

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

In the Matter of Westar Energy, Inc. and)	
Kansas Gas and Electric Company Seeking)	
Commission Approval to Implement Changes)	Docket No. 16-WSEE-375-TAR
In their Transmission Delivery Charges Rate)	
Schedules.)	
)	
In the Matter of Westar Energy, Inc. and)	
Kansas Gas and Electric Company Seeking)	
Commission Approval to Implement Changes)	Docket No. 17-WSEE-377-TAR
In their Transmission Delivery Charges Rate)	
Schedules.)	

APPLICATION FOR INTERVENTION OF
CARGILL, INCORPORATED, CCPS TRANSPORTATION, LLC,
COFFEYVILLE RESOURCES REFINING & MARKETING, LLC, OCCIDENTAL
CHEMICAL COMPANY, SPIRIT AEROSYSTEMS, INC., AND
THE KANSAS INDUSTRIAL CONSUMERS GROUP, INC.; AND

REQUEST FOR THE CLOSING/DISMISSAL OF THESE KCC DOCKETS, OR IN THE
ALTERNATIVE, REQUEST FOR A PROCEDURAL SCHEDULE AND HEARING

COMES NOW Cargill, Incorporated (Cargill), CCPS Transportation, LLC (CCPS), Coffeyville Resources Refining & Marketing, LLC (Coffeyville), Occidental Chemical Company (Occidental), Spirit AeroSystems, Inc. (Spirit), and Kansas Industrial Consumers Group, Inc. (KIC) and state and allege to the State Corporation Commission of the State of Kansas ("Commission" or "KCC"), as follows.

1. On February 15, 2016, Westar Energy Inc. (Westar) filed a request to implement changes to its Transmission Delivery Charge (TDC) tariff in KCC Docket No. 16-WSEE-375-TAR (the 2016 TDC).

2. The TDC is a pass-through of the Federal Energy Regulatory Commission (FERC) approved transmission costs. It is not part of a general rate proceeding and is considered separately from base rates of Westar, as established by the Commission for Westar's retail electric rates.

3. In conformance with the Westar TDC tariff, the 2016 TDC filing used the baseload research sample from Westar's 2014 test year to generate a 12-CP allocator for transmission costs. This was the data used to generate Westar's 12-CP allocator in its most recent rate case.

4. Occidental filed an Application to Intervene on February 24, 2016, in KCC Docket No. 16-WSEE-375. Occidental was granted Intervention in KCC Docket No. 16-WSEE-375 on March 10, 2016.

5. Pursuant to the statutory deadlines in K.S.A. 66-1237, the KCC approved Westar's 2016 TDC "on a subject to refund basis" on March 31, 2016. However, the Commission noted that KCC Staff would continue its investigation of the 2016 TDC.

6. On August 2, 2016, KCC Staff filed a Report and Recommendation (R&R), wherein KCC Staff questioned the methodology used by Westar to generate its 12-CP allocator. KCC Staff recommended Westar be permitted to continue collecting its 2016 TDC as filed, subject to refund "until a third-party consultant is able to investigate the load research sample used to generate the 12-CP allocator and evaluate whether further action is needed."

7. Westar objected to such action as proposed by the KCC Staff, but the Commission adopted KCC Staff's recommendations on November 8, 2016. In its Order, the Commission found "the TDC tariff does not preclude Staff from conducting further analysis of the 12-CP allocators." The Commission concluded "it is in the public's interest to continue to allow Westar's updated TDC rate schedules to be collected on a subject to refund basis while the above described investigation occurs."

8. On February 15, 2017, Westar filed its 2017 TDC with the Commission in Docket No. 17-WSEE-377-TAR. However, this filing is not available on the Commission's website. According to the KCC Staff R&R as further described herein, the 2017 TDC filing uses the same 2014 load research sample, used to generate the 12-CP allocator for Westar's 2016 TDC filing.

9. On September 26, 2017, the KCC Staff filed a new R&R based on the findings of its consultant.¹ In its R&R the KCC Staff adopts a "corrected" 12-CP allocator generated by its consultant and recalculates Westar's TDC for the years 2016 and 2017.²

10. The "new" 12-CP allocator is based on the historical 2014 load research sample, but purportedly "corrects" several alleged sampling biases, producing a new allocator.

11. The new allocator assigns significantly less cost to residential customers and much more to high load factor customer classes, contract customers, and schools.

12. Under Staff's proposal, the LGS/ILP class (which would include all KIC intervenors herein, except Occidental, which is a contract customer). would experience an additional charge \$2,000,352, to be billed over the next 17 months. This is an additional \$2,000,352 "on top of, and in addition to" retail electric rates paid by KIC members in the period April 16, 2016 through November 2017. Effectively, the KCC Staff proposes to retroactively increase the retail rates for KIC customers above those amounts that have already been paid in retail electric rates over the last 16 months.

13. Similarly, the KCC Staff proposes to increase the rates for special contract customers in the amount of \$455,477, effectively seeking to impose a retroactive higher rate for

¹ Staff's Consultant is George McCollister of Bates White, LLC. The consultant's report is dated September 18, 2017. It only became publicly-available on September 26, 2017 – as an attachment to Staff's R&R.

² The R&R was filed concurrently with a motion to consolidate Westar's 2016 TDC docket, 16-WSEE-375-TAR, with its recently filed 2017 TDC docket, 17-WSEE-377-TAR.

Occidental for its purchases of electric energy from Westar, made by Occidental during the period April 16, 2016 through November 2017.

14. A table showing total refunds/charges by customer class is set forth on page 11 of KCC Staff's R&R dated September 16, 2017, and included herein. Comparison of current rates to KCC Staff's newly-proposed, retroactive rates are as follows:

Customer Class	April 16 - June 16	July 16 - March 17	April 17 - November 17	Total Refund/Charge
Residential (RS, RSDG, RESTOU)	(\$1,560,961)	(\$5,915,225)	(\$4,582,957)	(\$12,059,143)
SGS (Includes SGS, SGSCO, ST, GSS, OPS, DOR)	\$46,783	\$146,166	\$117,938	\$310,887
MGS	\$1,022,391	\$2,757,961	\$2,367,198	\$6,147,551
Schools (PS-R,SES,REIS,RTESC)	\$491,068	\$1,552,407	\$1,258,250	\$3,301,725
Restricted Time of Day (RITODS)	\$2,121	\$8,024	\$6,685	\$16,831
Lighting (SAL, SL, TS, Pilot LED)	(\$29,339)	(\$79,676)	(\$64,871)	(\$173,887)
LGS/ILP (Formerly HLF)	\$336,211	\$899,029	\$765,111	\$2,000,352
LTM	\$8,860	\$24,063	\$20,156	\$53,079
ICS	\$2,443	\$5,711	\$4,919	\$13,072
Special Contract	\$78,231	\$204,144	\$173,102	\$455,477
Total	\$397,808	(\$397,395)	\$65,531	\$65,944

15. Cargill, CCPS, Coffeyville, Occidental, and Spirit are retail electric customers of Westar, and have a direct financial interest in these dockets and the proposed KCC Staff reallocation and retroactive increase in the electric rates already paid by such entities in the 17-month period of April 2016 through November 2017. KIC is a Kansas corporation, that represents the interests of Cargill, CCPS, Coffeyville, Occidental and Spirit in these consolidated dockets, and such listed companies will participate in these dockets on a consolidated basis to be coordinated by and through participation by KIC in these consolidated dockets.

16. KIC and its participating member companies as listed herein, respectfully request that the Commission either: (a) grant the requested intervention of the participating member companies listed herein and KIC; and (b) close or dismiss these consolidated dockets; or (c) set a

procedural schedule and hold a hearing with regard to the KCC Staff proposal to retroactively increase the rates of KIC members and others for the period April 2016 through November 2017.

The KCC Recommended Adjustments are not in Compliance with KCC Orders, Are Factually Incorrect, and are not in Compliance with Applicable Kansas Law.

17. The KCC Staff recommended adjustments are far outside of the Commission's reserved issues ("subject to refund") in these Dockets, to wit:

(a) The Staff's September 22, 2017 R&R proposes an extremely material, after the fact reallocation of wholesale transmission costs between residential and non-residential customer classes. The reallocation is the result of two changes to the twelve KCC coincident peak (12-CP) allocation factors approved in Westar's last full rate case (Docket No. 15-WSEE-115-RTS).

(b) 12-CP allocators are used to allocate wholesale transmission costs among the retail customer classes. The two recommended changes of KCC Staff and its consultant are:

1. Weather-normalizing the coincident peak demands for all twelve months; and
2. Correcting a significant discrepancy between the sum of the hourly loads used in peak allocation and the accrued billed sales. (McCollister Report at 4)

(c) Both changes are beyond the scope of the limited investigation authorized by the Commission. Accordingly, the Commission should reject the R&R and close/dismiss these Dockets.

(d) KCC Staff asserts that these changes are a direct result of the concerns raised in Docket No. 16-WSEE-375-TAR. The scope of this further investigation is discussed in paragraph 17 of the KCC Order Adopting Staff's Recommendation:

17. *The Commission finds that Staff has raised uncertainty regarding the appropriateness of Westar's load research sample. The Commission also finds that such uncertainty, in conjunction with the \$15.8 million revenue requirement shift to the Residential Class, requires further investigation and analysis. Therefore, the Commission concludes that Staff's recommendation to hire a third party consultant to further investigate the load research sample used to generate the 12-CP allocator and evaluate whether further action is needed is in the public interest because it provides needed evidence that the proposed rates included in Westar's TDC Application are just and reasonable and not unduly discriminatory.* Likewise, the Commission concludes that it is in the public interest to continue to allow Westar's updated TDC rate schedules to be collected on a subject-to-refund basis. Therefore, the Commission adopts Staff's August 2, 2016, Report and Recommendation and incorporates it herein by reference. Furthermore, the Commission shares the due process concerns raised by Westar. Therefore the Commission concludes that all parties to the 15-115 Docket should receive service of this order and be added to the service list in this docket. (emphasis added)

(e) **It is clear that the Commission limited the scope of the investigation to the appropriateness of Westar's load research sample. However, none of the two proposed changes to the 12CP allocation factors address the flaws with Westar's load research sample.**

(f) Weather normalization is not related to the integrity of a utility's load research sample. Neither the Staff's August 2, 2016 R&R nor the Commission's Order in Docket No. 16-WSEE-375-TAR refer to weather normalizing the 12-CP demands. Thus, it was not a contested issue in 16-375. Raising the issue now is untimely. Even assuming that it was timely to raise weather-normalization, it should be rejected because, as discussed below, it would be inconsistent with cost-causation.

(g) The KCC R&R Staff made no mention of changing the 12-CP allocation factors for other than the Residential and Small General Service classes. The R&R states:

The most notable difference between the 2010 and 2014 12-CP allocator is the increase in the allocation to Residential customers from 40.71% to 47.51% and the reduction in allocation to Small General Service customers allocation from 23.39% to 17.04%. (Staff R&R at 6)

(h) The KCC Staff R&R further pointed to Westar's load research sample as the possible source of the shifting allocation between Residential and Small General Service customers. Specifically:

Staff has identified two biases in Westar's sampling methodology for its load research sample—survivor bias and non-probabilistic sampling bias. Bias in sampling methodology does not necessarily result in a biased sample. But, bias in the sampling methodology and the results in the table above do require further investigation. As a result, Staff is recommending that a consultant be hired to identify the cause of the change in the 12-CP allocator and determine whether the change is justified. (Id.)

(i) Load research sampling is required when a utility does not have observable coincident peak demand data for a particular customer class. Appendix 2 of the R&R states:

In particular, historically the monthly coincidental peak demand for Residential Customers and a large portion of Small General Service Customers cannot be observed because of the limitations of the customer meters. Thus, Westar uses a load research sample to estimate demand allocators. (Staff R&R at 10; emphasis added)

This is in stark contrast to most of the remaining classes, including Large General Service and Special Contracts, for which Westar has observable coincident peak data. Thus, the biases in Westar's load research sample that Staff has cited do not apply to these other classes which specifically include KIC Members.

(j) The KCC Staff recommended adjustments do not address the biases that Staff and its third-party consultant, McCollister, asked the Commission to further investigate. The McCollister report states:

As I will explain further on in this report, it is difficult to measure and even more difficult to correct for any bias in the sample from selecting replacements only from areas that have AMI meters. However, I was able to estimate the 12-CP allocations after correcting for both the improper weather normalization and the discrepancy between the sum of hourly loads used in peak allocation and accrued billed sales. (Report at 4; emphasis added)

As further described in the McCollister Report, the recommended adjustments addressed other issues that are largely unrelated to the biases in Westar's load research sample:

Two additional potential problems that I have identified are 1) Westar weather normalized the peak for only one month (August) and 2) there is a significant discrepancy between the sum of the hourly loads used in peak allocation and the accrued billed sales. (Id; emphasis added)

The adjustments recommended in the McCollister Report do not address the central issue that the Commission ordered be subject to further investigation, which are the problems observed with Westar's Residential load research sample.

(k) It is inappropriate to weather-normalize the 12-CP demands. The 12-CP method is used to allocate wholesale transmission costs charged by the Southwest Power Pool (SPP) under its FERC-approved OATT. Presumably, the reason for adopting 12-CP is that it supposedly emulates the method that SPP uses to allocate wholesale transmission costs among all SPP load serving entities, including Westar.

This is only partially correct. The SPP allocates region-wide costs on a load ratio share basis. The load ratio share is defined as each load serving entity's contribution to the prior year's 12-CP demand. **However, the 12-CPs used by the SPP to determine load ratio share are the actual, unadjusted, demands. The SPP does not weather adjust or make any other adjustments to the 12-CPs.**

Thus, weather-normalizing the 12-CPs, as Staff is now proposing, would be inconsistent with cost-causation and is wholly inappropriate, even if the issue was timely raised.

18. In summary, KIC:

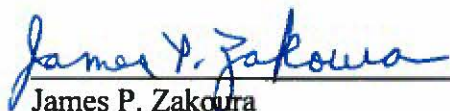
(1) disputes the accuracy and appropriateness of the KCC adopted study of George McCollister of Bates White, LLC;

- (2) states that the Commission Order described as “subject to refund” does not include the retroactive action advocated by KCC Staff in these consolidated dockets in that the study of the consultants is factually incorrect, and the KCC proposed actions to retroactively increase the cost of retail electric service from KIC members is not consistent with either the applicable Commission Order or applicable Kansas statutes, regulations, and case law in the area of public utilities;
- (3) the proposed KCC Staff correction (and potential “refresh” of Westar’s 2015 load research) is not permitted under the language of the KCC approved TDC tariff of Westar;
- (4) the KCC Staff’s proposed methodology is not appropriate and will not result in just and reasonable rates for ratepayers of Westar;
- (5) the KCC Staff proposed “corrected” 12-CP allocator, if implemented for the sake of argument only, would result in “rate shock” for KIC members and other Kansas ratepayers which is inconsistent with Kansas policy in applicable Kansas Commission policy and applicable statutes, regulations, and case law for public utilities in the state of Kansas; and
- (6) the material increase in electric rates is adverse to Kansas economic policy and would add to the retail electric rates of Westar, which are at present among the highest retail electric rates for commercial and industrial users in the entire midcontinent region of the United States.

WHEREFORE, Cargill, CCPS, Coffeyville, Occidental, Spirit, and KIC respectfully requests the Commission that they be granted full intervention in these consolidated dockets, and that the KCC either (a) dismiss or close these consolidated Dockets, or (b) set a procedural

schedule and hearing, to include the receipt of testimony after full discovery, for these consolidated KCC dockets.

Respectfully submitted,



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VERIFICATION

STATE OF KANSAS)
)
COUNTY OF JOHNSON) ss:

James P. Zakoura, of lawful age, being first duly sworn, upon oath states:

That he is the attorney for Intervenor Cargill, Incorporated, CCPS Transportation, LLC, Coffeyville Resources Refining & Marketing, LLC, Occidental Chemical Company, Spirit AeroSystems, Inc. and the Kansas Industrial Consumers Group, that he has read the above and foregoing Petition to Intervene, knows the contents thereof, and knows that all of the statements made therein are true.


James P. Zakoura

SUBSCRIBED AND SWORN to before me this 2nd day of October, 2017.


Notary Public

My Appointment Expires:



CERTIFICATE OF SERVICE

I hereby certify that true copy of the foregoing was served by electronic mail (when available) or regular U.S. mail (unless otherwise noted), for Docket Nos. 16-WSEE-375-TAR and 17-WSEE-377-TAR on the 2nd day of October, 2017 to the parties below:

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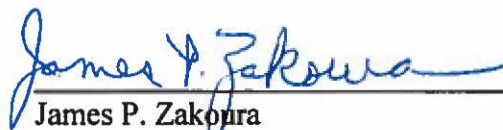
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