

THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

Before Commissioners: Jay Scott Emler, Chairman  
Shari Feist Albrecht  
Pat Apple

In the Matter of the Complaint of Southern )  
Pioneer Electric Company Against the Kansas )  
Power Pool Regarding Bypass and Duplication ) Docket No. 17-KPPE-092-COM  
of Service for 34.5kV Delivery to the City of )  
Kingman. )

**ORDER ACCEPTING FORMAL COMPLAINT  
AND ADOPTING LITIGATION STAFF'S MEMORANDUM**

This matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined the Complaint submitted in this matter and being duly advised in the premises, the Commission finds as follows:

**I. BACKGROUND**

1. On September 9, 2016, Southern Pioneer Electric Company (Southern Pioneer) filed a Formal Complaint against the Kansas Power Pool (KPP). Southern Pioneer alleged that KPP is attempting to by-pass Southern Pioneer's facilities contrary to the public interest, and that such by-pass will create duplication of facilities and will unduly burden the customers of Southern Pioneer by raising their rates.

**II. Legal Standard**

2. Upon the filing of a formal complaint, the Commission must determine "whether or not the allegations, if true, would establish a *prima facie* case for action by the commission and whether or not the formal complaint conforms to [the Commission's]

regulations.”<sup>1</sup> K.A.R. 82-1-220(b) requires formal complaints to satisfy three procedural requirements:

- a. Fully and completely advise each respondent and the commission as to the provisions of law or the regulations or orders of the commission that have been or are being violated by the acts or omissions complained of, or that will be violated by a continuance of acts or omissions;
- b. set forth concisely and in plain language the facts claimed by the complainant to constitute the violations; and
- c. state the relief sought by the complainant.

### III. Findings and Conclusions

3. The Commission has reviewed the Formal Complaint’s underlying facts and allegations, and while making no recommendation regarding the *validity or truthfulness* of the Complainant’s claims, believes that the Formal Complaint has satisfied the procedural requirements of the Commission’s rules and practice and procedure. The Formal Complaint clearly identifies the relief sought and the Commission has jurisdiction to grant such relief.

### II. FINDINGS AND CONCLUSIONS

4. The Commission may investigate formal complaints regarding rates, rules, regulations, or practices of gas and electric public utilities.<sup>2</sup> The Commission finds it has the jurisdiction to conduct the requested investigation into Southern Pioneer’s complaint. Furthermore, the Commission has reviewed the Formal Complaint’s underlying facts and allegations, and while making no finding regarding the *validity or truthfulness* of Southern

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<sup>1</sup> K.A.R. 82-1-220(c).

<sup>2</sup> Specifically, the Commission is granted broad authority to review formal complaints. *See* K.S.A. 66-101e (“Upon a complaint in writing made against any electric public utility governed by this act that any of the rates or rules and regulations of such electric public utility are in any respect unreasonable, unfair, unjust, unjustly discriminatory or unduly preferential, or both, or that any regulations, practice or act whatsoever affecting or relating to any service performed or to be performed by such electric public utility for the public, is in any respect unreasonable, unfair, unjust, unreasonably inefficient or insufficient, unjustly discriminatory or unduly preferential, or that any service performed or to be performed by such electric public utility for the public is unreasonably inadequate, inefficient, unduly insufficient or cannot be obtained, the commission may proceed with or without notice, to make such investigation as it deems necessary.”); *see also* K.S.A. 66-1,205(a). *See* K.S.A. 66-191d, 101g; K.S.A. 66-1,201, 204, 207.

Pioneer's claims, finds that the Formal Complaint has satisfied the procedural requirements of the Commission's rules and practice and procedure. Likewise the Commission finds that the Formal Complaint clearly identifies the relief sought and the Commission has jurisdiction to grant such relief.

5. Therefore, the Commission concludes the Formal Complaint establishes a *prima facie* case for action by the Commission and should be served upon KPP.


**THEREFORE, THE COMMISSION ORDERS:**

- A. The Complaint complies with the procedural requirements of K.A.R. 82-1-220.
- B. The Complaint establishes a *prima facie* cause of action by the Commission.
- C. The Complaint is to be served on the Respondents.
- D. Staff shall investigate this matter and submit a Report and Recommendation to the Commission.
- E. The parties have 15 days after service of this order by electronic mail, in which to petition the Commission for reconsideration of any issue or issues decided herein. K.S.A. 66-118b; K.S.A. 2013 Supp. 77-529(a)(1).
- F. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further orders as it deems necessary.

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

Emler, Chairman; Albrecht, Commissioner; Apple, Commissioner

Dated: DEC 15 2016

  
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Amy L. Green  
Secretary to the Commission

SRF

**EMAILED**

DEC 15 2016

**CERTIFICATE OF SERVICE**

17-KPPE-092-COM

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 DEC 15 2016.

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**EMAILED**

DEC 15 2016