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ARKANSAS PUBLIC SERVICE COMMISSION

FILED

IN THE MATTER OF AMENDMENTS TO THE)
ARKANSAS PUBLIC SERVICE COMMISSION'S)
RULES CONCERNING METER AGGREGATION)
AND COMBINED BILLING FOR NET-METERING)
CUSTOMERS)

DOCKET NO. 12-060-R
ORDER NO. 5

ORDER

On May 15, 2013, by Order No. 4 in this docket, the Arkansas Public Service Commission ("Commission") proposed amendments to its Net Metering Rules ("NMRs") to allow meter aggregation for net metering customers. On May 31, 2013, the Arkansas Municipal Power Association ("AMPA") submitted a Petition for Late Intervention ("Petition") with accompanying comments. On June 7, 2013, the General Staff ("Staff") of the Arkansas Public Service Commission ("Commission") submitted a response to the Petition.

AMPA is an unincorporated association of 14 municipal utilities and one Consolidated Municipal Improvement District in the State of Arkansas.1 Petition at 1. AMPA states that the rates of its members are not subject to the jurisdiction of the Commission, but that its members are required to offer net metering under the Arkansas Renewable Energy Development Act ("AREDA"). Id. at 2, citing Ark. Code Ann. § 23-18-601, et. seq. AMPA states that it therefore may be directly affected by any developments or modifications to the Commissions Net Metering Rules ("NMRs").

1 Specifically, AMPA includes Benton Utilities; City of Bentonville Light and Water System; Clarksville Light and Water; Conway Corporation; Hope Water and Light Commission; City Water and Light of Jonesboro, Arkansas; North Little Rock Electric Department; Ocoola Light and Power; Paragould City Light, Water, and Cable; City of Paris, Arkansas; Prescott Water and Light, City of Siloam Springs, Arkansas, and West Memphis Utilities Commission.

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AMPA requests an exemption, or in the alternative, clarification that AMPA is exempt from the NMRs. *Id.* at 2. AMPA notes that municipalities owning or operating public utilities are exempt from any supervision or regulation by the Commission pursuant to Ark. Code. Ann. § 14-200-112. AMPA believes its late intervention is warranted because it was only recently made aware of this proceeding, because it is willing to accept the record as it stands to date, because its direct interests in this proceeding is not adequately represented by any other party to this proceeding, and because its intervention is in the public interest. *Id.* at 2-3.

Staff acknowledges the exemption of municipal utilities from Commission regulation under Ark. Code Ann. § 14-200-112. Staff at 2. Staff points out that, while AREDA applies to municipal utilities, it defines “Commission” to include the Arkansas Public Service Commission “or [the] appropriate governing body” for an electric utility. *Id.* at 2, *referencing* Ark. Code Ann. § 23-18-603(1). Staff states that the intent and plain language of AREDA is to acknowledge that the Commission does not regulate municipal utilities by use of the phrase “or other appropriate governing body.” AREDA does not expand the Commission’s jurisdiction to include municipal utilities, according to Staff. *Id.* at 2. Since municipalities are exempt from Commission regulation, Staff states that they do not have an interest that may be directly affected by Commission action, and the Petition should be denied under Rule 3.04 of the Commission’s Rules of Practice and Procedure. *Id.* at 2-3.

Ruling

Statutory law provides that “Municipalities owning or operating any public utilities are exempt from any supervision or regulation by the Arkansas Transportation

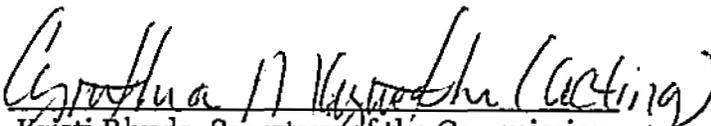
Commission and the Arkansas Public Service Commission.” Ark. Code. Ann. § 14-200-112. The Commission agrees with Staff that AREDA does not provide any grant of authority expanding the Commission’s jurisdiction or power to include municipal utilities. The plain intent of AREDA’s phrase “or other appropriate governing body” is to leave the regulation of net metering within the territories of municipal utilities to the governing bodies of municipal utilities. The instant proceeding concerns proposed amendments to the current NMRs. The proposed amendments do not change the fact that the NMRs do not regulate municipal utilities. Because the proposed rule amendments do not and cannot apply to municipal utilities or to customers within municipal utility territories, AMPA lacks a direct interest in this proceeding, and the Petition is denied.

BY ORDER OF THE COMMISSION,

This 13th day of June, 2013.

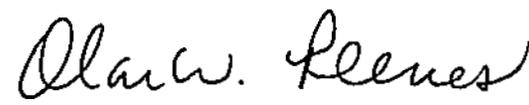
I hereby certify that the following order issued by the Arkansas Public Service Commission has been served on all parties of record this date by electronic mail, using the email address of each party as indicated in the official docket file.


Secretary of the Commission
Date 6/13/2013


Kristi Rhude, Secretary of the Commission



Colette D. Honorable, Chairman



Olan W. Reeves, Commissioner



Elana C. Wills, Commissioner