

ORDINANCE NO. 1422

AN ORDINANCE OF THE CITY OF MARION, AUTHORIZING FILING OF APPLICATION WITH THE FEDERAL ENERGY REGULATORY COMMISSION (“FERC”) BY THE KANSAS POWER POOL (“KPP”), A MUNICIPAL ENERGY AGENCY (“KPP”), ON BEHALF OF THE CITY OF MARION (“CITY”) A MEMBER CITY OF KPP, FOR WAIVER OF THE CITY’S MUST-PURCHASE REQUIREMENT UNDER THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978 (PURPA) AND ADOPTING RULES FOR COMPLIANCE WITH FERC’S PURPA REGULATIONS.

WHEREAS, PURPA is the Public Utilities Regulatory Policy Act of 1978 and its basic goal is to require electric utilities, which include The Kansas Power Pool, a municipal energy agency, and the City of Marion, Kansas, to purchase the output of certain generating facilities which may locate in their service territories at a negotiated rate or at “avoided cost”; and

WHEREAS, Federal Energy Regulatory Commission provides the option to seek a waiver to exempt the City, a Member City of the KPP that has contracted to purchase its full requirements for electric capacity and energy from the KPP, from having to purchase the output of a PURPA qualifying facility (QF) that seeks to interconnect with the Member City’s electrical system, directing the QF instead to the KPP which would assume the obligation to purchase the output of such QF, while the Member City would remain obligated to interconnect with and make sales of retail electricity to a QF in accordance with PURPA; and

WHEREAS, on July 20, 2017, the Board of Directors of the KPP adopted the Rules for Compliance with FERC’s PURPA Regulations and authorized the filing of the above-referenced application for waivers on behalf of the KPP and any member city which wished to join therein.

NOW THEREFORE, be it ordained by the City of Marion, Kansas that as follows:

Section 1. The above recitals are incorporated herein by reference as if fully restated.

Section 2. The filing of said waiver request with FERC by the KPP on behalf of the City of Marion is hereby approved.

Section 3. Regarding the assumption by the KPP of the responsibility to purchase the output of QF's in lieu of those Member Cities that wish to participate in the waiver application, the governing body of the City of Marion, Kansas hereby assigns to the KPP the responsibility for such purchases and approves the assumption of said undertaking by the KPP.

Section 4. The KPP's rules for Compliance with FERC's PURPA Regulations are hereby approved by the governing body of the City of Marion, with which the City shall abide, and which provide, *inter alia*, that

(1) The KPP and City shall not avoid or frustrate the purpose of any PURPA mandated obligations;

(2) The KPP and City shall permit any QF to interconnect with KPP's and Member Cities' transmission and distribution systems subject to reasonable requirements for the protection of their systems;

(3) The KPP and the City shall not charge duplicate fees to any QF for interconnection or wheeling;

(4) The KPP shall not be subject a QF to any duplicate charges or additional fees as a result of the KPP's purchase of power from the QF that would otherwise be purchased by any one of the Member Cities;

(5) The City interconnected with the QF shall sell any capacity and energy to the QF that is required by it.

Section 5. The Mayor and City Clerk of the City shall be and each of them are hereby authorized to execute or accept such further documents and to take or cause to be taken any and all such further action as may be resonbably required on the part of the City to carry out, give effect to and consummate the transactions contemplated hereby.

Section 6. This Ordinance shall take effect and be in full force from and after it's adoption by the governing body of the City of Marion, Kansas, approval of the Mayor and either (A) publication once in the official newspaper of the City, or (b) publication of a summary hereof certified as legally accurate and sufficient by the City Attorney.

PASSED, ADOPTED, and APPROVED by majority vote of the Governing Body of the City of Marion, on this 14th day of August, 2017.

Todd Heitschmidt, Mayor

ATTEST:

Rebecca Makovec, Assistant City Clerk

