

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

In the Matter of a General Investigation )  
Regarding the Rate Study and Assessment of ) Docket No. 20-GIME-068-GIE  
Expenses Resulting from Substitute for Senate )  
Bill No. 69. )

**NOTICE OF COMMISSION STAFF REGARDING CONFIDENTIALITY**

Staff of the State Corporation Commission of the State of Kansas (Staff and Commission, respectively) hereby files this notice advising the Commission and interested stakeholders as to Staff's efforts to address the confidential designation of the rate study report submitted in this matter by AECOM.

**I. PERTINENT BACKGROUND AND DISCUSSION**

1. During 2019, the Kansas Legislature passed the Substitute for Senate Bill 69, which requires a study of Kansas electric retail rates (Rate Study). Governor Kelly subsequently signed the bill, authorizing the Rate Study be conducted. On August 8, 2019, the Commission initiated this proceeding, *inter alia*, to be used as a repository for the Rate Study.

2. The Rate Study was broken into two phases, with the first phase being completed in January 2020 by London Economics International, LLC (Phase I). On January 8, 2020, the Commission caused the resulting report from the Phase I Rate Study to be filed in this matter. The second phase was recently completed by AECOM (Phase II), and the Commission caused a public version of the report for the Phase II Rate Study to be filed in this matter on July 2, 2020 (Phase II Report).

3. In the hours leading up to the filing of the Phase II Report, AECOM contacted Commission Staff advising that a public and confidential version of the Phase II Report was being

submitted by AECOM. Prior to this contact, Staff was unaware of AECOM's intent to submit a confidential version of the report.

4. After receipt of the Phase II Report, Staff began its review, starting with a comparison of the public and confidential versions of the Phase II Report, in an attempt to ascertain the reasoning behind the submittal of a confidential version of the report.

5. From Staff's initial review it was unclear why some of the information contained in the Phase II Report was designated as confidential, as much of the confidentially designated material appeared to be in aggregate form that is otherwise obtainable in public records.

6. However, Staff was aware that in order to conduct its analysis, AECOM necessarily entered into confidentiality agreements with the utilities in order to protect the respective utilities' sensitive data including, but not limited to, customer and pricing information. Staff was also aware that some of the information obtained by AECOM may be such that dissemination, even under protective order, is inappropriate.

7. In an attempt to address the confidentiality issues, Staff reached out to AECOM requesting it to advise as to the justification for each of the confidential designations, and noting that the Commission's general rules regarding confidentiality require parties claiming confidentiality to justify such designations.<sup>1</sup> Staff further reminded AECOM that the Kansas Legislature directed the undertaking of the Rate Study, and as such, the confidential designations

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<sup>1</sup> Paragraph seven (7) of the Commission's October 17, 2019 *Protective and Discovery Order* provides, in pertinent part:

Confidential Information: "Confidential information" refers to information which, if disclosed, would likely result in harm to a party's economic or competitive interests or which would result in harm to the public interest, generally, and which is not otherwise available from public sources. "Confidential information" may include, but is not limited to: (1) material or documents that contain information relating directly to specific customers; (2) employee-sensitive information; (3) marketing analyses or other market-specific information relating to services offered in competition with others; (4) reports, work papers or other documentation related to work produced by internal or external auditors or consultants; (5) strategies employed, to be employed, or under consideration; (6) contract negotiations; and, (7) information concerning trade secrets, as well as private technical, financial, and business information.

are problematic because they prevent the legislature from reviewing the Phase II Report in its entirety.

8. AECOM is working to provide the requested information to Staff. Staff will continue diligently working with AECOM to address the confidentiality issues, understanding that a meaningful public report is necessary. In the meantime, Staff recommends that the Commission not disseminate the confidential version of the report until such time as AECOM has resolved the confidentiality issues. This approach will ensure that sensitive utility information that would not otherwise be discoverable as part of a Commission proceeding is not disseminated.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

20-GIME-068-GIE

I, the undersigned, certify that a true and correct copy of the above and foregoing Notice to Commission Regarding Confidentiality was served electronically this 7th day of July, 2020, to the following:

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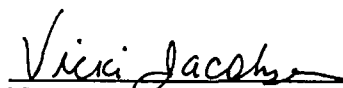
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