

**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)

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

**WESTAR ENERGY, INC. AND KANSAS GAS AND ELECTRIC COMPANY'S INITIAL
LEGAL BRIEF**

COMES NOW Westar Energy, Inc. and Kansas Gas and Electric Company (collectively
“Westar”) and submit the following Initial Legal Brief in accordance with the Commission’s
Order Establishing Briefing Schedule:

1. On May 3, 2018, the Commission issued its Order Establishing Briefing Schedule
in the above-captioned dockets, indicating that parties should file their initial briefs addressing
the question of whether Staff’s proposal to revise the 12-CP allocators from Westar’s last rate
case for application in the above-captioned dockets constitutes improper retroactive ratemaking.

2. In each of the above-captioned dockets, Staff has determined that Westar’s TDC
filings accurately reflect the nature of the costs it incurs from SPP on behalf of its retail
customers to provide transmission service and that its TDC charges were calculated correctly.

See, e.g., Staff's Report and Recommendation, Docket No. 16-WSEE-375-TAR, at p. 4 (Aug. 2, 2016).

3. However, despite the fact that Staff concluded Westar's TDC charges were correctly calculated, Staff recommended that Westar continue to collect its TDC on a subject-to-refund basis pending the results of a Staff consultant review of the allocation methodology between classes. Subsequently, Staff's consultant conducted his review and indicated that, in his opinion, changes should be made to the allocation methodology and that Westar's TDC for each of the years involved in these dockets should be recalculated, with refunds or additional charges issued to customers as necessary to effectuate the new allocation. *See* Staff's Report and Recommendation, Docket Nos. 16-WSEE-375-TAR and 17-WSEE-377-TAR (Sept. 26, 2017).

4. The Commission has indicated that it will review the legal question of whether the allocation methodology can be adjusted retroactively in a way that results in refunds and additional charges to different classes of customers before it considers the factual issues related to the allocation methodology. *See* Order on Staff's Motion to Join and Consolidate Proceedings (April 5, 2018).

5. In pleadings previously filed in one of the above-captioned dockets, Docket No. 16-WSEE-375-TAR, Westar has explained its position that Staff's recommendation to retroactively adjust the 12-CP allocation methodology is inconsistent with the requirements of Westar's TDC Tariff and with the Stipulation and Agreement approved by the Commission in Docket No. 15-WSEE-115-RTS (115 Docket). Westar explained its position in detail in its "Response to Staff Report and Recommendation" filed in Docket No. 16-WSEE-375-TAR on August 11, 2016. Westar incorporates the arguments made in that pleading here.

6. Therefore, Westar asks that the Commission reject Staff's recommendation to adjust the 12 CP allocation factors utilized in the above-captioned dockets because the recommendation is inconsistent with Westar's TDC Tariff and the 115 Docket S&A and that the Commission approve Westar's TDC, including the allocation of costs among classes, as filed in each of the above-captioned dockets.

Respectfully submitted,
WESTAR ENERGY, INC.
KANSAS GAS AND ELECTRIC COMPANY


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VERIFICATION

STATE OF KANSAS)
)
COUNTY OF SHAWNEE) ss:

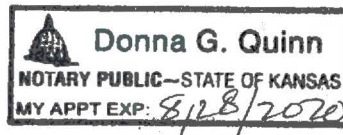
Cathryn J. Dinges, being duly sworn upon her oath deposes and says that she is one of the attorneys for Westar Energy, Inc. and Kansas Gas and Electric Company; that she is familiar with the foregoing **Initial Legal Brief**; and that the statements therein are true and correct to the best of her knowledge and belief.

Cathryn Dinges
Cathryn J. Dinges

SUBSCRIBED AND SWORN to before me this 21st day of May, 2018.

Donna G. Quinn
Notary Public

My Appointment Expires: 8/28/2020



CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of June, 2018, the foregoing Initial Legal Brief was electronically filed with the Kansas Corporation Commission and an electronic copy was delivered to each party on the service list.

Cathryn Dinges
Cathryn J. Dinges