

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of a the Complaint Against)
Westar Energy, Inc. by Jami Reihm) Docket No. 15-WSEE-211-COM

MOTION TO DISMISS OF WESTAR ENERGY, INC.

Westar Energy, Inc. (Westar) submits the following Motion to Dismiss (Motion) the Complaint filed by Jami Reihm (Ms. Reihm). In support of its Motion, Westar states as follows:

1. On or about November 19, 2014, Ms. Reihm filed her Complaint in this matter. Westar received the Complaint on December 18, 2014.

2. Ms. Reihm contends that Westar should be required to remove the AMI meters at her home and her neighbors' homes and replace them with non-AMI meters. She claims that she is suffering physical injury as a result of Westar's use of the AMI meters.

3. None of the allegations made by Ms. Reihm constitute a violation of any law, regulation, or Westar's Electric Tariffs (Tariffs). There is no provision in Westar's Tariffs that prevent Westar from utilizing an AMI meter instead of a standard meter. Westar is simply required to provide electric service to any customer in its territory that requests service. In fact, the Commission has approved Westar's recovery of the costs associated with the AMI meters thereby finding that Westar's installation of the AMI meters was reasonable and prudent. *See* Docket No. 12-WSEE-112-RTS (Westar's last general rate case where costs associated with SmartStar Lawrence were included in rates) and Docket No. 11-WSEE-610-ACT (order approving accounting authority order allowing Westar to defer costs associated with SmartStar Lawrence for recovery in rates).

4. K.A.R. 82-1-220(b)(1) of the Commission's regulations states that a formal complaint must:

Fully and completely advise each respondent and the commission as to the provisions of law or the regulations or orders of the commission that have been or are being violated by the acts or omissions complained of, or that will be violated by a continuance of acts or omissions.

5. Ms. Reihm has not met the requirements of the above-cited regulation. She has not indicated that Westar has violated any provision of any law, regulation, or order.

6. Further, even if Ms. Reihm had stated a cause of action, the Commission has no authority to award damages to Ms. Reihm for her alleged injuries. *See, e.g., Kansas Express, Inc. v. Dugan Truck Lines, Inc.*, 11 Kan. App. 2d 336, 340 (1986); *Grindsted Products, Inc. v. Kansas City Power & Light Co.*, 21 Kan.App.2d 435 (1995). If Ms. Reihm really believes that she have evidence that she is being injured by Westar's use of AMI meters, her appropriate recourse is to file a lawsuit.

7. The Complaint should be dismissed for failure to state a claim.

WHEREFORE, Westar having fully responded to the Complaint respectfully requests that the Commission dismiss the Complaint for failure to state a claim and for such other and further relief as may be appropriate.

Respectfully submitted,

WESTAR ENERGY, INC.

Cathryn Dinges

Cathryn J. Dinges, #20848
Senior Corporate Counsel
818 South Kansas Avenue
Topeka, Kansas 66612
(785) 575-8344; Telephone
(785) 575-8136; Fax
Cathy.Dinges@westarenergy.com

VERIFICATION

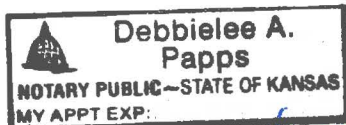
STATE OF KANSAS)
)
COUNTY OF SHAWNEE) ss:

Cathryn J. Dinges, being duly sworn upon her oath deposes and says that she is one of the attorneys for Westar Energy, Inc.; that she is familiar with the foregoing **Motion to Dismiss**; and that the statements therein are true and correct to the best of her knowledge and belief.

Cathryn Dinges

Cathryn J. Dinges

SUBSCRIBED AND SWORN to before me this 22nd day of December, 2014.



My Appointment Expires: June 26, 2017

Debbielee Papps

Notary Public

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of December, 2015, the foregoing **Motion to Dismiss** was electronically filed with the Kansas Corporation Commission and electronically served to all parties of record. A copy was also sent via U.S. mail to:

Jami Reihm
711 Rockledge Road, #1N
Lawrence, KS 66049


Cathryn J. Dinges