

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

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

In the Matter of Westar Energy, Inc. and)
Kansas Gas and Electric Company Seeking)
Commission Approval to Implement Changes) Docket No. 16-WSEE-375-TAR
in their Transmission Delivery Charges Rate)
Schedules.)

**ORDER GRANTING JOINT MOTION TO AMEND
TRANSMISSION DELIVERY CHARGE TARIFF SUBJECT-TO-REFUND**

This matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed the pleadings and record, the Commission makes the following findings and conclusions:

I. BACKGROUND

1. On February 15, 2016, Westar Energy, Inc. and Kansas Gas and Electric Company (Westar) filed an Application with the Commission seeking approval to update its TDC tariff to recover costs associated with Westar Energy's transmission of electric power.¹ The Application Westar filed cited to K.S.A. 66-1237 as the authority for the recovery of the TDC.² Westar's initial Application requested an effective date of April 1, 2016, for the proposed TDC.³

¹ Tariff for Westar Energy and Kansas Gas and Electric for 2016 Transmission Delivery Charge, p. 1 (Feb. 15, 2016).

² *Id.*

³ *Id.*

2. On February 24, 2016, the Occidental Chemical Corporation (OxyChem) filed a Petition to Intervene.⁴ The Commission approved OxyChem's Petition to Intervene on March 10, 2016.⁵

3. On March 15, 2016, the Citizens' Utility Ratepayer Board (CURB) and HollyFrontier El Dorado Refining LLC (HollyFrontier) filed their respective Petitions to Intervene.⁶ The Commission granted CURB and HollyFrontier's Petitions to Intervene on March 29, 2016.⁷

4. On March 30, 2016, the Federal Energy Regulatory Commission (FERC) issued a Letter Order accepting a Settlement Agreement between, among others, Westar and the Commission.⁸ The Settlement Agreement sets the base Return on Equity (ROE) for Westar's transmission services at 9.8 percent, with 11.0 percent as the maximum total ROE for any transmission project of Westar to which FERC has granted or will grant transmission incentives, and provides that the base ROE and maximum total ROE will be in place effective August 20, 2014.⁹

5. On March 31, 2016, the Commission issued an Order pursuant to K.S.A. 66-1237 that permitted Westar to implement changes in its TDC on a subject-to-refund basis.¹⁰

6. On June 21, 2016, Westar submitted a revised TDC calculation incorporating the terms of the FERC-approved Settlement Agreement as reflected by a reduction in Westar's Annual Transmission Revenue Requirement (ATTRR).¹¹

⁴ Occidental Chemical Corporation Petition to Intervene (Feb. 24, 2016).

⁵ Order Granting Intervention (Mar. 10, 2016).

⁶ See Petition to Intervene of HollyFrontier El Dorado Refining LLC (Mar. 15, 2016); CURB's Petition to Intervene (Mar. 15, 2016).

⁷ Order Granting Petitions to Intervene of CURB and HollyFrontier El Dorado Refining LLC (Mar. 29, 2016).

⁸ Letter Order Accepting Westar Energy, Inc.'s 6/30/15 Filing of a Settlement Agreement with the State Corporation Commission of the State of Kansas et al under EL14-93, 154 FERC ¶ 61,252 (Mar. 30, 2016) (FERC Letter Order).

⁹ See *id.* at pp. 1-2.

¹⁰ Order Granting Application to Implement Changes in Transmission Delivery Charge Subject-To-Refund (Mar. 31, 2016).

7. On June 23, 2016, Commission Staff (Staff) and CURB filed a Joint Motion to Amend Westar's Transmission Delivery Charge Tariff Subject-To-Refund.¹²

II. ANALYSIS

8. In August of 2014, the Commission filed a formal complaint against Westar Energy, Inc. at FERC pursuant to Section 206 of the Federal Power Act alleging unjust, unreasonable and unduly discriminatory rates resulting from the base Return on Equity component in Westar's Transmission Formula Rate.¹³

9. On August 3, 2015, Settlement Judge Dawn E.B. Scholz certified an uncontested settlement to FERC, which resolved all issues previously set for hearing.¹⁴

10. The Settlement Agreement reached by the parties and submitted to FERC remained under review at FERC until March 30, 2016, when FERC issued a Letter Order accepting the Settlement Agreement between, among others, Westar and the Commission.¹⁵

11. Prior to FERC accepting the Settlement Agreement, Westar filed its proposed 2016 TDC with the Commission.¹⁶

12. Despite reaching a Settlement Agreement with Westar in 2015, neither Westar nor the Commission could utilize the terms of the settlement in calculating Westar's 2016 TDC request because (at the time Westar filed its 2016 TDC request) the Settlement Agreement had

¹¹ Westar Energy Revised Transmission Delivery Charge Tariff (Jun. 21, 2016).

¹² See Joint Motion to Amend Transmission Delivery Charge Tariff Subject-To-Refund (Jun. 23, 2016).

¹³ See Complaint Against Westar Energy, Inc. and Motion for Expedited Action, Docket. No. EL14-93-000, p. 1 (Aug. 20, 2014).

¹⁴ See 152 FERC ¶ 63,012 (Aug. 3 2015).

¹⁵ Letter Order Accepting Westar Energy, Inc.'s 6/30/15 Filing of a Settlement Agreement with the State Corporation Commission of the State of Kansas et al under EL14-93, 154 FERC ¶ 61,252 (Mar. 30, 2016) (FERC Letter Order).

¹⁶ Tariff for Westar Energy and Kansas Gas and Electric for 2016 Transmission Delivery Charge, p. 1 (Feb. 15, 2016).

not yet been incorporated into an, “order of a regulatory authority having legal jurisdiction over transmission matters.”¹⁷

13. One day prior to the Commission taking action on Westar’s 2016 TDC request, FERC approved the Settlement Agreement between, among others, the Commission and Westar.¹⁸ However, Westar would not be able to recalculate its TDC until it had submitted the necessary compliance filings at FERC,¹⁹ and both Westar and the Southwest Power Pool had recalculated Westar’s transmission revenue requirement.

14. On June 21, 2016, Westar was able to submit a recalculation of its Total Annual Transmission Cost that reflected the terms of the Settlement Agreement.²⁰

15. On June 23, 2016, Staff and CURB filed a Joint Motion requesting the Commission issue an Order revising Westar’s TDC to incorporate the terms of the Settlement Agreement in a manner that would allow the decreased TDC to be reflected on Westar’s customers’ July bills.²¹

16. Because FERC has approved the Settlement Agreement related to Westar’s transmission ROE, and because Westar has completed the necessary compliance filings at FERC, Westar’s current TDC (effective since April 1, 2016), no longer reflects Westar’s FERC-approved transmission-related costs.

17. On March 31, 2016, the Commission allowed Westar to implement its original 2016 TDC request as proposed on February 15, 2016, on a subject-to-refund basis.²² Now that

¹⁷ K.S.A. 66-1237(c).

¹⁸ Letter Order Accepting Westar Energy, Inc.’s 6/30/15 Filing of a Settlement Agreement with the State Corporation Commission of the State of Kansas et al under EL14-93, 154 FERC ¶ 61,252 (Mar. 30, 2016) (FERC Letter Order).

¹⁹ *See id* at p. 2.

²⁰ Westar Energy Revised Transmission Delivery Charge Tariff, p. 3 (Jun. 21, 2016).

²¹ Joint Motion to Amend Transmission Delivery Charge Tariff Subject-To-Refund (Jun. 23, 2016).

²² *See* Order Granting Application to Implement Changes in Transmission Delivery Charge Subject-To-Refund, p. 3 (Mar. 31, 2016).

Westar's TDC recalculations have been completed, the Commission finds it just and reasonable to implement Westar's revised TDC as expeditiously as possible.

III. FINDINGS AND CONCLUSION

18. Any electric public utility subject to the Commission's jurisdiction may seek recovery of its costs associated with the transmission of electric power through a separate TDC included in customers' bills.²³

19. As provided by K.S.A. 66-1237(c), all transmission-related costs incurred by an electric public utility which resulted from a body with regulatory authority over transmission matters are conclusively presumed prudent.

20. The Commission may issue an order setting TDC rates subject-to-refund.²⁴

21. If the Commission subsequently determines that a TDC does not reflect FERC-approved transmission-related costs, the Commission may require changes in the TDC and impose appropriate remedies that may include refunds.²⁵

22. As detailed by Staff's Audit Section, Staff has reviewed Westar's submitted recalculations and confirms it accurately reflects the terms of the Settlement Agreement.²⁶ Accordingly, the Commission finds and concludes it has the necessary information to amend Westar's TDC to accurately collect Westar's FERC-approved transmission-related costs.

23. The Commission finds and concludes that Westar's presently effective TDC does not accurately reflect Westar's FERC-approved transmission-related costs. Accordingly, the

²³ See K.S.A. 66-1237(a).

²⁴ *Id.*

²⁵ K.S.A. 66-1237(c).

²⁶ Joint Motion to Amend Transmission Delivery Charge Tariff Subject-To-Refund, p. 3 (Jun. 23, 2016).

Commission finds and concludes that, pursuant to K.S.A. 66-1237(c), it may amend Westar's TDC so to properly recover Westar's settled and FERC-approved transmission-related costs.²⁷

24. As noted in the Joint Movant's Motion, Staff's Economics and Rates Division has begun a separate review of the 12 Coincident Peak (12 CP) methodology used to determine how particular rate classes contribute to the overall TDC. The Commission finds and concludes that adjusting Westar's TDC to incorporate the FERC-approved settlement, while preserving subject-to-refund status as the investigation into the TDC and its 12 CP methodology continues, will provide ratepayers with immediate rate relief and allow the parties to this proceeding the time necessary to review Westar's TDC 12 CP calculations.

25. Therefore, the Commission finds and concludes that, pursuant to K.S.A. 66-1237, the Commission may amend Westar's TDC to recover what is now Westar's FERC-approved transmission-related costs.

26. The Commission finds and concludes that expeditious amendment of Westar's TDC is merited. The Commission finds and concludes that Westar should be required to amend its TDC to incorporate the terms of the Settlement Agreement in the July billing cycle. Therefore, the Commission finds and concludes that Westar is to revise its TDC no later than July 1, 2016.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. Westar Energy Inc. shall revise its Transmission Delivery Charge effective July 1, 2016, in a manner consistent with the information provided in its June 21, 2016, filing in this proceeding.

²⁷ See K.S.A. 66-1237(c).

B. Westar Energy Inc.'s TDC, effective July 1, 2016, will remain subject-to-refund as the parties to this proceeding continue to review Westar Energy Inc.'s TDC calculations and methodologies.

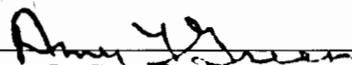
C. The parties have 15 days, plus three days if service of this Order is by mail, to petition the Commission for reconsideration of any issue or issues decided herein.²⁸

D. The Commission retains jurisdiction over the subject matter and 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: JUN 28 2016



Amy L. Green
Secretary to the Commission

SF/dlk

EMAILED

JUN 28 2016

²⁸ K.S.A. 66-118b; K.S.A. 77-529(a)(1).

CERTIFICATE OF SERVICE

16-WSEE-375-TAR

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 JUN 28 2016

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CERTIFICATE OF SERVICE

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JUN 28 2016