



104 and that it provides electric service at retail throughout the state of Kansas as well as wholesale service to numerous municipalities and cooperatives. Petition, ¶¶ 1, 2.

2. The Commission has jurisdiction in this matter pursuant to K.S.A. 2009 Supp. 66-1239, K.S.A. 66-101, and K.S.A. 66-104. K.S.A. 66-1239 provides a utility may request a predetermination of ratemaking principles and treatment from the Commission prior to undertaking the construction of, or participation in a generating facility or prior to entering into a new contract.

3. Westar states that the provisions of the 2009 Renewable Energy Standard (RES) Act (K.S.A. 2009 Supp. 66-1256 *et seq.*) provide for the addition by Westar of 160 MW of renewable generation by July 1, 2011 (growing to 200 MW by 2015 as Westar's average peak demand increases), an additional 260 MW of renewable generation by July 1, 2016, and an additional 270 MW of renewable generation by July 1, 2020, based on Westar's current peak demand forecast. Petition, ¶¶ 4, 5. Westar states that in July 2010, Westar issued a request for proposals (RFP) by which it sought to acquire additional wind generation and is currently in the process of completing contract negotiations. Westar states that due to favorable pricing for the PPAs currently under consideration and the future RES Act requirements, Westar is proposing to enter into PPAs for 369 MW of wind generation with two site developers in Kansas. Petition, ¶¶ 6, 12. Westar anticipates that the wind generation at issue in its Petition will be completed and enter commercial operation in 2012, and states that it intends to recover the costs associated with the purchase of this wind energy through its Retail Energy Cost Adjustment (RECA). Petition, ¶ 11. Westar asks that the Commission determine that Westar's proposal to enter into PPAs to purchase 369 MW of wind generation is prudent, that the 369 MW of wind generation that Westar will acquire will be considered used and useful for the provision of service to Westar's

customers, and that the two wind PPAs submitted will be approved for recovery through Westar's RECA. Petition, ¶ 30.

4. On November 16, 2010, the Citizens' Utility Ratepayer Board (CURB) filed a Petition for Intervention and Motion for Protective Order.

## ***II. Designation of Prehearing Officer***

5. Although the Commission will conduct any evidentiary hearing in this docket, the Commission finds designation of a Prehearing Officer is warranted and designates a prehearing officer for this docket to conduct any prehearing conferences that might be needed and to address any matters that are appropriately considered in a prehearing conference, including all items listed in the Kansas Administrative Procedure Act (KAPA) at K.S.A. 77-517(b). These tasks may include, for example, exploration of settlement possibilities, clarification of issues, issuing certain preliminary orders, rulings on hearing procedure and the presentation of evidence, discovery and protective orders, rulings on petitions to intervene, "and such other matters as will promote the orderly and prompt conduct of the hearing." K.S.A. 77-517(b). The Commission designates Charles R. Reimer, Advisory Counsel, Kansas Corporation Commission, 1500 SW Arrowhead Road, Topeka, KS 66604-4027, (785) 271-3361, c.reimer@kcc.ks.gov, to serve as Prehearing Officer in this matter. K.S.A. 2009 Supp. 77-514; K.S.A. 77-516; K.S.A. 2009 Supp. 77-551. The Commission, as it deems necessary, may designate other staff members to serve in this capacity.

## ***III. Prehearing (Scheduling) Conference***

6. The Commission finds a prehearing scheduling conference is needed to discuss scheduling and other matters in this docket. The Commission observes that K.S.A. 2009 Supp. 66-1239 provides for a 180 day statutory timeframe for a Commission decision. The

Commission sets this prehearing conference for Tuesday, November 30, 2010, beginning at 1:30 p.m. and concluding by 3:30 p.m., in the Third Floor Hearing Room (or such other room as may be designated, if necessary) of the Commission's offices 1500 SW Arrowhead Road, Topeka, KS 66604-4027. The Prehearing Officer will preside.

7. This prehearing conference will focus on issues that relate to development of a procedural schedule for this docket. Parties should also be prepared to discuss discovery, resolution of other matters to be addressed prior to a hearing, potential dates for a public hearing or hearings should the Commission desire to hold a public hearing or hearings, potential dates for an evidentiary hearing, dates for filing of prefiled testimony, settlement conference dates, dates for filing of briefs and/or suggested findings of fact and conclusions of law, and/or any other prehearing issues that will promote the orderly and prompt conduct of this proceeding. K.S.A. 77-517; K.A.R. 82-1-222.

8. Any party who fails to attend or participate in the hearing or in any other stage of this proceeding may be held in default under the KAPA. K.S.A. 77-516(c)(8); K.S.A. 77-520. At the prehearing conference, this proceeding without further notice may be converted into a conference hearing or a summary proceeding for disposition of the matter as provided by KAPA. K.S.A. 77-516(c)(7). Parties may participate via video conference or telephone if necessary and arrangements may be made by contacting the Prehearing Officer as soon as possible.

#### ***IV. Agency Attorneys of Record***

9. The attorneys designated to appear on behalf of the agency in this proceeding are Dana Bradbury, telephone number 785-271-3196, and Colleen Harrell, telephone number 785-271-3138, 1500 Arrowhead Road, Topeka, KS 66604-4027. K.S.A. 2009 Supp. 77-518(c)(2); K.S.A. 77-516(c)(2).

**IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:**

A. The Commission appoints Charles R. Reimer to act as Prehearing Officer and directs the parties to attend a Prehearing Scheduling Conference on Tuesday, November 30, 2010, beginning at 1:30 p.m. and concluding by 3:30 p.m., in the Third Floor Hearing Room of the Commission's offices (or such other room as may be designated, if necessary), 1500 SW Arrowhead Road, Topeka, Kansas 66604-4027, as described above in paragraphs 6, 7, and 8.

B. At the Prehearing Scheduling Conference, parties should be prepared to discuss all matters pertaining to establishing a procedural schedule for this docket, including deadlines for filing of testimony and briefs, possible dates for an evidentiary hearing with the Commission presiding, and potential dates for a public hearing or hearings, should the Commission desire to hold a public hearing or hearings.

C. This is a procedural order and constitutes nonfinal agency action under the Kansas Judicial Review Act (KJRA). K.S.A. 77-607(b)(2). Parties have 15 days from service of this order to file a petition for reconsideration. K.S.A. 2009 Supp. 77-529(a)(1). If service is by mail, service is complete upon mailing and parties may have an additional 3 days to file any such petition. Filing a petition for reconsideration is a predicate for judicial review of the Commission's orders, and interlocutory review of nonfinal agency action is limited by the KJRA. K.S.A. 2009 Supp. 77-529(a)(1); K.S.A. 77-607; K.S.A. 66-118b; K.S.A. 77-608.

D. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further orders as it may deem necessary.

**BY THE COMMISSION IT IS SO ORDERED.**

Wright, Chmn; Harkins, Com.; Loyd, Com.

NOV 19 2010

Dated: \_\_\_\_\_

ORDERED MAILED

NOV 19 2010

*Susan K. Duffy* EXECUTIVE  
DIRECTOR

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Susan K. Duffy  
Executive Director

crr