

THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

Before Commissioners:                    Thomas E. Wright, Chairman  
   Michael C. Moffet  
   Joseph F. Harkins

In the Matter of the Application of Midwest            )  
Energy, Inc. for Approval to Make Certain            )            Docket No. 09-MDWE-792-RTS  
Changes in its Charges for Electric Service        )  
Pursuant to K.A.R. 82-1-231(b)(3).                    )

**ORDER SETTING PROCEDURAL SCHEDULE**

The above captioned matter comes before the State Corporation Commission of the State of Kansas (“Commission”) for consideration and decision. Having examined its files and records, and being duly advised in the premises, the Commission makes the following findings and conclusions:

1.        On April 9, 2009, Midwest Energy Inc. (“Midwest”) filed its application seeking modification of certain rates in the above referenced docket. Thereafter, the Citizens Utility Ratepayer Board (“CURB”) was granted intervention. This is an abbreviated rate case filed pursuant to K.A.R. 82-1-231(b)(3). See K.S.A. 66-117. The Commission has jurisdiction pursuant to K.S.A. 66-101, K.S.A. 66-101b, K.S.A. 66-101e, K.S.A.66-101g, and K.S.A. 2008 Supp. 66-104.

2.        In Midwest’s prior rate case, 08-MDWE-594-RTS, CURB and Staff agreed to support Midwest’s filing of this abbreviated rate case to primarily address capital expenditures for the completion of the Goodman Energy Center and expenses pertaining to the substantial rebuild work related to FEMA-designated storms because the amount of these expenditures was not known at that time. Stipulation and Agreement, ¶ 6, June 16, 2008, 08-MDWE-594-RTS.

The parties made certain agreements with regard to this abbreviated rate case. *Id.*, ¶¶ 19-27. One of these was for expedited treatment -- a goal of implementation of any revenue increase within 60 days of filing -- and that the parties would seek to facilitate issuance of a Commission order consistent with that time frame. *Id.*, ¶ 26.

3. The Commission noted the parties' agreements with regard to this abbreviated rate case in its Order on Joint Motion to Approve Stipulation and Agreement, ¶ 14(A), August 5, 2008, 08-MDWE-594-RTS. The Commission approved the request by Midwest, as provided in the Agreement, to file an abbreviated rate case. The Commission found an abbreviated rate case would permit Midwest Energy's ratepayers to defer paying for the storm-related FEMA and second-phase Goodman Energy Center expenses and allows those expenses to be addressed by the parties at a time when they will be known with certainty, while maintaining the ability of the parties and the Commission to examine them at that time. The Commission indicated that while it was not bound by the parties' request for an expedited time frame to issue a decision, the Commission would make an effort to do so if possible. *Id.*, ¶ 55.

4. The parties have been working collaboratively without a formal procedural schedule and have reached an agreement to further Midwest's goal of making the rates effective as soon as possible.

5. The Commission has been informed the parties have reached a unanimous agreement. The Commission has also been informed that Midwest and all parties have requested and agree to an expedited schedule as set forth below for the Commission to consider the parties' agreement. The Commission will accommodate the parties' request and sets a procedural schedule regarding Midwest's application as follows:

Stipulation and Agreement

July 13, 2009

Direct Testimony

July 15, 2009

Technical Hearing

July 17, 2009

(10:00 a.m., Commission's First Floor Hearing Room)

6. The Commission hereby waives the rule requiring the parties to file testimony within at least 10 days before the hearing as set forth in K.A.R. 82-1-229(c). The parties are directed to address the Commission standards for consideration of settlement agreements as set forth in Docket No. 08-ATMG-280-RTS. (Order Approving Contested Settlement Agreement, May 12, 2008.)

7. The Commission has been informed that the parties agree to waive the 10-day notice requirement for a hearing.

8. The hearing on the Midwest's application will be held on **July 17, 2009, beginning at 10:00 a.m., in the First Floor Hearing Room, at the Commission's Office, 1500 SW Arrowhead Road, Topeka, Kansas, 785-271-3218.** The Commissioners will preside. 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 Kansas Administrative Procedures Act, K.S.A. 2008 Supp. 77-518; K.S.A 77-516(c)(8); K.S.A. 77-520. The attorney designated to appear on behalf of the agency in this proceeding is Dana Bradbury, telephone number 785-271-3396, 1500 Arrowhead Road, Topeka, KS 66604-4027.

9. Although the Commission will conduct the evidentiary hearing in this docket, the Commission designates a prehearing officer 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 at K.S.A. 77-517(b) and such other matters as will promote the orderly and prompt conduct of the hearing. The Commission designates Charles Reimer, Advisory Counsel, 1500 SW Arrowhead Road, Topeka,

KS 66604-4027, telephone 785-271-3361, email address c.reimer@kcc.ks.gov, to act as Prehearing Officer in this proceeding. The Commission, as it deems necessary, may designate other staff members to serve in this capacity.

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

A. The procedural schedule outlined in paragraph 5 is hereby approved. An evidentiary hearing shall be held in the First Floor Hearing Room of the Commission Offices, 1500 SW Arrowhead Dr., Topeka, KS 66604 beginning on July 17, 2009 at 10:00 a.m.

B. The Commission designates Charles Reimer to act as Prehearing Officer in this proceeding, as further set forth in paragraph 9, above.

C. This is a procedural order and constitutes non-final agency action. The parties have fifteen days, plus three days if service of this Order is by mail, from the date of this Order in which to petition the Commission for reconsideration of any matter decided herein.

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

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

Wright, Chmn.; Moffet, Com.; Harkins, Com.

**JUL 13 2009**

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

**ORDERED MAILED**

**JUL 14 2009**

 **EXECUTIVE  
DIRECTOR**

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Susan K. Duffy  
Executive Director

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