

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

Before Commissioners: Mark Sievers, Chairman  
Thomas E. Wright  
Shari Feist Albrecht

In the Matter of Empire District Electric )  
Company's Compliance with the )  
Commission's Order in Docket No. 13-GIME- ) Docket No. 13-EPDE-465-CPL  
391-GIE. )

**ORDER ON PETITION TO INTERVENE**

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having examined the files and records, and being duly advised in the premises, the Commission makes the following findings:

1. On December 13, 2012, the Commission opened a General Investigation of the Annual Determination for the Statewide Retail Rate Impact Resulting from Affected Utilities Meeting the Renewable Portfolio Requirement Pursuant to K.S.A. Supp. 2012 66-1260 in Docket No. 13-GIME-391-GIE (391 Docket). The stated purpose of the 391 Docket was to "require submission of information related to a utility's portfolio requirement" so that the Commission can prepare its annual report to the Legislature, due on March 1, 2013.<sup>1</sup> On February 7, 2013, Solar Energy Industries Association – Heartland Chapter (HSEIA) filed a Petition to Intervene in the 391 Docket, and was granted intervention on February 20, 2013.<sup>2</sup>
2. On January 16, 2013, Docket No. 13-EPDE-465-CPL (465 Docket) was opened in order to permit The Empire District Electric Company (Empire) to comply with the Commission's requirements in the 391 Docket and maintain confidentiality.<sup>3</sup>

<sup>1</sup> Order Opening General Investigation Docket, (391 Docket) (Dec. 13, 2012), paragraph 1 (Dec. 13, 2012 Order, ¶ 1).

<sup>2</sup> Petition to Intervene, (391 Docket) (Feb. 7, 2013); Order on Solar Energy Industries Association - Heartland Chapter's Petition to Intervene, (391 Docket) (Feb. 20, 2013), ¶ 4.

<sup>3</sup> See, Notice of Filing of Confidential Report, (Jan. 16, 2013).

3. On February 15, 2013, HSEIA filed a Petition to Intervene (Petition). In HSEIA's Petition, HSEIA stated it is a not for profit corporation authorized to conduct business in the state of Kansas, advocating for the development of solar energy projects in Kansas, Nebraska and Iowa.<sup>4</sup> HSEIA is composed of various businesses engaged in the development, sale, and installation of solar energy systems.<sup>5</sup> HSEIA states its members may be affected by the report produced through this docket, and HSEIA has legal rights and economic interests that will be substantially affected by this proceeding.<sup>6</sup>

4. For a petitioner to qualify for intervention, three elements must be met: (1) the petition needs to be in writing and submitted to the presiding officer, with copies mailed to all parties, at least three days before an evidentiary hearing; (2) the petition must state facts demonstrating the petitioner's legal rights, duties, privileges, immunities or other legal interests may be substantially affected by the proceeding, or that the petitioner qualifies as an intervenor under any provision of the law; and (3) the interests of justice and the orderly and prompt conduct of the proceedings will not be impaired by allowing the intervention.<sup>7</sup> A petition for intervention may be granted at any time if it is in the interests of justice and will not impair the orderly and prompt conduct of the proceedings.<sup>8</sup>

5. The Commission is responsible for ensuring utilities comply with Commission orders and approves the use of compliance dockets as an internal monitoring mechanism. The Commission reviewed HSEIA's petition and finds and concludes that HSEIA has not met the requirements of K.A.R. 82-1-225 and should be denied intervention. HSEIA has failed to articulate facts demonstrating how its legal rights, duties, privileges, immunities or other legal

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<sup>4</sup> Petition, ¶ 1.

<sup>5</sup> Petition, ¶ 2.

<sup>6</sup> Petition, ¶¶ 2, 3.

<sup>7</sup> K.S.A. 77-521(a); K.A.R. 82-1-225(a).

<sup>8</sup> K.S.A. 77-521(b); K.A.R. 82-1-225(b).

interests may be substantially affected by a compliance docket.<sup>9</sup> Should the petitioner be able to clearly articulate a basis for intervention, the Commission may reconsider its decision to deny intervention.

**IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:**

(A) The Commission denies Solar Energy Industries Association – Heartland Chapter intervention in the above-captioned proceeding.


(B) This Order is procedural and constitutes non-final agency action.<sup>10</sup> The parties have 15 days, plus three days if service of this order is by mail, from the date this order was served in which to petition the Commission for reconsideration of any issue or issues decided herein.<sup>11</sup>

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

**BY THE COMMISSION IT IS SO ORDERED.**

Sievers, Chmn; Wright, Com; Albrecht, Com.

Dated:           **MAR 13 2013**          

  
ORDER MAILED MAR 14 2013  
Patrice Petersen-Klein  
Executive Director

JV

<sup>9</sup> K.S.A. 77-521(a); K.A.R. 82-1-225(a).

<sup>10</sup> K.S.A. 77-607(b)(2).

<sup>11</sup> K.S.A. 66-118b; K.S.A. 2012 Supp. 77-529(a)(1).

PLEASE FORWARD THE ATTACHED DOCUMENT (S) ISSUED IN THE ABOVE-REFERENCED DOCKET TO THE FOLLOWING:

NAME AND ADDRESS	NO. CERT. COPIES	NO. PLAIN COPIES
NIKI CHRISTOPHER, ATTORNEY CITIZENS' UTILITY RATEPAYER BOARD 1500 SW ARROWHEAD RD TOPEKA, KS 66604 <b>***Hand Delivered***</b>		
C. STEVEN RARRICK, ATTORNEY CITIZENS' UTILITY RATEPAYER BOARD 1500 SW ARROWHEAD RD TOPEKA, KS 66604 <b>***Hand Delivered***</b>		
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C. EDWARD PETERSON, ATTORNEY FINNEGAN CONRAD & PETERSON LC 1209 PENNTOWER OFFICE CENTER 3100 BROADWAY KANSAS CITY, MO 64111		

ORDER MAILED MAR 14 2013

The Docket Room hereby certified that on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, it caused a true and correct copy of the attached ORDER to be deposited in the United States Mail, postage prepaid, and addressed to the above persons.

PLEASE FORWARD THE ATTACHED DOCUMENT (S) ISSUED IN THE ABOVE-REFERENCED DOCKET TO THE FOLLOWING:

NAME AND ADDRESS	NO. CERT. COPIES	NO. PLAIN COPIES
HOLLY FISHER, LITIGATION COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD RD TOPEKA, KS 66604-4027 ***Hand Delivered***		
JAY VAN BLARICUM, ADVISORY COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD RD TOPEKA, KS 66604-4027 ***Hand Delivered***		

ORDER MAILED **MAR 14 2013**

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