

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of the Joint Application of Westar)
Energy, Inc. and Kansas Gas and Electric) Docket No. 18-WSEE-328-RTS
Company for Approval to Make Certain Changes)
in their Charges for Electric Services.)

**RESPONSE OF WESTAR ENERGY, INC. AND KANSAS GAS AND ELECTRIC
COMPANY TO PETITION TO INTERVENE OF KANSAS INDUSTRIAL
CONSUMERS GROUP, INC.**

COME NOW Westar Energy, Inc. and Kansas Gas and Electric Company (collectively, “Westar”) and file their response to the Petition to Intervene of Kansas Industrial Consumers (KIC). In support of their Response, Westar states:

1. Westar is an electric public utility authorized to furnish retail electric service within certificated service territories within the State of Kansas. Westar is subject to the jurisdiction of the State Corporation of the State of Kansas (Commission).

2. On February 1, 2018, Westar filed an application seeking authority to change its rates for retail electric service to its Kansas customers. On or about February 19, 2018, Kansas Industrial Consumers Group, Inc. (KIC) filed its Petition to Intervene (Petition). In support of its Petition, KIC stated that it “is a corporation organized and existing under the laws of the state of Kansas. KIC was incorporated in Kansas on April 13, 2005. KIC is a Kansas Corporation in good standing under the laws of the state of Kansas. Prior to its incorporation, KIC operated as an unincorporated association.” KIC Petition at ¶4. KIC further alleges that it “is organized for the purpose of representing of the interests of commercial, business, industrial, and not-for-profit and educational entities that purchase large volumes of electric energy and natural gas for their operations and activities.” *Id.* at ¶5.

3. Aside from being “organized “for the purpose of representing of [sic] the interests of commercial, business, industrial, and not-for-profit and educational entities that purchase large volumes of electric energy and natural gas for their operations and activities,” *id.*, at ¶5, KIC did not indicate any other business or any business location. KIC is not a Westar customer and KIC’s Petition did not list any Westar customer as a party to the proposed intervention. If KIC is operating as a trade group representing its members, it did not so state nor did it list any members – much less members who are Westar customers.

4. KIC’s Petition does not meet the legal requirements for intervention and should be denied unless it is amended. Westar suggests that the Commission grant KIC 10 days in which to amend its Petition and come into compliance with the applicable regulation. K.A.R. 82-1-225 states that the presiding officer shall grant a petition for intervention if it meets certain conditions. K.A.R. 82-1-225(a)(2) includes the requirement that the petition state:

facts demonstrating that the petitioner’s legal rights, duties, privileges, immunities, or other legal interests may be substantially affected by the proceeding or that the petitioner qualifies as an intervenor under any provision of law.¹

5. The Petition does not meet the above-referenced requirement. KIC is not a Westar customer. As a result, KIC may not intervene in this proceeding other than as a representative of entities that have “legal rights, duties, privileges, immunities, or other legal interests may be substantially affected by the proceeding.” While KIC’s Petition states the purpose of KIC, the

¹ The Kansas Administrative Procedure Act contains identical language. K.S.A. 77-521(a)(2) states that the presiding officer shall grant intervention if, among other things:

the petition states facts demonstrating that the petitioner’s legal rights, duties, privileges, immunities or other legal interests may be substantially affected by the proceeding or that the petitioner qualifies as an intervenor under any provision of law.

Petition does not indicate that KIC represents any Westar customer nor does the Petition identify any legally cognizable interest of its own that may be affected by this proceeding.

6. In several proceedings relating proposed interventions by KIC and its predecessors, the Commission has previously addressed this issue. For instance, in Docket No. 05-WSEE-981-RTS, KIC filed a petition to intervene that is largely identical to KIC's Petition in this matter. Westar objected to the petition on the grounds that KIC had failed to meet the requirements of K.A.R. 82-1-225. Westar stated that it would have no objection to the intervention of KIC if it would identify its members and suggested that the Commission give KIC 10 days in which to identify its members or have its petition denied. The Commission agreed with Westar stating:

The Commission finds that without identification of the interests represented by KIC, it is unable to determine that the petition should be granted.

. . . . the Commission has an interest in the explicit identification of the interests represented by each intervening party. Likewise, the Commission finds it should order KIC to similarly identify the parties it represents for the same rationale underlying K.A.R. 2004 Supp. 82- 1 -204(i)(2).


Westar noted that upon identification by KIC of the entities it represents, Westar would withdraw its objection. The Commission finds that KIC should have 10 days to amend its petition by identifying its membership and asserting that those members are entitled to intervention according to K.A.R. 82-1-225.

In Re Applications of Westar Energy, Inc. and Kansas Gas and Electric Company, Docket No. 05-WSEE-981-RTS, *Order Denying Petition to Intervene and Order Granting Petition to Intervene*, at ¶¶8-10 (May 20, 2005).

7. If KIC will identify its members that take service from Westar, the defect in its intervention petition would be cured. In that event, Westar would have no objection to the intervention of KIC.

WHEREFORE, Westar respectfully requests that KIC's Petition be denied unless within 10 days of the Commission's Order, KIC amends its Petition for Intervention to identify its members that are Westar customers and participating in this matter and for such other and further relief as may be appropriate.

Respectfully submitted,


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ATTORNEYS FOR
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KANSAS GAS AND ELECTRIC COMPANY

VERIFICATION

STATE OF KANSAS)
)
COUNTY OF DOUGLAS) ss.

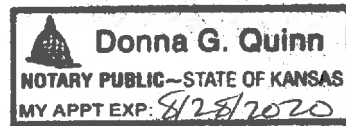
Cathryn J. Dinges, being duly sworn upon her oath deposes and says that she is one of the attorneys for Westar Energy, Inc. and Kansas Gas and Electric Company; that he is familiar with the foregoing **Response of Westar Energy, Inc. and Kansas Gas and Electric Company to Petition to Intervene of Kansas Industrial Consumers Group, Inc.**; that the statements therein are true and correct to the best of her knowledge and belief.

Cathryn Dinges
Cathryn Dinges

SUBSCRIBED AND SWORN to before me this 28th day of February, 2018.

Donna G. Quinn
Notary Public

My Appointment Expires: 8/28/2020



CERTIFICATE OF SERVICE

I do hereby certify that on the 28th day of February, 2018, I electronically filed via the Kansas Corporation Commission's Electronic Filing System, a true and correct copy of the above and foregoing with a copy emailed to all parties of record.

Cathryn Dinges
Cathryn Dinges