


BEFORE THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

DEC 10 2010



In the Matter of the Notice and )  
 Application of Westar Energy, Inc. )  
 and Kansas Gas and Electric Company for )  
 Approval of Use of RECs to Satisfy )  
 the Renewable Energy Standards Act )  
 for 2011 and 2012 )

Docket No. 11-WSEE-438-mis**NOTICE AND APPLICATION**

COME NOW Westar Energy, Inc. (Westar North) and Kansas Gas and Electric Company (Westar South) (collectively referred to as “Westar”) and file this Notice and Application for an order permitting Westar to use renewable energy credits to satisfy the requirements of the Renewable Energy Standards Act, K.S.A. 66-1256, et seq. and the Electric Utility Renewable Energy Standards, K.A.R. 82-16-1, et seq. for years 2011 and 2012. In support of its Notice and Application, Westar states:

1. Westar North and Westar South are corporations duly organized under the laws of the State of Kansas engaged, among other things, in the business of electric public utilities, as defined by K.S.A. 66-104, in legally designated areas within the State of Kansas. Westar holds certificates of convenience and authority issued by this Commission authorizing it to engage in such utility business.

2. K.S.A. 66-1258(a) imposes a portfolio requirement on all affected utilities to “generate or purchase electricity generated from renewable energy resources or purchase renewable energy credits . . . Renewable energy credits may only be used to meet a portion of portfolio requirements for the years 2011, 2016 and 2020, unless otherwise allowed by the commission.” The portfolio requirement must provide “net renewable generation capacity” that constitutes “not less than 10% of the affected utility’s peak demand for calendar years 2011

through 2015, based on the average demand of the prior three years of each year's requirement." K.S.A. 66-1258(a)(1). Each megawatt of "eligible capacity in Kansas installed after January 1, 2000, shall count as 1.10 megawatts for purposes of compliance." K.S.A. 66-1258(c).

3. K.S.A. 66-1261 gives the Commission the authority to assess penalties to utilities that fail to comply with the requirements of the Act. However, "for the calendar years 2011 and 2012, the commission is not required to assess penalties if the affected utility can demonstrate it made a good faith effort to comply with the portfolio standards requirement." K.S.A. 66-1261(b).

4. K.A.R. 82-16-2 requires utilities to meet the portfolio requirement in K.S.A. 66-1258 "by maintaining a portfolio of renewable capacity from generation, purchased energy, RECs, or net metering systems." K.A.R. 82-16-2(a). It also imposes certain reporting requirements on affected utilities. K.A.R. 82-16-2(b).

5. K.A.R. 82-16-6 addresses the use of renewable energy credits (RECs) to meet the portfolio requirements of K.S.A. 66-1258. It requires RECs used to meet the requirements to be "issued and used as part of a REC program either established or approved by the commission." K.A.R. 82-16-6(a). Additionally, "for purposes of complying with the act, any REC may be used only once. Unused RECs shall remain valid for up to two years from the date that the associated electricity is generated and shall be permanently retired at the end of two years or when used for compliance, whichever is earlier." K.A.R. 82-16-6(c).

6. Currently, Westar's renewable energy capacity is 301 MW. This includes 295 MW of wind generation, a portion of which is owned by Westar and a portion of which Westar purchases pursuant to power purchase agreements (PPAs), and 6 MW from a landfill gas plant,

as indicated in the chart below. The wind generation currently on Westar’s system was developed as a result of a Request for Proposal (RFP) issued in 2007.

**Westar’s Existing Renewable Generation Portfolio**

<b>Name of Generation Facility</b>	<b>Owned or PPA</b>	<b>Type of Resource</b>	<b>Nameplate Capacity</b>	<b>Year Placed in Service</b>
Meridian Way Wind Farm	PPA	Wind	96 MW	2008
Flat Ridge Wind Farm	PPA	Wind	50 MW	2009
Flat Ridge Wind Farm	Owned	Wind	50 MW	2009
Central Plains Wind Farm	Owned	Wind	99 MW	2009
Rolling Meadows	PPA	Methane Gas	6 MW	2010

7. In 2009, Westar issued another renewable RFP, continuing its efforts to fulfill what at the time was a voluntary effort to obtain additional renewable resources. At that time, however, world financial markets were in turmoil and wind companies were having a difficult time financing their operations. As a result, the terms and conditions wind developers were offering at the time were unattractive. Renewable energy costs averaged 9 – 17% higher than in the previous RFP process in 2007.

8. Instead of pursuing the offers made in response to the 2009 RFP, in January 2010, Westar entered into a contract with Infinity Wind Power (Infinity) to acquire development rights for the Ironwood wind farm near Spearville, Kansas in Ford and Hodgeman Counties. This contract gives Westar the development rights for up to 500 MW of wind energy at the Ironwood site. The agreement with Infinity is structured as an asset purchase and includes contracts with landowners currently covering 25,914 acres as well as other development-related assets.

9. Later in 2010, Westar issued a new renewable RFP for purchased power either at the Ironwood site or elsewhere. Westar received 56 responses from 35 developers. The RFP was for all types of renewable energy, but wind dominated the responses. In addition to proposals to provide wind energy, Westar received one solar, one hydrogen, and two biomass proposals. This RFP resulted in PPAs with two developers for a total of 369 MW of wind resources. These projects are targeted for completion in the later half of 2012. Westar filed an application with the Commission for predetermination with respect to these PPAs on November 10, 2010, in Docket No. 11-WSEE-377.

10. Currently, the transmission system that exists in portions of Kansas significantly limits the amount of renewable energy that can be delivered to Westar's service territory. In order to improve the chances that Westar will be able to obtain reliable transmission service for power that would be generated under the new PPAs or at other wind farms throughout western Kansas, construction of new extra-high voltage (EHV) – 345 kV or higher – transmission must take place.

11. In 2008, Westar entered into a joint venture to form Prairie Wind Transmission, LLC (Prairie Wind). Westar owns a 50% membership interest in Prairie Wind. The remaining 50% membership interest in Prairie Wind is owned by Electric Transmission America, LLC (ETA).<sup>1</sup> Prairie Wind was formed to construct and own EHV transmission in Kansas. In Docket No. 08-PWTE-1022-COC (the "Prairie Wind Docket"), Prairie Wind filed an application with the Commission for the authority to construct a 765 kV transmission line in western Kansas. If completed, this transmission line would considerably improve the ability of Westar and other utilities to deliver enough wind energy to their customers to meet the requirements of the

Renewable Energy Standards Act. The Commission ultimately approved a Stipulation and Agreement in the Prairie Wind Docket and in Docket Nos. 08-ITCE-936-COC, 08-ITCE-937-COC, and 08-ITCE-938-COC (the “ITC Dockets”) giving Prairie Wind the authority to construct a portion of the proposed 765 kV line and giving ITC Great Plains, LLC (ITC) the authority to construct the remainder of the 765 kV line. The Commission conditioned its approval on the parties obtaining regional funding for the project through the Southwest Power Pool, Inc. (SPP).

12. On April 27, 2010, subject to the Federal Energy Regulatory Commission (FERC) approving a regional cost allocation proposal, the SPP Board approved six priority projects, two of which make up the Prairie Wind/ITC project. However, the Board approved the project to be constructed as a double circuit 345 kV line rather than a 765 kV line. On June 17, 2010, in Docket No. ER10-1069, the FERC approved SPP’s proposal for regional funding of certain transmission lines, including the project proposed by Prairie Wind and ITC. On June 30, 2010, SPP issued a notice to construct the proposed project as a double-circuit 345 kV line, with the possibility that, in January 2011, SPP will change the notice to require construction at 765 kV.

13. Additionally, on June 30, 2010, SPP filed its Integrated Transmission Planning (ITP) process for approval with FERC. FERC approved the ITP on July 15, 2010, subject to pending rehearing requests. The ITP authorized SPP to implement a new planning process that is more forward looking. The results of the initial ITP plan are expected to be finalized by the end of 2010. The ITP should provide a definitive answer concerning how SPP will move forward with approving the construction of additional transmission facilities, potentially including 765 kV lines, in the next decade, making it easier to move power from the high wind areas of the state in the west to load in the eastern part of the state.

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<sup>1</sup> ETA is a joint venture between AEP Transmission Holding Company, LLC, a wholly-owned subsidiary of American Electric Power Company, Inc. (AEP), and MEHC America Transco, LLC, a wholly-owned subsidiary of

14. On June 30, 2010, Prairie Wind filed a Second Stipulation and Agreement with the Commission in the Prairie Wind Docket and the ITC Dockets that would allow for construction of the proposed projects by Prairie Wind and ITC at double-circuit 345 kV instead of 765 kV. The Commission approved this Second Stipulation and Agreement on July 29, 2010. Prairie Wind is proceeding with the actions necessary to allow it to construct its portion of the project.

15. Westar, on its own and through its participation in Prairie Wind, has made a good faith effort to help ensure that the transmission needed to enable it to meet the Renewable Energy Standards Act requirements will be built. Westar has also made a good faith effort to develop renewable energy resources that can currently be delivered to its customers based on the transmission already available.

16. In order to meet the requirements in K.S.A. 66-1258 for 2011 and 2012, it will be necessary for Westar to have net renewable generation capacity of approximately 497 MW. This number is equal to 10% of Westar's three-year average peak of 4,973 MW based on 2008, 2009, and 2010.<sup>2</sup>

17. As stated above, Westar's current net renewable generation capacity is 301 MW. However, under K.S.A. 66-1258(c), Westar is credited with 110% of this amount, or 331 MW, because all of Westar's current renewable generation is located in Kansas. Thus, Westar needs a

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MidAmerican Energy Holdings Company (MEHC).

<sup>2</sup> Westar has calculated the three-year average peak for its system as a whole instead of the individual peaks for Westar North and Westar South separately. This approach is appropriate because the generation facilities of the two companies are jointly dispatched on a least-cost basis to meet the combined demands of the customers of both companies and generation expansion planning is done on a combined basis – to meet the combined loads of Westar North and South. See Order Approving Rate Consolidation, Docket No. 09-WSEE-641-GIE, at ¶ 47 (Oct. 26, 2009). As the Commission stated in its Order Approving Rate Consolidation, “this means the Westar system is planned, designed, and operated as one system.” Id. at ¶ 51. Additionally, in that Order, the Commission ruled that consolidation of the two companies' rates is appropriate and should be accomplished as soon as feasible. Id. at ¶ 132.

minimum of approximately 151 MW of additional renewable capacity located in Kansas to meet the renewable energy standard requirement for 2011 and 2012, which would be the equivalent of 166 MW after the 110% adjustment for Kansas resources is made.

18. K.S.A. 66-1258(a) specifically allows affected utilities to use RECs to meet the requirements of the statute for 2011. The statute also allows use of RECs for other years if “allowed by the commission.”

19. Between December 2008 and present, Westar has accumulated RECs from the operation of wind farms it currently owns and from its purchase of wind energy through PPAs. Westar has a large number of these RECs that have not been sold or used previously and are therefore available to be used to comply with K.S.A. 66-1258.<sup>3</sup> Westar has enough RECs available to cover the 151 MW needed to meet the Renewable Energy Standards Act requirements beginning on July 1, 2011, when the requirement becomes effective and for 2012. See Affidavit of Don Ford, attached hereto as Exhibit A. The Commission has recently established the APX North America Renewable Registry as the registry for RECs generated and used to meet the RES requirements. Westar will take the appropriate steps to have its RECs certified as part of this registry so that they can be used to meet the portfolio requirements.

20. If Westar were required to purchase new RECs to meet the requirements of the Renewable Energy Standards Act, it estimates the cost, using current market prices, would be approximately \$1.4 million per year. Thus, use of these available RECs to meet the requirements of K.S.A. 66-1258 beginning on July 1, 2011, and for 2012 will minimize the cost of compliance to Westar’s customers because Westar will be able to avoid purchasing RECs in the market at an

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<sup>3</sup> Westar has sold a portion of the RECs generated from the operation of its wind generation and has utilized a portion of the RECs to meet the requirements of its Renewable Energy Program Rider (Green Tariff), approved by the Commission in Docket No. 09-WSEE-198-TAR. Westar, however, will have enough unused RECs remaining to satisfy the requirements of the Renewable Energy Standards Act for 2011 and 2012.

additional cost to customers while it is in the process of developing new renewable generation and transmission in Kansas in order to continue to meet the Act's requirements in 2013 and beyond.

21. Westar therefore notifies the Commission of its intent to satisfy the Renewable Energy Standards Act requirements beginning on July 1, 2011, through the end of 2011 with RECs that have already been acquired or generated and requests approval from the Commission to use RECs to meet those requirements for 2012. The use of RECs for 2011 and approval of Westar's request to use RECs for 2012 will ensure that Westar meets the renewable energy standard until its new wind generation comes online. However, to the extent the Commission believes it is necessary, Westar also requests a waiver from the Commission of penalties for failure to comply with the Renewable Energy Standards Act for 2011 and 2012 on the basis that Westar has "made a good faith effort to comply with the portfolio standards requirement."

WHEREFORE, Westar Energy, Inc. and Kansas Gas and Electric Company respectfully request that the Commission issue an order approving their use of RECs to comply with the requirements of the Renewable Energy Standards Act in 2011 and 2012 and granting any waivers the Commission believes are necessary, as proposed herein.



Respectfully submitted,

WESTAR ENERGY, INC.  
KANSAS GAS AND ELECTRIC COMPANY

Cathryn Dinges

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Executive Director, Law

Cathryn J. Dinges, #20848

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**VERIFICATION**

STATE OF KANSAS )

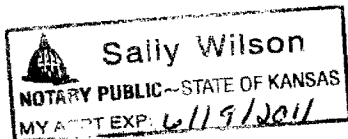
) ss:

COUNTY OF SHAWNEE )

Cathryn J. Dinges, being duly sworn upon her oath deposes and says that she is the attorney for Westar Energy, Inc. and Kansas Gas and Electric Company; that she is familiar with the foregoing **Notice and Application** 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 10<sup>th</sup> day of December, 2010.



Sally Wilson  
Notary Public

My Appointment Expires: 6/19/2011

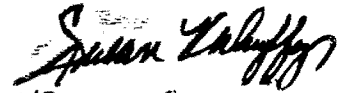
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Docket No. 11-WSEE-438-MIS



**AFFIDAVIT OF DON FORD**

Don Ford, being first duly sworn, deposes and says:

1. I am employed by Westar Energy, Inc. (Westar) as a Project Manager in the Major Construction Projects Group. My business address is 818 S. Kansas Avenue, Topeka, Kansas, 66612. In this capacity I am responsible for the successful installation of Westar's major renewable energy projects, leading the effort for purchase of additional renewable energies, and the ongoing assessment of renewable technologies.

2. I calculated the number of renewable energy credits (RECs) that would be required to meet Westar's obligation under the Renewable Energy Standards Act beginning on July 1, 2011, through the end of 2011 and for 2012 by applying the default capacity factor identified in the Kansas Corporation Commission's regulations, K.A.R. 82-16-1, et seq., of 34% to the additional capacity needed by Westar to meet the requirements.

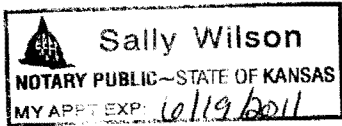
3. Based on this calculation, the additional capacity of 151 MW for 2011, and 159 MW for 2012 to account for load growth, will require 700,334 MWH of RECs.

4. To date, during 2010, Westar has generated or acquired from its PPAs for the purchase of wind energy over 687,000 MWH of renewable energy RECs. RECs generated or acquired during the remainder of 2010 and the first half of 2011 will be used to meet the

additional need. Excess REC's will be utilized to meet the requirements of Westar's Renewable Energy program Rider or sold.

Don Ford  
Don Ford

SUBSCRIBED AND SWORN to before me this 9<sup>th</sup> day of December, 2010.



Sally Wilson  
Notary Public

My Appointment Expires: 6/19/2011



CATHRYN J. DINGES  
Corporate Counsel

December 10, 2010

Susan K. Duffy  
Executive Director  
Kansas Corporation Commission  
1500 SW Arrowhead Road  
Topeka, Kansas 66604

STATE CORPORATION COMMISSION

DEC 10 2010

Re: In the Matter of the Notice and Application of Westar Energy, Inc. and Kansas Gas and Electric Company for Approval of Use of RECs to Satisfy the Renewable Energy Standards Act for 2011 and 2012

Dear Ms. Duffy:

Enclosed for filing with the Commission please find the original and eight (8) copies of the **Notice and Application of Westar Energy, Inc. and Kansas Gas and Electric Company** and the **Affidavit of Don Ford**.

Please file stamp one copy for my files.

Thank you for your assistance.

Sincerely,

Cathryn J. Dinges  
Corporate Counsel

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