

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

In the Matter of the Investigation into the)
Agreement Between Evergy and Elliott)
Management to Consider a Modified) Docket No. 20-EKME-514-GIE
Standalone Plan or Merger Transaction.)

PETITION OF THE KANSAS POWER POOL TO INTERVENE

COMES NOW the Kansas Power Pool (“KPP”), a Municipal Energy Agency, and moves the Corporation Commission of the State of Kansas (“Commission”) for an order pursuant to K.S.A. 77-521 and K.A.R. 82-1-225 permitting it to intervene in the above-captioned proceeding.

In support of its Petition, KPP alleges and states as follows:

1. KPP is a municipal energy agency formed under K.S.A. 12-885, *et seq.*
2. KPP arranges for transmission service and wholesale power and energy for its member cities, who have all signed KPP’s Amended Operating Agreement. Currently, KPP serves 24 Kansas municipal electric utilities. Sixteen of KPP’s members are in the Evergy transmission zone, seven are in the Mid-Kansas Electric Company, LLC (“MKEC”) zone, and one is in the Midwest Energy zone.
3. KPP owns limited generation, but operates no facilities and only provides its members with wholesale energy. KPP does not own any transmission facilities and is a transmission dependent utility.¹ In fact, KPP is entirely dependent upon other utilities’ transmission systems for delivery of power to its member cities, and significantly upon Evergy’s transmission system. KPP has a Purchase Power Agreement with Evergy for fifty-nine megawatts

¹ KPP has been assigned operational control of the Winfield transmission assets and has placed this control with the Southwest Power Pool (SPP). Strictly speaking, SPP considers KPP the transmission owner of these assets. Nonetheless, KPP depends on the transmission system of Mid-Kansas, Midwest Energy and Evergy to serve KPP’s members.

of power from the Jeffrey Energy Center. Furthermore, this contract, as approved in Docket No. ER13-994, includes a provision for KPP approval of contract assignment for any assignment of contract obligations due to a merger or acquisition.²

4. As noted in the Petition to Intervene filed by KIC, investigations such as this one are governed by the Kansas Administrative Procedures Act, unless the Commission orders otherwise.³ The Commission has broad discretion to grant a petition for intervention when the intervention sought is in the interests of justice and will not impair the orderly and prompt conduct of the proceedings.⁴

5. KPP has a direct and substantial interest in the outcome of this investigation, and in Evergy's business dealings with Elliott Management. KPP and, ultimately, its members will or may be bound by any Commission Order or activity in this proceeding, and KPP and its members may be adversely affected thereby. KPP's intervention in this proceeding is in the public interest.

5. KPP's interests herein are not adequately represented by any other party, and granting KPP intervention and full party status will not impair the orderly and prompt conduct of these proceedings. In fact, KPP's representation of multiple user interests (its member cities) through one active participant could greatly enhance the orderly and prompt conduct of the Commission's business.

² See Article VII.1 of the agreement which states specifically:

“ Neither Party shall assign, pledge or otherwise transfer this Agreement or any right or obligation under this Agreement without first obtaining the other Party's written consent; provided, however, that Westar Energy may, without Customer's prior written consent (and without relieving itself from liability hereunder) (i) transfer, sell, pledge, encumber or assign this Agreement or the accounts, revenues or proceeds hereof in connection with any financing or other financial arrangements; or (ii) transfer or assign this Agreement to any person or entity succeeding by merger or by acquisition to all or substantially all of the assets of Westar Energy, where such person's or entity's creditworthiness is equal to or higher than that of Westar Energy; provided, however, that in each such case, any such assignee shall agree in writing to be bound by the terms and conditions hereof.”

³ See K.S.A. 66-101d; KIC's Petition to Intervene, p. 2.

⁴ See K.S.A. 77-521(b); KIC's Petition to Intervene, p. 2-3.

7. All communication and correspondence to KPP, including service of all Notices and Orders of this Commission herein, are requested to be sent to the following named individuals:

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WHEREUPON, KPP prays that the Commission enter an order allowing it to intervene and fully participate in this docket, including but not limited to the right to conduct discovery, file pleadings and testimony, present oral argument, and fully participate in any scheduled hearings, and for all other relief which the Commission deems just and proper.

Respectfully submitted:

By: /s/ Amy Fellows Cline
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VERIFICATION

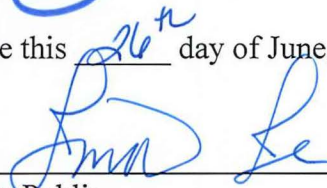
STATE OF KANSAS)
) ss:
COUNTY OF SEDGWICK)

Amy Fellows Cline, of lawful age, being first duly sworn upon my oath, state that I am the Attorney for the Kansas Power Pool; that I have read the Petition of the Kansas Power Pool to Intervene, I know the contents thereof and declare that the statements made therein are true and correct to the best of my knowledge and belief.



Amy Fellows Cline

SUBSCRIBED AND SWORN to before me this 26th day of June, 2020.



Notary Public

My Appointment Expires:



CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of June, 2020, the Petition of the Kansas Power Pool to Intervene was served via electronic mail to:

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