

OCT 18 2007

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

 Docket
Room

In The Matter Of Midwest Energy Seeking) Docket No.: 07-MDWG-784-TAR ✓
Commission Approval To Implement A Pay-)
As-You-Save Program For Its Natural Gas)
Service)

In The Matter Of Midwest Energy Seeking) Docket No.: 07-MDWE-788-TAR
Commission Approval To Implement A Pay-)
As-You-Save Program For Its Electric Service)

JOINT MOTION FOR APPROVAL OF MODIFIED HOWSMARTSM TARIFFS

COME NOW, Midwest Energy, Inc. (“Midwest”), the Staff of the State Corporation Commission of the State of Kansas (respectively, “Staff” and “Commission”) and the Citizens’ Utility Ratepayer Board (“CURB”) (collectively, “Joint Movants”) and hereby submit this Joint Motion for approval of Midwest’s natural gas and electric How\$martSM tariffs that were approved by the Commission, but that are currently subject to reconsideration, in the above-captioned consolidated dockets. In support of its Joint Motion, the parties state as follows:

I. BACKGROUND

1. On January 29, 2007, Midwest filed a tariff rider on January 29, 2007 to implement a pilot energy efficiency program in its natural gas service areas, which was docketed as Docket No. 07-MDWG-784-TAR (“784 Docket”). On the same day, Midwest filed a similar tariff for its electric service areas, which was docketed as Docket No. 07-MDWE-788-TAR (“788 Docket”). While the rider was originally identified as

the Pay-As-You-Save Rider (PAYS®), the designation has been changed to How\$martSM in the amended tariff and implementing documents.

2. On February 1, 2007, CURB filed a petition to intervene in the 784 Docket and 788 Docket. CURB's intervention in both dockets was granted on March 2, 2007. In early February 2007, a Suspension Order was issued by the Commission in both dockets that suspended the tariff filings and deferred the effective date for not more than 240 days, until September 26, 2007.

3. Subsequently, Staff, CURB, and Midwest Energy entered into a Stipulation and Agreement ("Stipulation"), which was filed in both dockets on May 17, 2007. The Stipulation requested that the Commission accept the terms of the Stipulation as to the majority of the issues regarding the How\$martSM pilot program and requested that the Commission adopt the stipulated briefing schedule for purposes of facilitating Commission resolution of two issues that remained in dispute. Following the submission of briefs on the disputed issues, the Commission issued an Order adopting the stipulation. CURB filed for reconsideration of certain provisions of the Order, and the Commission subsequently set the matter for oral argument on the disputed issues.

4. On October 11, 2007, Midwest, Staff, and CURB all presented oral argument to the Commission regarding the two issues surrounding the How\$martSM program that remain in dispute. CURB does not agree that the How\$martSM program should be considered a utility service that could result in: (1) disconnection for failure to pay charges incurred for the How\$martSM program, and (2) bad debts associated with How\$martSM being recoverable in future rate filings.

5. During the oral argument on October 11, 2007, CURB verbally indicated that its objection to that part of the Commission's Order that permits Midwest to request recovery in a subsequent rate case of How\$martSM associated bad debt expense could be resolved if Midwest would agree to remove language from its How\$martSM tariffs that specifically states that Midwest "shall be allowed to seek recovery of bad debt incurred as a result of this Rider in subsequent rate filings." Midwest verbally agreed to remove this language from the How\$martSM tariffs, and the Commission directed the parties to confer on this matter and submit revised How\$martSM tariff sheets reflecting the agreed-upon modifications. Staff indicated at the oral argument that it had no objection to these modifications.

6. Pursuant to the parties' verbal agreement, attached hereto and made a part hereof are the revised natural gas (Schedule HSG, Index 73) and electric (Schedule HSE, Index 94) How\$martSM tariff sheets, with the language regarding Midwest's ability to seek recovery of bad debt expense in subsequent rate cases removed. The attached tariff sheets include a redline version and an unmarked version of the tariff page to be replaced. Joint Movants request that the Commission remove the current applicable tariff sheets and replace them with the attached unmarked schedules.

WHEREFORE, for the reasons set forth herein, Joint Movants respectfully request that the Commission accept the parties' agreement on this issue and replace the current How\$martSM tariff pages with the revised tariff pages attached hereto.

Respectfully submitted,



FRANK A. CARO, JR. (#11678)
ANNE E. CALLENBACH (#18488)
Polsinelli Shalton Flanigan Suelthaus PC
6201 College Boulevard, Suite 500
Overland Park, Kansas 66211
(913) 451-8788
(913) 451-6205 Fax
fcaro@polsinelli.com
acallenbach@polsinelli.com

ATTORNEYS FOR MIDWEST ENERGY, INC.



MATTHEW SPURGIN (#20470)
Litigation Counsel
Kansas Corporation Commission
1500 S.W. Arrowhead Road
Topeka, Kansas 66604
(785) 271-3100
Fax No. (785) 271-3167
mspurgin@kcc.ks.gov

ATTORNEY FOR STAFF




DAVID SPRINGE (#15619)
C. STEVEN RARRICK (#13127)
Citizens' Utility Ratepayer Board
1500 SW Arrowhead Road
Topeka, KS 66604
d.springe@curb.kansas.gov
s.rarrick@curb.kansas.gov

ATTORNEYS FOR CURB

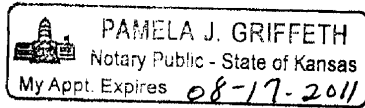
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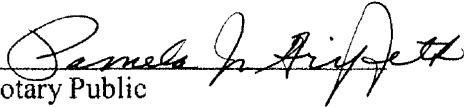
STATE OF Kansas)
) ss.
COUNTY OF Shawnee)

I, Matthew A Spriggs, being duly sworn, on oath state that I have read the foregoing and know the contents thereof, and that the facts set forth therein are true and correct to the best of my knowledge and belief.

By: 

The foregoing was subscribed and sworn to before me this 18th day of October,
2007.




Notary Public

My Commission Expires:

August 17, 2011

THE STATE CORPORATION COMMISSION OF KANSAS

Index No. 94

MIDWEST ENERGY, INC.
 (Name of Issuing Utility)
Company Wide
 (Territory to which schedule is applicable)

SCHEDULE HSE
 Replacing Schedule HSE Sheet _____
 which was filed August 16, 2007

No supplement or separate understanding shall modify the tariff as shown hereon. Sheet 4 of 4 Sheets

HowSmartSM RIDER

OTHER

- 1) This Rider only applies to HowSmartSM measures permanently installed as fixtures at the premises. Portable efficiency products such as compact fluorescent lights do not qualify under this Rider. The Company will solely determine permanence of measures or products.
- 2) Premises in which HowSmartSM measures will be installed must be permanently anchored to a foundation.
- 3) At its sole discretion, Company may withhold application of this Rider if:
 - a. The structure has an expected life shorter than the payback period, or
 - b. The structure does not meet applicable public safety or health codes.
- 4) At its sole discretion, Company will determine the maximum HowSmartSM program investment in any year.

Issued _____ Month Day Year Effective <u>Upon Commission Approval</u> Month Day Year By <u><i>Earnest A. Lehman</i></u> President Earnest A. Lehman Signature of Officer Title	
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THE STATE CORPORATION COMMISSION OF KANSAS

Index No. 94

MIDWEST ENERGY, INC.

SCHEDULE HSE

(Name of Issuing Utility)

Replacing Schedule Initial HSE Sheet

Company Wide

(Territory to which schedule is applicable)

which was filed August 16, 2007

No supplement or separate understanding shall modify the tariff as shown hereon.

Sheet 4 of 4 Sheets

HowSmartSM RIDER

OTHER

- 1) This Rider only applies to HowSmartSM measures permanently installed as fixtures at the premises. Portable efficiency products such as compact fluorescent lights do not qualify under this Rider. The Company will solely determine permanence of measures or products.
- 2) Premises in which HowSmartSM measures will be installed must be permanently anchored to a foundation.
- 3) At its sole discretion, Company may withhold application of this Rider if:
 - a. The structure has an expected life shorter than the payback period, or
 - b. The structure does not meet applicable public safety or health codes.
- 4) At its sole discretion, Company will determine the maximum HowSmartSM program investment in any year.
- 5) ~~Company shall be allowed to seek recovery of bad debt incurred as a result of this Rider in subsequent rate filings.~~

Issued	Month	Day	Year
Effective	Upon Commission Approval		
	Month	Day	Year
By	Earnest A. Lehman		President
	Signature of Officer		Title

THE STATE CORPORATION COMMISSION OF KANSAS

Index No. 73

MIDWEST ENERGY, INC.

(Name of Issuing Utility)

SCHEDULE HSG

Company Wide

(Territory to which schedule is applicable)

Replacing Schedule HSG Sheet

which was filed August 16, 2007

No supplement or separate understanding shall modify the tariff as shown hereon.

Sheet 4 of 4 Sheets

HowSmartSM RIDER

OTHER

- 1) This Rider only applies to HowSmartSM measures permanently installed as fixtures at the premises. Portable efficiency products such as compact fluorescent lights do not qualify under this Rider. The Company will solely determine permanence of measures or products.
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 - b. The structure does not meet applicable public safety or health codes.
- 4) At its sole discretion, Company will determine the maximum HowSmartSM program investment in any year.

Issued _____
Month Day Year

Effective Upon Commission Approval _____
Month Day Year

By *Earnest A. Lehman* President
Earnest A. Lehman Signature of Officer Title

THE STATE CORPORATION COMMISSION OF KANSAS

Index No. 73

MIDWEST ENERGY, INC.

SCHEDULE HSG

(Name of Issuing Utility)

Replacing Schedule Initial HSG Sheet

Company Wide

(Territory to which schedule is applicable)

which was filed August 16, 2007

No supplement or separate understanding shall modify the tariff as shown hereon.

Sheet 4 of 4 Sheets

HowSmartSM RIDER

OTHER

- 1) This Rider only applies to HowSmartSM measures permanently installed as fixtures at the premises. Portable efficiency products such as compact fluorescent lights do not qualify under this Rider. The Company will solely determine permanence of measures or products.
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- 4) At its sole discretion, Company will determine the maximum HowSmartSM program investment in any year.
- 5) ~~Company shall be allowed to seek recovery of bad debt incurred as a result of this Rider in subsequent rate filings.~~

Issued	Month	Day	Year
Effective	Upon Commission Approval		
	Month	Day	Year
By	Earnest A. Lehman		President
	Signature of Officer		Title

CERTIFICATE OF SERVICE

07-MDWG-784-TAR & 07-MDWE-788-TAR

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing Joint Motion was placed in the United States mail, postage prepaid, or hand-delivered this 18th day of October, 2007, to the following:

NIKI CHRISTOPHER, ATTORNEY
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604
Fax: 785-271-3116
n.christopher@curb.kansas.gov
**** Hand Deliver ****

C. STEVEN RARRICK, ATTORNEY
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604
Fax: 785-271-3116
s.rarrick@curb.kansas.gov
**** Hand Deliver ****

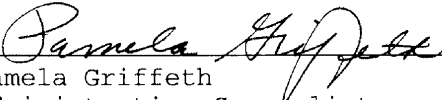
DAVID SPRINGE, CONSUMER COUNSEL
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604
Fax: 785-271-3116
d.springe@curb.kansas.gov
**** Hand Deliver ****

PATRICK PARKE, VP CUSTOMER SERVICE
MIDWEST ENERGY, INC.
1330 CANTERBURY ROAD
PO BOX 898
HAYS, KS 67601
Fax: 785-625-1494
patparke@mwenergy.com

MICHAEL J. VOLKER, DIR REGULATORY & ENERGY SERVICES
MIDWEST ENERGY, INC.
1330 CANTERBURY ROAD
PO BOX 898
HAYS, KS 67601
Fax: 785-625-1494
mvolker@mwenergy.com

ANNE E. CALLENBACH, ATTORNEY
POL SINELLI SHALTON FLANIGAN & SUELTHAUS
6201 COLLEGE BLVD
SUITE 500
OVERLAND PARK, KS 66211
Fax: 913-451-6205
acallenbach@polsinelli.com

FRANK A. CARO, JR., ATTORNEY
POL SINELLI SHALTON FLANIGAN & SUELTHAUS
6201 COLLEGE BLVD
SUITE 500
OVERLAND PARK, KS 66211
Fax: 913-451-6205
fcaro@polsinelli.com



Pamela Griffeth
Administrative Specialist