of an adder, we contractually required that any rate KEPCo sought to charge would require approval by the Commission. The requirement for Commission approval was an essential and very important contractual commitment to both Victory and Prairie Land. Victory would never have signed the Shared Service Agreement without that provision.

Q. Was it the intent of Sunflower to also charge an adder to the Mid-Kansas wholesale rate for the load being served by Sunflower?

A. No. It was Sunflower's intention for the sale of power to occur strictly between Mid-Kansas and the Members. By circumventing Sunflower, it would not become liable for payment of the Members' power bill to Mid-Kansas should a Member default on payment. So Sunflower had no intentions of inserting itself into the mix. Besides, Sunflower was not at risk for the acquisition and did not feel it should profit from the transaction. Sunflower saw this strictly as a business transaction between the Members and Mid-Kansas. However, as Mr. Miller testified to, RUS demanded that before the acquisition could be concluded, we had to resolve our dispute with KEPCo. Thus, Sunflower was interjected into the mix. Regardless, it was and still is Sunflower's intent to simply pass through the Mid-Kansas wholesale rate to the Members without any additional charge.

Q. What is your understanding of the terms "economically viable" as it is used in the Shared Service Agreement?

A. I somewhat addressed that above. Victory did not see any rational economic basis for a rate other than the Mid-Kansas' wholesale rate. The language that the KEPCo wholesale rate had to be economically viable was inserted to capture Victory and Prairie Land's concern. As Allan Miller testified, many factors could be considered to determine if an adder is economically viable. I agree completely with his testimony. Victory questions the economic basis for an adder and whether a retail customer should pay any rate in addition to the cost of Mid-Kansas' wholesale services. Victory is also concerned that an adder could place

our municipal customers at a disadvantage with other communities competing for economic development projects. For example, Victory serves the City of Dodge which competes with other communities for such projects. In many instances, the price of power can be the difference between a city being successful in attracting and retaining a business or not. I need to mention that several of our new Board members are Dodge City businessmen and they are concerned with the cost of power and the impact power costs can have on existing business and economic development. The same is true for our industrial customers as well. A higher rate places them at a disadvantage with their competition and reduces profits.

Victory contends that the Mid-Kansas wholesale rate properly reflects the wholesale cost of service to Victory and Prairie Land and should be the approved wholesale rate. Any higher rate simply is requiring the retail customers that bought Aquila-WPK to serve their needs to pay KEPCo to use it. It would be like buying a car for your own transportation and then having to pay someone else for you to ride in your own car.

Q. Can you provide an indication as to the magnitude in dollars as to the imposition of an adder?

A. If a 1 mill adder to the Mid-Kansas wholesale rate is charged by KEPCo and passed through to the customers in the Victory division, the 1 mill adder would cost customers approximately \$250,000 annually based upon current load. With the recent oil play in our area, this cost to the customer could become significantly higher based upon the projected load growth from drilling activities.

Q. At this time do you have an opinion whether or not a rate other than Mid-Kansas' wholesale rate is economically viable?

A. Yes. For the reasons I have already mentioned, the appropriate wholesale rate to Victory and Prairie Land should be the Mid-Kansas wholesale rate. This is a rate the Commission has already determined in an earlier rate case as the just and reasonable cost of service.

Q. Has KEPCo financially or contractually committed to supply resources to provide service to the Mid-Kansas customers served by Victory and Prairie Land?

A. Victory and Prairie Land are Members of KEPCo. Their Wholesale Power Contracts with KEPCo terminate at the end of 2020. Both Victory and Prairie Land have notified KEPCo that they will not extend their membership or their Wholesale Power Contracts beyond that date. All of the rest of the 17 members have extended their contacts and membership to 2045. To my knowledge, KEPCo has not made any financial or resource commitment to service the Mid-Kansas load. Nor made any financial or resource commitment they would not have made otherwise to serve the members that have extended their Wholesale Power Contracts to 2045. Just as it does today, going forward Mid-Kansas will have the sole responsibility for power supply and the related financial obligations to service the entire Members' load, including Victory and Prairie Land. In fact for the last several years, Victory and Prairie Land have been trying to buy out of

KEPCo. Therefore, it is not necessary or prudent for them to make such a commitment.

Q. Is KEPCo financially responsible to Mid-Kansas' lenders for repayment of the debt incurred by the Members or Mid-Kansas to acquire the WPK assets?

A. No. KEPCo has no obligations for the financial commitments made by the Members or Mid-Kansas to acquire Aquila-WPK or operate Mid-Kansas. Nor am I aware of any financial commitments KEPCo has made related to the Mid-Kansas transaction.

Q. As one of the joint applicants, what are you asking the Commission to do?

A. Prior to the transfer of the certificated territory to Victory and Prairie Land, the Commission must determine whether or not the Settlement Agreement and Shared Service Agreement, as supplemented, should be approved. If approved, Mid-Kansas, Victory and Prairie Land request that the Commission find and order that the terms of the wholesale services and rates provided by KEPCo for the Victory and Prairie Land load be the same as the terms of the currently approved wholesale services and rates provided by Mid-Kansas, as may be modified by Mid-Kansas from time to time, and that the Commission make such finding and order prior to the transfer of the Certificates of Convenience to Victory and Prairie Land as the determination may impact their request for the transfer of the Certificates herein. Provided further, should KEPCo elect in the future to set terms of wholesale service and rates different than the approved Mid-Kansas

wholesale terms of service and rates, Mid-Kansas, Victory and Prairie Land request that Commission find and order that the wholesale terms of service and rates can be modified only after approval by the Commission.

Q. Does the same determination have to be made as to the load being served by Sunflower?

A. No. Sunflower will pass through Mid-Kansas's wholesale rate without an additional charge to Victory and Prairie Land as well as for the other four members.

4. DETERMINATION OF PROCESS FOR EXEMPTION FROM REGULATION

Q. The application requests the determination of the process the Members are to follow upon transfer of a Certificate to exempt themselves from regulation under K.S.A. 66-104d. Would you explain why the applicants are seeking approval of this process?

A. I note that Mr. Lowry discussed this in his testimony, and I will defer to his legal analysis as it pertains to the voting process and purpose of the statute. Victory legacy side is currently deregulated. Our member owners overwhelmingly supported the election to exempt themselves from regulation. Of the members voting, 98% voted to deregulate. Since then, the Board of Directors of Victory have done a very good job of controlling rates without the necessity of Commission oversight.

Q. You recall that in the acquisition docket, the Members stipulated the steps for deregulation upon transfer of the Certificate of Convenience. Why are the applicants now seeking a modification to that procedure?

A. Victory has granted all of the former Aquila-WPK customers full cooperative membership rights, including the right to vote and the right to patronage. Upon the acquisition, we also enlarged our Board to add directors from the territory to be transferred in this docket. As pointed out by other Members, the stipulation requires a vote solely by the Aquila-WPK customers to determine whether they should exempt themselves from regulation. Although we are optimistic such a vote would be in favor of exemption, a vote disapproving deregulation would raise serious questions as to the impact on the customers currently deregulated. I will defer to Mr. Lowry as to the legal implications, but it is my understanding that the statute does not contemplate a partial deregulation of the cooperative's members. A cooperative is either regulated or not regulated. We also agree with the other Members that it would be unfair to force regulation upon our member owners that are currently satisfied with the deregulated status of Victory.

Q. Does Victory have a recommended solution?

A. Yes. We concur with Mr. Lowry and other members that the Order in Docket 524 should be modified to the extent any Member cooperative that is exempt from regulation at the time of the transfer of the certificate, should remain unregulated subject to rights of 10% of the customers petitioning for a vote if dissatisfied. Victory believes the ability of the former Aquila-WPK customers to petition for a vote provides adequate relief, is fair to the currently deregulated customers, and falls within the spirit of the stipulation.

Q. Does this conclude your testimony?

A. Yes.

VERIFICATION

STATE OF KANSAS)
COUNTY OF FORD) ss:

Terry Janson, of lawful age, being first duly sworn, deposes and says that he is the Terry Janson referred to in the foregoing document entitled "Direct Testimony of Terry Janson" before the State Corporation Commission of the State of Kansas and that the statements therein were prepared by him or under his direction and are true and correct to the best of his information, knowledge, and belief.



Terry Janson

SUBSCRIBED AND SWORN to before me this 28TH day of
December, 2012.



Notary Public

My appointment expires: 12/23/2014

