

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

ORDER GRANTING WAL-MART'S MOTION TO LATE-FILE TESTIMONY

This matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed the pleadings and record, the Commission makes the following findings:

1. On February 1, 2018, Westar Energy, Inc. (Westar) and Kansas Gas and Electric Company (KG&E) (Westar and KG&E collectively referred to as "Westar") filed a Joint Application requesting authorization to make certain changes to their charges for electric service in Kansas pursuant to K.S.A. 66-117 and K.A.R. 82-1-231.¹

2. On March 8, 2018, the Commission issued its *Order Setting Procedural Schedule*, which included a June 20, 2018, 5:00 p.m. deadline for Staff/Intervenors to file their cross-answering testimony.²

3. On April 26, 2018, Wal-Mart Stores, Inc. (Wal-Mart) was granted intervention.³

4. On June 22, 2018, Wal-Mart filed a Motion to Late-File Testimony (Motion), explaining that problems accessing the internet caused Wal-mart's counsel to miss the deadline

¹ Joint Application, p. 1 (Feb. 1, 2018).

² *Order Setting Procedural Schedule*, ¶¶ 4, 10 (Mar. 8, 2018).

³ *Order Granting Intervention to Tyson Foods and Wal-Mart Stores*, Ordering Clause A (Apr. 26, 2018).

for filing the cross-answering testimony of Steve Chriss by approximately three hours.⁴ Wal-mart requested leave to late-file its direct testimony, arguing that approval of its Motion would not prejudice any of the other parties.⁵

5. 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 result of excusable neglect.⁶ Wal-Mart acknowledged that its failure to timely file was due to internet issues. Furthermore, none of the parties have objected to Wal-Mart'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 Wal-Mart's Motion.

THEREFORE, THE COMMISSION ORDERS:

A. Pursuant to K.A.R. 82-1-217(b), Wal-Mart's Motion to Late-File Testimony is granted. The Commission accepts the filing of the cross-answering testimony of Steve Chriss.

B. 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).⁷

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: 07/10/2018



Lynn M. Retz
Secretary to the Commission

MJD/sc

⁴ Motion, ¶ 2.

⁵ Motion, ¶ 3.

⁶ K.A.R 82-1-217(b).

⁷ K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

CERTIFICATE OF SERVICE

18-WSEE-328-RTS

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 07/10/2018.

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