

**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 Westar Energy, Inc. and)
Kansas Gas and Electric Company Seeking) Docket No. 16-WSEE-375-TAR
Commission Approval to Implement Changes)
in their Transmission Delivery Charges Rate)
Schedules.)

In the Matter of Westar Energy, Inc. and)
Kansas Gas and Electric Company Seeking) Docket No. 17-WSEE-377-TAR
Commission Approval to Implement Changes)
in their Transmission Delivery Charge Rate)
Schedules.)

In the Matter of Westar Energy, Inc. and)
Kansas Gas and Electric Company Seeking) Docket No. 18-WSEE-355-TAR
Commission Approval to Implement Changes)
in their Transmission Delivery Charge Rate)
Schedules.)

**ORDER GRANTING MOTIONS FOR OFFICIAL OR ADMINISTRATIVE NOTICE
AND GRANTING USD #259'S MOTION TO FILE OUT OF TIME**

This matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed the file and records, the Commission finds:

1. On February 15, 2016, Westar Energy, Inc. and Kansas Gas and Electric Company (Westar) filed an Application in Docket No. 16-WSEE-375-TAR (16-375 Docket) to update its Transmission Delivery Charge (TDC) tariff to recover costs associated with Westar's transmission of electric power.¹

¹ Tariff for Westar Energy and Kansas Gas and Electric for 2016 Transmission Delivery Charge, (TDC Application), Docket No.16-WSEE-375-TAR (16-375 Docket), Feb. 15, 2016, p. 1.

2. On March 31, 2016, the Commission issued an Order Granting Application to Implement Changes in Transmission Delivery Charge Subject-To-Refund, authorizing Westar's proposed TDC rates to take effect April 1, 2016, on a subject-to-refund basis while Staff continues its investigation.²

3. On June 21, 2016, Westar submitted a revised TDC incorporating the terms of the FERC-approved Settlement Agreement from FERC Docket No. EL14-93, which resulted in a reduction in Westar's Annual Transmission Revenue Requirement (ATRR).³

4. On June 28, 2016, the Commission issued an Order Granting Joint Motion to Amend Transmission Delivery Charge Tariff Subject-to-Refund, allowing Westar to bill its customers the updated TDC rates effective July 1, 2016, on a subject-to-refund basis.⁴

5. On February 15, 2017, Westar filed its 2017 TDC update in Docket No. 17-WSEE-377-TAR. (17-377 Docket), requesting its proposed TDC take effect April 3, 2017.⁵

6. On January 4, 2018, the Commission issued Orders Granting Staff's Motion to Join and Consolidate Proceedings and Granting Interventions, finding good cause to consolidate the 16-375 and 17-377 Dockets.⁶

7. On February 15, 2018, Westar filed its 2018 TDC update in Docket No. 18-WSEE-355-TAR. (18-355 Docket), requesting its proposed TDC take effect April 3, 2018.⁷ On March 13, 2018, the Commission issued an Order Acknowledging Effective Date of Transmission

² Order Granting Application to Implement Changes in Transmission Delivery Charge Subject-To-Refund, 16-375 Docket, Mar. 31, 2016, ¶ 12.

³ Westar Energy Revised Transmission Delivery Charge Tariff, 16-375 Docket, Jun. 21, 2016.

⁴ Order Granting Joint Motion to Amend Transmission Deliver Charge Tariff Subject-to-Refund, 16-375 Docket, Jun. 28, 2016, ¶ 26.

⁵ Tariff for Westar Energy and Kansas Gas and Electric for 2017 Transmission Delivery Charge, (TDC Application), Docket No.17-WSEE-377-TAR (17-377 Docket), Feb. 15, 2017, p. 1.

⁶ Orders Granting Staff's Motion to Join and Consolidate Proceedings and Granting Interventions, Jan. 4, 2018, ¶ 20.

⁷ Tariff for Westar Energy and Kansas Gas and Electric for 2018 Transmission Delivery Charge, (TDC Application), Docket No.18-WSEE-355-TAR (18-355 Docket), Feb. 15, 2018, p. 1.

Delivery Charge Subject-To-Refund Pursuant to K.S.A. 66-1237, allowing Westar's updated TDC to go into effect, subject to refund on April 3, 2018.⁸

8. On April 5, 2018, the Commission issued an Order on Staff's Motion to Join and Consolidate Proceedings, finding good cause existed to consolidate the 16-375, the 17-377, and the 18-355 Dockets.⁹

9. On June 1, 2018, both Holly Frontier El Dorado Refining LLC¹⁰ (Holly Frontier) and Commission Staff (Staff) filed Motions for Official or Administrative Notice. Holly Frontier seeks official notice of seven documents from the 12-WSEE-651-TAR Docket (12-651 Docket). Those documents include: (1) Westar's Tariff; (2) Direct Testimony of Dick Rohlf; (3) Direct Testimony of James T. Stamatson; (4) Rebuttal Testimony of Dick Rohlf; (5) Joint Motion to Approve Stipulation and Agreement and to Dismiss Evidentiary Hearing; (6) Order Granting Joint Motion to Approve Stipulation and Agreement and to Dismiss Evidentiary Hearing; and (7) Westar's TDC Tariff.¹¹ Staff seeks official notice of documents from three different dockets: (1) the 05-WSEE-981-RTS Docket (05-981 Docket); (2) the 12-651 Docket; and (3) the 13-WSEE-507-TAR Docket (13-507 Docket).¹²

10. From the 05-981 Docket, Staff seeks official notice of the Order on Petitions for Reconsideration and Clarification. From the 12-651 Docket, Staff seeks notice of eight documents.¹³ Of those eight documents, two (Westar's Tariff and the Order Granting Joint Motion to Approve Stipulation and Agreement and to Dismiss Evidentiary Hearing) are among the

⁸ Order Acknowledging Effective Date of Transmission Delivery Charge Subject-To-Refund Pursuant to K.S.A. 66-1237, 18-355 Docket, Mar. 13, 2018, ¶ 9.

⁹ Order on Staff's Motion to Join and Consolidate Proceedings, Apr. 5, 2018, ¶¶ 14-15.

¹⁰ On March 29, 2016, Holly Frontier was granted intervention in Docket No. 16-WSEE-375-TAR. Each party who has been granted intervention in any of the three consolidated Dockets were granted intervention in the 18-355 Docket. See Order Granting Staff's Motion to Join and Consolidate Proceedings, Apr. 5, 2018, ¶ 14.

¹¹ Holly Frontier Motion for Administrative Notice, June 1, 2018, pp. 1-2.

¹² Staff Motion for Administrative Notice, June 1, 2018, ¶¶ 2-4.

¹³ *Id.*, ¶ 2.

documents that Holly Frontier seeks to enter into the record through administrative notice. The other six documents from the 12-651 that Staff wishes to be administratively noticed are: (1) Westar's Supplemental Information Regarding Proposed Tariff Language Changes; (2) Staff's Motion for a Suspension Order and Temporary Waiver; (3) Suspension Order and Temporary Waiver; (4) Occidental's Protest and Motion to Dismiss; (5) Order Denying Occidental's Protest and Motion to Dismiss; and (6) Order Denying Occidental's Petition for Reconsideration.¹⁴

11. From the 13-507 Docket, Staff seeks official notice of the Order Approving Application.¹⁵

12. Both Motions for Official or Administrative Notice are unopposed.

13. K.A.R. 82-1-230(h) authorizes the Commission to take administrative notice of its own files and records.¹⁶ Accordingly, the Commission grants both Holly Frontier's Motion and Staff's Motion and takes administrative notice of the filings in the 05-981 Docket, the 12-651 Docket; and the 13-507 Docket that were requested.

14. On June 4, 2018, USD#259 Sedgwick County (USD 259) filed a Motion to File its legal brief Out of Time, explaining it was not aware of the June 1, 2018 deadline to file legal briefs because the Order Establishing Briefing Schedule was served on counsel who is no longer representing USD 259.¹⁷

15. USD 259's Motion is unopposed.

16. Under K.A.R. 82-1-217, when a party is required to act within a specified time, and fails to do so, the Commission has discretion to extend the time where the failure to act was the

¹⁴ *Id.*

¹⁵ *Id.*, ¶ 3.

¹⁶ K.A.R. 82-1-230(h).

¹⁷ Motion to File Out of Time, *Instanter*, Brief of USD#259 Sedgwick County, June 4, 2018, ¶ 2.

result of excusable neglect.¹⁸ USD 259 acknowledges its failure to timely file was due to excusable neglect. Furthermore, none of the parties have objected to USD 259's Motion or claimed they would be prejudiced if the Commission granted the Motion. Therefore, pursuant to K.A.R. 82-1-217(b), the Commission grants USD 259's Motion.

THEREFORE, THE COMMISSION ORDERS:

A. Pursuant to K.A.R. 82-1-230(h), the Commission takes administrative notice of: (1) Westar's Tariff; (2) Direct Testimony of Dick Rohlf; (3) Direct Testimony of James T. Stamatson; (4) Rebuttal Testimony of Dick Rohlf; (5) Joint Motion to Approve Stipulation and Agreement and to Dismiss Evidentiary Hearing; (6) Order Granting Joint Motion to Approve Stipulation and Agreement and to Dismiss Evidentiary Hearing; (7) Westar's TDC Tariff; (8) Westar's Supplemental Information Regarding Proposed Tariff Language Changes; (9) Staff's Motion for a Suspension Order and Temporary Waiver; (10) Suspension Order and Temporary Waiver; (11) Occidental's Protest and Motion to Dismiss; (12) Order Denying Occidental's Protest and Motion to Dismiss; and (13) Order Denying Occidental's Petition for Reconsideration from the 12-561 Docket.

B. Pursuant to K.A.R. 82-1-230(h), the Commission takes administrative notice of: the Order on Petitions for Reconsideration and Clarification from the 05-981 Docket and the Order Approving Application in the 13-507 Docket.

C. Pursuant to K.A.R. 82-1-217(b), USD 259's Motion to Late File Direct Testimony is granted. The Commission accepts the filing of the Initial Brief of USD #259 Sedgwick County.

¹⁸ K.A.R. 82-1-217(b).

D. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).¹⁹

E. The Commission retains jurisdiction over the subject matter and the parties for the purpose for entering such further orders as it deems necessary.

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner.

Dated: 06/26/2018



Lynn M. Retz
Secretary to the Commission

BGF

¹⁹ K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

CERTIFICATE OF SERVICE

18-WSEE-355-TAR

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 06/26/2018.

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