

IN THE MATTER OF THE APPLICATION OF )  
MIDWEST ENERGY, INC. FOR APPROVAL TO )  
MAKE CERTAIN CHANGES IN ITS CHARGES FOR ) DOCKET No. 09-MDWE-792-RTS  
ELECTRIC SERVICE PURSUANT TO K.A.R. 82- )  
1-231(B)(3). )

STATE CORPORATION COMMISSION

JUL 15 2009

 Docket  
Room

STAFF TESTIMONY IN SUPPORT OF  
JOINT STIPULATION AND AGREEMENT

PREPARED BY

GEORGE ROHRER

UTILITIES DIVISION

KANSAS CORPORATION COMMISSION STAFF

1    **Q.     Please state your name and business address.**

2    A.     George D. Rohrer, 1500 SW Arrowhead Road, Topeka, Kansas.

3    **Q.     In what capacity are you employed by the Commission?**

4    A.     I am employed by the Kansas Corporation Commission as a Senior Managing  
5           Auditor.

6    **Q.     Are you the same George D. Rohrer who previously filed testimony in this  
7           docket?**

8    A.     Yes, I am.

9    **Q.     What is the purpose of your testimony?**

10   A.     I am testifying on behalf of the Commission Staff in support of the settlement of  
11           the issues outlined in the Unanimous Stipulated Settlement Agreement (Joint  
12           Stipulation) between Midwest Energy, Inc. (Midwest), the Citizens Utility  
13           Ratepayers Board (CURB), and Staff (collectively "Parties"). The Parties  
14           represent all of the parties of record in this docket.

15                 My testimony in support of the Joint Stipulation will answer the  
16           fundamental question as to why the Commission should approve the Joint  
17           Stipulation as a reasonable resolution of the issues in this docket because it is in  
18           the public interest. Specifically, I will:

- 19                 • provide an overview and discussion of the Joint Stipulation;
- 20                 • discuss the standard of review used to guide the Commission in its  
21                 consideration of whether to accept the Joint Stipulation<sup>1</sup>; and

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<sup>1</sup> See Order Approving Contested Settlement Agreement, Docket No. 08-ATMG-280-RTS at pp. 4-6.

- 1           • discuss the evidence in the record that supports the Joint Stipulation.

2   **Q.    Please provide an overview of the Joint Stipulation.**

3   A.    The Joint Stipulation establishes an overall revenue increase of \$1,405,852 for  
4        Midwest's electric ratepayers. This increase is the final resolution to Midwest's  
5        last rate case filed in Docket No. 08-MDWE-594-RTS (594 Docket).  
6        Additionally, the parties respectfully request that the Commission issue an Order  
7        approving this Joint Stipulation by August 3, 2009 in order to allow Midwest to  
8        implement new rates with its first August billing cycle around August 5, 2009.

9   **Q.    How will the rate increase be spread to Midwest's electric customers?**

10  A.    As stated in paragraph 27 of the Stipulation and Agreement (S&A) in the 594  
11        Docket, any incremental increase in revenue resulting from the abbreviated rate  
12        case will be recovered proportionally across rate classes through an increase in  
13        energy charges. The fixed (customer and demand) charges will not be changed.  
14        The revenue increase will result in an approximate 1.34% overall increase to  
15        Midwest's current electric rates.

16  **Q.    Please provide a brief background of this case.**

17  A.    On April 9, 2009, Midwest filed an abbreviated rate application to increase its  
18        electric rates \$1,862,608. Midwest's application was based on the test year  
19        ending December 31, 2008, and included updates for its Goodman Energy Center  
20        (GMEC) plant and FEMA projects, including associated retirements. Also  
21        included were updates to GMEC non-fuel operations and maintenance (O&M)  
22        expenses.

1           On June 30, 2009, Staff filed direct testimony recommending a revenue  
2           increase of \$1,605,852. As discussed in my direct testimony, Staff's proposed  
3           three adjustments to rate base which reduced Midwest's overall requested  
4           increase.

5           CURB filed testimony on July 13, 2009 recommending a revenue increase  
6           of \$1,405,852 based on its analysis of Midwest's application. CURB decreased  
7           Staff's proposed rate increase by \$200,000 based on its analysis of the GMEC  
8           O&M expenses.

9   **Q.   Why was Midwest allowed to file an abbreviated rate case?**

10  A.   Per the Commission's August 5, 2008 order approving the S&A in the 594  
11       Docket, Midwest was authorized to file an abbreviated rate case related to the  
12       GMEC and substantial rebuild work related to FEMA designated storms.

13  **Q.   What do you mean by abbreviated rate case?**

14  A.   An abbreviated rate case is limited in scope and based upon findings in the utility  
15       company's previous rate case.

16  **Q.   Which Commission rule allows for an abbreviated rate filing?**

17  A.   K.A.R. 82-1-231(b)(3) states, "Any utility which proposes a change in rates  
18       within 12 months after a commission order following a general rate proceeding  
19       and investigation may submit schedules which eliminate data that duplicates  
20       information provided in the original schedules if: (A) the utility is willing to  
21       adopt all the regulatory procedures, principles and rate of return established by the  
22       commission in that order, and (B) the utility receives prior approval from the  
23       commission."



1 A. Additional provisions of the Joint Stipulation are:

- 2 • Signatory parties to this Joint Stipulation agree that Midwest's abbreviated  
3 rate filing was prepared in accordance with the stipulations as contained in  
4 the 594 Docket.
- 5 • The primary purpose of the abbreviated case is to update Midwest's plant  
6 for GMEC and FEMA projects, and to update GMEC O&M with the most  
7 recent information available. The updates shall be the incremental change  
8 based upon the application filed in the 594 Docket.
- 9 • The rate of return to be utilized in this docket is 7.24%.
- 10 • The parties agree to utilize Midwest's filed depreciation rates from the 594  
11 Docket. This is based on the Commission's intent to open a generic  
12 docket<sup>2</sup> regarding depreciation.
- 13 • The incremental updates should include incorporating two corrections  
14 identified by Staff regarding test year amounts for common plant  
15 accumulated depreciation and retirement Construction Work in Progress.
- 16 • On December 19, 2007, the Commission issued an order approving  
17 Midwest's request for an accounting authority order authorizing it to defer  
18 and seek recovery of its Allowance for Funds Used During Construction  
19 (AFUDC) and capitalization of non-fuel operations and maintenance  
20 expense incurred between the completion of the first and second phases of

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<sup>2</sup> The generic proceeding to evaluate depreciation issues was opened on June 30, 2008, and is docketed as 08-GIMX-1142-GIV.

1                   GMEC. Midwest also requested approval to delay recording depreciation  
2                   expense to its books until the GMEC plant is in full operations.

3                   • The parties agree that the abbreviated and subsequent rate cases would  
4                   include the cost of capitalized non-fuel O&M costs, deferred depreciation,  
5                   and AFUDC continuance.

6   **Q.    What is the effective date for implementation of new rates resulting from this**  
7   **abbreviated rate case?**

8   A.    All parties are respectfully requesting that the Commission issue an order by  
9           August 3, 2009, so that Midwest may implement new rates resulting from this  
10          case by its first billing cycle on August 5, 2009.

11

12           **The Commission's Standard of Review for Deciding Stipulation and Agreements**

13

14   **Q.    Please address whether each party had an opportunity to be heard on its**  
15   **reasons for opposing the Joint Stipulation.**

16   A.    All parties of record participated in the settlement negotiations, are in agreement  
17          with the stipulated revenue increase, and are signatories to the Joint Stipulation.

18   **Q.    Please address whether the Joint Stipulation is supported by substantial**  
19   **competent evidence in the record as a whole.**

20   A.    The Joint Stipulation is supported by substantial competent evidence in the  
21          record as a whole. Both Staff and CURB analyzed Midwest's application and  
22          formed their own individual conclusions, which were filed in their respective  
23          testimony. The settlement is based upon CURB's recommended increase which

1           was lower than Staff's but included Staff's adjustments. Midwest was willing to  
2           concede to CURB's recommendation. As previously stated, the issues in this rate  
3           case were limited to GMEC and FEMA.

4   **Q.   Please address whether the Joint Stipulation conforms to applicable law.**

5   A.   I am not an attorney. But it is my understanding that the Joint Stipulation does  
6           follow precedent for similar settlements in the past that have been executed in an  
7           effort to conform to applicable laws. Staff negotiated this settlement consistent  
8           with its understanding of Staff's legally authorized role in settling a rate case and  
9           Staff's understanding of applicable laws, regulations, and controlling authority.  
10          All attempts were made to ensure that this Joint Stipulation conforms to  
11          applicable laws and is presented in fashion to allow this Commission to properly  
12          approve the Joint Stipulation. Staff counsel will address any specific issues or  
13          questions from the Commissioners regarding the Joint Stipulation's conformity to  
14          applicable laws.

15   **Q.   Does Staff believe that the Joint Stipulation will result in just and reasonable**  
16          **rates?**

17   A.   Yes, the \$1,405,852 revenue increase is the lesser of CURB and Staff's  
18          recommended revenue requirement increase in this docket.

19                 The inclusion of expert witnesses and attorneys helps ensure that any  
20                 unreasonable position(s) taken by any party are eliminated by opposing parties  
21                 through the settlement process. More specifically, while an unreasonable  
22                 position(s) may or may not be discussed explicitly in settlement, each party is  
23                 generally unwilling to make concessions to unreasonable position(s) and will



1           exclude such unreasonable position(s) from their respective settlement positions.  
2           The fact that all parties in this case, with diverse interests, have found common  
3           ground for resolving their respective issues strongly supports Staff's belief that  
4           the stipulated revenue increase in this case is reasonable.

5                     The Joint Stipulation results in reasonable rates purely from Staff's  
6           perspective because Midwest agreed to CURB's recommended revenue increase  
7           which was less than Staff's.

8   **Q.   Does Staff believe the results of the Joint Stipulation are in the public**  
9   **interest?**

10  **A.**   Yes.   Generally speaking, the public interest is served when ratepayers are  
11  protected from unnecessarily high prices, discriminatory prices and/or unreliable  
12  service.  More specifically, it is Staff's opinion that the Joint Stipulation meets the  
13  public interest because:

- 14           • It reduces the amount of Midwest's requested revenue increase, to a  
15           reasonable level at the low end of the party's revenue increase proposals  
16           and it lowers the increase ratepayers will have to pay.
- 17           • It provides Midwest with sufficient revenues and cash flows to meet its  
18           financial obligations and provide reliable service.
- 19           • From settlement negotiations, it was clear that each of the Parties  
20           represented their respective interests by putting time, thought, and analysis  
21           into deriving a settlement position that they found reasonable.

- 1           • The revenue increase arrived at was based on the record and a reasonable  
2            compromise among the parties based on each parties own analysis of a  
3            reasonable outcome.

4   **Q.   Should the Commission accept the Joint Stipulation as a reasonable**  
5   **resolution of the issues in this docket?**

6   A.   Yes, the Joint Stipulation is a result of negotiations between diverse parties and  
7       falls at the bottom of the Parties' filed positions. As discussed in this testimony,  
8       the Joint Stipulation represents a resolution that results in just and reasonable rates  
9       supported by substantial competent evidence as exhibited in the expert testimony  
10      of the Parties.

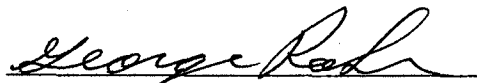
11 **Q.   Does this conclude your testimony?**

12 A.   Yes, it does.

STATE OF KANSAS                    )  
  ) ss.  
COUNTY OF SHAWNEE            )

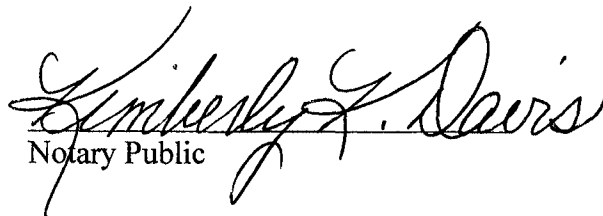
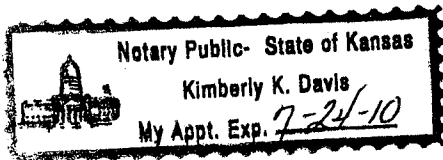
**VERIFICATION**

George Rohrer, being duly sworn upon his oath deposes and says that he is the Senior Managing Utility Regulatory Auditor for the State Corporation Commission of the State of Kansas, that he has read and is familiar with the foregoing *Staff Testimony in Support of Joint Stipulation and Agreement*, and that the statements contained therein are true and correct to the best of his knowledge, information and belief.



George Rohrer  
Senior Managing Utility Regulatory Auditor  
State Corporation Commission of the  
State of Kansas

Subscribed and sworn to before me this 15<sup>th</sup> day of July, 2009.



Notary Public

My Appointment Expires: July 24, 2010

CERTIFICATE OF SERVICE

09-MDWE-792-RTS

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing docket was served electronically via e-mail this 15th day of July, 2009, to the following:

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