

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

Before Commissioners:                      Shari Feist Albrecht, Chair  
   Jay Scott Emler  
   Dwight D. Keen

In the Matter of the Application of Midwest                      )                      Docket No. 19-MPCE-064-COC  
Power Company for a Certificate of Public                      )  
Convenience and Necessity to Transact the                      )  
Business of a Public Utility in the State of Kansas.                      )

**ORDER GRANTING INTERVENTION TO WESTAR ENERGY, INC.**

This matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined its files and records, and being fully advised in the premises, the Commission finds and concludes as follows:

**I. Background**

1. On August 10, 2018, Midwest Power Company (“MWP”) filed an application pursuant to K.S.A. 66-131 requesting the Commission grant it a certificate of convenience and necessity to operate as a public utility in Kansas related to MWP’s 8% ownership in the Jeffrey Energy Center (“JEC”).

2. On August 17, 2018, Westar Energy, Inc. (Westar) petitioned to intervene in this proceeding.

3. Westar is a corporation “engaged...in the business of an electric public utility” and “hold certificates of convenience and authority issued...authorizing it to engage in such utility business.”<sup>1</sup> Westar owns and operates generation located in the State of Kansas and is the operator and 84% owner of the JEC.<sup>2</sup> Westar additionally leases MWP’s 8% ownership interest

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<sup>1</sup> Petition, p. 1 (August 17, 2018).

<sup>2</sup> *Id.*, p. 2.

in the JEC pursuant to an agreement dated August 15, 1991 that expires on January 3, 2019.<sup>3</sup> As a co-owner of JEC and a lessor of MWP's 8% interest in JEC, Westar has a substantial interest in the outcome of the proceeding that cannot be represented by any other entity. Thus, Westar requested the right to full participation in this docket and stated its intention to be involved in the proceeding.<sup>4</sup>

## **II. Legal Standards**

4. The Commission shall grant intervention if the petition: (1) is submitted in writing; (2) states facts demonstrating 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; and (3) the interests of justice and the orderly and prompt conduct of the proceedings will not be impaired by allowing the intervention.<sup>5</sup> The Commission has discretion to grant intervention at any time where intervention is in the interests of justice and will not impair the orderly and prompt conduct of proceedings.<sup>6</sup> At any time during a proceeding, the Commission may impose limitations on an intervenor's participation, which may include limiting an intervenor's participation to designated issues in which the intervenor has a particular interest demonstrated by the petition, limiting intervenor discovery, cross-examination and other procedures, and requiring intervenors to consolidate their participation in the proceedings.<sup>7</sup>

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<sup>3</sup> Petition, p. 2 (August 17, 2018).

<sup>4</sup> *Id.*

<sup>5</sup> K.S.A. 77-521(a); K.A.R. 82-1-225(a).

<sup>6</sup> K.S.A. 77-521(b); K.A.R. 82-1-225(b).

<sup>7</sup> K.S.A. 77-521(c); K.A.R. 82-1-225(c).

### **III. Findings and Conclusion**

5. Westar submitted its intervention petition in writing, properly served its petition pursuant to K.S.A. 77-521(a)(1), and stated facts demonstrating that its legal rights and interests may be substantially affected by this proceeding, pursuant to K.S.A. 77-521(a)(2). The Commission finds that, because Westar owns 84% of JEC and is the lessor of MWP's 8% interest in JEC, Westar has a substantial interest in the outcome of this proceeding that cannot be adequately represented by any other entity. The Commission finds that the interests of justice and the orderly and prompt conduct of these proceedings will not be impaired by allowing Westar's intervention. Thus, the Commission finds that Westar has met the requirements for intervention set forth in K.S.A. 77-521 and K.A.R. 82-1-225, and therefore, should be granted intervention and full participation in all aspects of this docket.

6. Westar shall receive all service of notices, pleadings, testimony, briefs, orders, communications, and other documents by electric or mail service shall be addressed to:

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**THEREFORE, THE COMMISSION ORDERS:**

- A. Westar is granted intervention.
- B. The parties have fifteen (15) days from the date this Order is served by electronic mail in which to petition for reconsideration.<sup>8</sup>
- C. 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.**

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 09/18/2018 \_\_\_\_\_



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Lynn M. Retz  
Secretary to the Commission

CRM

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<sup>8</sup> K.S.A. 66-118b; K.S.A. 77-529(a)(1).

## CERTIFICATE OF SERVICE

19-MPCE-064-COC

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 09/18/2018.

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