

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

**APR 19 2012**

In the Matter of Westar Energy, Inc. and )  
Kansas Gas and Electric Company Seeking )  
Commission Approval to Implement )  
Changes in Their Transmission Delivery )  
Charges Rate Schedules )

by  
State Corporation Commission  
of Kansas  
Docket No. 12-WSEE-651-TAR

**RESPONSE TO PETITION FOR RECONSIDERATION OF WESTAR ENERGY, INC.  
AND KANSAS GAS AND ELECTRIC COMPANY**

COME NOW Westar Energy, Inc. and Kansas Gas and Electric Company (collectively referred to as "Westar") and file this Response to the Petition for Reconsideration filed by Occidental Chemical Corporation (OXY) on April 6, 2012. In support of this Response, Westar states:

**I. INTRODUCTION**

On February 24, 2012, Westar filed with the Commission notice of its intent to update its transmission delivery charge (TDC) tariffs pursuant to K.S.A. 66-1237(c). Westar updated its TDC rates to reflect the current transmission-related costs it is incurring. It was also necessary for Westar to allocate those transmission-related costs among the various customer classes. As discussed in greater detail below, in order to mitigate impacts to certain customers, including OXY, Westar proposed to allocate the TDC costs using a method that is different from the method contemplated by the current TDC tariff and proposed a corresponding change to the tariff language.

In its Motion for a Suspension Order and Order Granting Temporary Waiver, Staff agreed that the allocation method contemplated by the existing TDC tariff should not be used but suggested a third alternative for allocating the TDC costs. Staff also recommended that the Commission allow the updated TDC rates to go into effect after 30 business days as required by

K.S.A. 66-1237(c) but suspend the proposed changes to the allocation provisions of the tariff pursuant to K.S.A. 66-117. On March 21, 2012, OXY filed a Protest and Motion to Dismiss. Also on March 21, 2012, the Commission issued its Suspension Order and Order Granting Temporary Waiver (March 21 Order) in which the Commission followed Staff's recommendations.

On April 6, 2012, OXY filed its Petition for Reconsideration of the Commission's March 21 Order, asking the Commission to reject Westar's update to the TDC costs or, in the alternative, require Westar to allocate the TDC costs pursuant to the language of the existing TDC tariff.<sup>1</sup> As discussed below, OXY provides no legal basis on which the Commission should reject or disallow the update to Westar's TDC that is explicitly provided for by statute. Additionally, the Commission's decision to grant a waiver of the allocation provisions of the TDC tariff was reasonable because it avoided significant rate impacts to certain customers, including OXY. As a result, OXY's Petition for Reconsideration should be rejected in its entirety.

**II. WESTAR IS ENTITLED TO RECOVER ITS UPDATED TRANSMISSION-RELATED COSTS THROUGH THE TDC AND OXY HAS PROVIDED NO BASIS FOR THE COMMISSION TO DISALLOW SUCH RECOVERY.**

K.S.A. 66-1237(c) provides:

All transmission-related costs incurred by an electric utility and resulting from any order of a regulatory authority having legal jurisdiction over transmission matters, including orders setting rates on a subject-to-refund basis, shall be conclusively presumed prudent for purposes of the transmission delivery charge and **an electric utility may change its transmission delivery charge whenever there is a change in transmission-related costs resulting from such an order.** The commission may also order such a change if the utility fails to do so. **An electric utility shall**

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<sup>1</sup> Subsequent to OXY's Petition for Reconsideration, on April 11, 2012, the Commission issued its Order Denying OXY's Motion to Dismiss.

**submit a report to the commission at least 30 business days before changing the utility's transmission delivery charge.** If the commission subsequently determines that all or part of such charge did not result from an order described by this subsection, the commission may require changes in the transmission delivery charge and impose appropriate remedies, including refunds.

(Emphasis added).

In other words, Westar is entitled to adjust its TDC rates to include transmission-related costs that it incurs if those costs result from an order of the Federal Energy Regulatory Commission (the regulatory authority with jurisdiction over transmission matters) as long as it provides the Commission with 30 business days notice of its intent to update the rates. K.S.A. 66-1237 does not address the allocation of costs among customer classes or preclude an electric utility from changing the language in its TDC tariff related to allocation. It simply provides that Westar is entitled to begin recovering its updated transmission-related costs on 30 business days notice to the Commission regardless of how those costs are allocated. The fact that Westar proposed amendments to the tariff language related to allocation of costs at the same time that it gave the Commission notice of its intent to update the TDC is wholly irrelevant to Westar's statutory right to begin recovering its updated TDC costs with 30 business days notice.

K.S.A. 66-117 requires utilities to give the Commission 30 days notice of any proposed tariff change. Westar complied with that requirement when it filed its proposed changes to the allocation provisions of the TDC tariff.<sup>2</sup> The Commission decided to separate its review of the tariff language related to allocation of costs from the update of the TDC costs because the Commission has the right to suspend the proposed tariff changes under K.S.A. 66-117 but does not have the right to suspend the TDC update under K.S.A. 66-1237. The Commission's

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<sup>2</sup> Westar actually provided the Commission with more than 30 days notice of the proposed tariff changes because it was complying with the provisions of K.S.A. 66-1237 that require **30 business days** notice before an update to the TDC is made. Under applicable statutes and regulations, a period of 30 business days is approximately two weeks longer than a period of 30 **calendar** days.

approach to addressing these two separate issues is reasonable and consistent with the relevant statutes. OXY has provided no factual or legal basis to support its suggestion that Westar's update to the TDC should be disallowed. As a result, OXY's Petition for Reconsideration and request that the Commission disallow Westar's TDC update should be denied.

**III. THE COMMISSION'S DECISION TO GRANT A WAIVER OF THE ALLOCATION PROVISION OF WESTAR'S TDC TARIFF WAS APPROPRIATE BECAUSE IT AVOIDED DISPROPORTIONATE RATE IMPACTS FOR CERTAIN CUSTOMERS.**

The current TDC tariff would require Westar to allocate the TDC costs it is entitled to recover under K.S.A. 66-1237 based on the 12-CP ratio from its most recently filed rate case, Docket No. 12-WSEE-112-RTS (112 Docket). When filing its notice in this docket, Westar analyzed the customer impacts of an allocation based on the 12-CP ratio from the 112 Docket (new 12-CP ratio) as well as two other allocation methods – use of the 12-CP ratio from Westar's previous rate case (old 12-CP ratio) and use of a hybrid allocation method with some combination of the two 12-CP ratios. Rohlfs Affidavit, ¶ 4, attached hereto as Exhibit A. Westar determined that because of impacts related to the consolidation of rates between Westar North and Westar South, use of the new 12-CP ratio would result in disproportionate rate increases for certain customer classes. Rohlfs Affidavit, ¶ 5.

Thus, in an attempt to mitigate some of the impact of complete movement to the new 12-CP ratio, Westar developed and proposed a hybrid approach. Rohlfs Affidavit, ¶ 6. Under the approach proposed by Westar, the transmission-related costs previously included in the TDC would be allocated based on the old 12-CP ratio and the additional costs being added in this update would be allocated based on the new 12-CP ratio. Rohlfs Affidavit, ¶ 6. In its Motion for Suspension Order and Order Granting Temporary Waiver, Staff recommended using the old 12-

CP ratio for all of the costs until a more detailed review could be completed. The Commission followed Staff's recommendation in its March 21 Order.

The impacts to each tariff group from each of the three allocation options are shown in the table in Exhibit 1 to the Rohlfs Affidavit. If Westar were to utilize the new 12-CP ratio to allocate the TDC costs, a number of customer classes, including High Load Factor customers such as OXY, would receive disproportionate rate increases. *Id.* Use of the new 12-CP ratio would have very significant impacts on the Religious Institution Time of Day Service and Restricted Total Electric – School and Church Service customers with respective percent changes of 150% and 93%. Confidential Exhibit 2 to the Rohlfs Affidavit shows the impact of each of the alternative allocation methods on OXY's bill. This exhibit indicates that use of the new 12-CP ratio – as suggested by OXY in its Petition for Reconsideration – would increase OXY's yearly bill by approximately \*\* [REDACTED] \*\* – 3.5% more than if the hybrid approach proposed by Westar were utilized. Given these potential impacts, the Commission's decision to approve a temporary change to the allocation provision of Westar's TDC tariff to mitigate customer impacts while a complete review is conducted was reasonable and OXY's Petition for Reconsideration should be denied.<sup>3</sup> If, however, the Commission believes that it is appropriate to utilize the new 12-CP ratio as suggested by OXY, it is important that the Commission be aware of the customer impacts that will occur, as discussed above and identified in Exhibit 1 to the Rohlfs Affidavit.

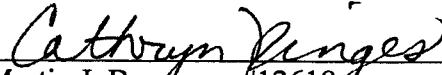
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<sup>3</sup> As the Commission explained in its Order Denying OXY's Motion to Dismiss, the Commission allowed Westar to begin charging its updated TDC with costs allocated using the old 12-CP ratio but the allocation is subject to refund pending a full review. Thus, because "Occidental has been permitted to fully participate in this docket and will thus have the opportunity to protect its interests, proceeding under Staff's recommendation will result in neither irrevocable harm nor prejudice to Occidental. Therefore, Occidental's concerns can be addressed short of dismissal." Order Denying Motion to Dismiss, at ¶ 11.

**IV. CONCLUSION**

WHEREFORE, Westar requests that the Commission deny OXY's Petition for Reconsideration in its entirety.

Respectfully submitted,

  
\_\_\_\_\_  
Martin J. Bregman, #12618  
Executive Director, Law  
Cathryn J. Dinges, #20848  
Corporate Counsel  
818 S. Kansas Avenue  
Topeka, KS 66612  
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ATTORNEYS FOR  
WESTAR ENERGY, INC. AND  
KANSAS GAS AND ELECTRIC COMPANY

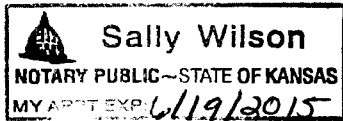
VERIFICATION

STATE OF KANSAS )  
 )  
COUNTY OF SHAWNEE ) 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 she is familiar with the foregoing **Response**; and that the statements therein are true and correct to the best of her knowledge and belief.

Cathryn Dinges  
Cathryn J. Dinges

SUBSCRIBED AND SWORN to before me this 19<sup>th</sup> day of April, 2012.



Sally Wilson  
Notary Public

My Appointment Expires: 6/19/2015

**CERTIFICATE OF SERVICE**

I hereby certify that on this 19<sup>th</sup> day of April, 2012, the original and eight copies foregoing **Response to Petition for Reconsideration** were delivered to:

Patti Peterson-Klein  
Executive Director  
KANSAS CORPORATION COMMISSION  
1500 SW Arrowhead  
Topeka, Kansas 66604

that one copy was delivered to:

RAY BERGMEIER, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
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TOPEKA, KS 66604-4027

BRIAN G. FEDOTIN, ADVISORY COUNSEL  
KANSAS CORPORATION COMMISSION  
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and that one copy was mailed to:

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OVERLAND PARK, KS 66210-2362

  
Cathryn J. Dinges

**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 )                   Docket No. 12-WSEE-651-TAR  
Changes in Their Transmission Delivery )  
Charges Rate Schedules                                    )

**AFFIDAVIT OF DICK ROHLFS**

Dick Rohlfs, being first duly sworn, deposes and says:

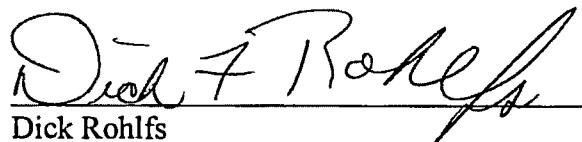
1. I am Director, Retail Rates for Westar Energy, Inc. (Westar).
2. Westar's transmission delivery charge (TDC) update filing in the above-captioned docket was prepared by me and/or under my supervision.
3. The current TDC tariff would require Westar to allocate the TDC costs it is entitled to recover under K.S.A. 66-1237 in this docket based on the 12-CP ratio from its most recently filed rate case, Docket No. 12-WSEE-112-RTS (112 Docket).
4. When preparing our filing in this docket, we analyzed the customer impacts of an allocation based on the 12-CP ratio from the 112 Docket (new 12-CP ratio) as well as two other allocation methods – use of the 12-CP ratio from Westar's previous rate case (old 12-CP ratio) and use of a hybrid allocation method with some combination of the two 12-CP ratios.
5. We determined that because of impacts related to the consolidation of rates between Westar North and Westar South, use of the new 12-CP ratio would result in disproportionate rate increases for certain customer classes.
6. In an attempt to mitigate some of the impact of complete movement to the new 12-CP ratio, we developed and proposed a hybrid approach. Under the hybrid approach we proposed in our filing, the transmission-related costs previously included in the TDC would be

allocated based on the old 12-CP ratio and the additional costs being added in this update would be allocated based on the new 12-CP ratio.

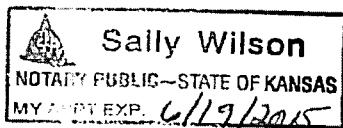
7. The impacts to each tariff group from each of the three allocation options identified in paragraph 4 above are shown in the table in Exhibit 1, attached hereto.

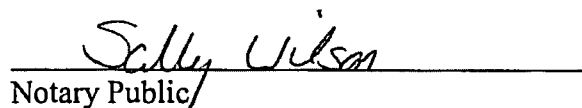
8. If Westar were to utilize the new 12-CP ratio to allocate the TDC costs, a number of customer classes, including High Load Factor customers such as Occidental Chemical Corporation (OXY), would receive disproportionate rate increases. Use of the new 12-CP ratio would have very significant impacts on the Religious Institution Time of Day Service and Restricted Total Electric – School and Church Service customers with respective percent changes of 150% and 93%.

9. Confidential Exhibit 2, attached hereto, shows the impact of each of the alternative allocation methods on OXY's bill. This exhibit indicates that use of the new 12-CP ratio – as suggested by OXY in its Petition for Reconsideration – would increase OXY's yearly bill by approximately \*\* [REDACTED] \*\* – 3.5% more than if the hybrid approach proposed by Westar were utilized.

  
Dick Rohlf

SUBSCRIBED AND SWORN to before me this 19 day of April, 2012.



  
Notary Public

My Appointment Expires: 6/19/2015

TRANSMISSION DELIVERY CHARGE <u>Rate schedule</u>	percent change						
	<u>previous</u>	<u>as filed</u>	<u>staff interim (1)</u>	<u>new 12-CP</u>	<u>as filed</u>	<u>staff interim</u>	<u>new 12-CP</u>
Dedicated Off-Peak Service	\$0.006559	\$0.008959	\$0.008391	\$0.010778	37%	28%	64%
Generation Substitution Service	\$0.006559	\$0.008959	\$0.008391	\$0.010778	37%	28%	64%
High Load Factor Service	\$2.406144	\$3.127564	\$3.078308	\$3.239889	30%	28%	35%
Interruptible Contract Service	\$0.005169	\$0.006705	\$0.006613	\$0.006900	30%	28%	33%
Large Tire Manufacturing (per KV <sub>a</sub> )	\$1.991956	\$2.675647	\$2.548415	\$3.070235	34%	28%	54%
Medium General Service	\$2.551426	\$3.130704	\$3.264175	\$2.601533	23%	28%	2%
Private Area Lighting Service	\$0.003523	\$0.004357	\$0.004507	\$0.003746	24%	28%	6%
Religious Institution Time Of Day Service	\$0.002685	\$0.004182	\$0.003435	\$0.006723	56%	28%	150%
Residential Service	\$0.007882	\$0.010173	\$0.010084	\$0.010289	29%	28%	31%
Restricted Peak Service	\$0.006559	\$0.008959	\$0.008391	\$0.010778	37%	28%	64%
Restricted Service to Schools	\$0.004922	\$0.006077	\$0.006297	\$0.005186	23%	28%	5%
Restricted Educational Institution Service	\$0.004922	\$0.006077	\$0.006297	\$0.005186	23%	28%	5%
Restricted Total Electric – School and Church Service	\$0.002685	\$0.006077	\$0.003435	\$0.005186	126%	28%	93%
Short-Term Service	\$0.006559	\$0.008959	\$0.008391	\$0.010778	37%	28%	64%
Small General Service	\$0.006559	\$0.008959	\$0.008391	\$0.010778	37%	28%	64%
Small General Service – Church Option	\$0.006559	\$0.008959	\$0.008391	\$0.010778	37%	28%	64%
Standard Educational Service	\$0.004922	\$0.006077	\$0.006297	\$0.005186	23%	28%	5%
Street Lighting	\$0.003523	\$0.004357	\$0.004507	\$0.003746	24%	28%	6%
Traffic Signal Service	\$0.003523	\$0.004357	\$0.004507	\$0.003746	24%	28%	6%
Contract (a)	\$0.004271	\$0.005557	\$0.005464	\$0.005776	30%	28%	35%

(1) staff interim - subject to refund





CATHRYN J. DINGES  
Corporate Counsel

April 19, 2012

Patti Petersen-Klein  
Executive Director  
Kansas Corporation Commission  
1500 SW Arrowhead Road  
Topeka, Kansas 66604

Received  
on

APR 19 2012

by  
State Corporation Commission  
of Kansas

Re: In the Matter of Westar Energy, Inc. and Kansas Gas and Electric Company Seeking Commission Approval to Implement Changes in their Transmission Delivery Charges Rate Schedules, Docket No. 12-WSEE-651-TAR

Dear Ms. Petersen-Klein:

Enclosed for filing please find the original and eight copies of the Response to Petition for Reconsideration of Westar Energy, Inc. and Kansas Gas and Electric Company.

There is confidential information contained on page 5 of the Response to Petition, page 2 of Dick Rohlfs' Affidavit, and Exhibit 2 to the Rohlfs' Affidavit. These confidential pages are being filed separately in an envelope marked "confidential".

Please file stamp one copy for my files.

Thank you for your assistance.

Sincerely,

  
Cathryn J. Dinges

cc: Service List