BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of a General Investigation Regarding Whether Electric Utilities Should be Considered an "Operator" of Private Underground Lines Under the Provisions of The Kansas Underground Utility Damage Prevention Act.	))))))	Docket No. 17-GIME-565-GIE

WESTAR ENERGY, INC.'S COMMENTS IN RESPONSE TO COMMISSION QUESTIONS

Westar Energy, Inc. ("Westar") hereby submits its comments in response to the questions presented in the August 1, 2017, *Order Opening General Investigation* by the State Corporation Commission of the State of Kansas ("Commission") in the above-captioned docket.

I. BACKGROUND AND LEGAL ARGUMENTS

1. As outlined in the Commission's Order, this General Investigation arises out of issues raised in a prior Complaint (Docket No. 15-KCPE-544-COM) by a commercial customer against Kansas City Power & Light Company ("KCP&L") regarding duties, responsibilities, and liability for marking underground utility lines under the Kansas Underground Utility Damage Prevention Act ("KUUDPA").[1]

2. The Commission's Order focuses primarily on the interpretation of who is an "operator" of underground electric service lines under KUUDPA at K.S.A. 66-1802(j) and, thus, who is liable for the locating of such lines prior to excavation work and any damages resulting from the mis-marking of underground lines.

3. In the prior Complaint docket, KCP&L filed an extensive Legal Brief[2] that properly set forth the legal basis for an interpretation that, in part, the "operator" of an underground

[1] K.S.A. 66-1801, *et seq*.
[2] Kansas City Power & Light Company's Legal Brief, Docket No. 15-KCPE-544-COM, filed August 22, 2016.

electrical line should be interpreted to be the entity that installed and, therefore, owns the line because that entity has control and knowledge of its actual location.

4. For the sake of efficiency, Westar adopts and incorporates the legal arguments and authorities contained in KCP&L's Legal Brief in 15-KCPE-544-COM herein because they support Westar's responses to the Commission's questions in this General Investigation.

II. RESPONSES TO COMMISSION QUESTIONS

A. Regarding underground electric service lines, how should the Commission interpret the term "operator" at K.S.A. 66-1802(j)?

5. Per K.S.A. 66-1802(j), "operator" means any person who owns or operates an underground tier 1 or tier 2 facility. Westar believes the statute should be interpreted as per the individual utility's Commission-approved tariff, applicable electric codes, and negotiated agreements with customers regarding the service point constituting the point of demarcation between the utility's wiring and the customer's wiring.

6. In Westar's case, the Tier 1 electrical service wiring is installed by Westar to the point of service which is at the meter location. The 2017 NESC (National Electrical Safety Code) defines "Service Point" as the point of connection between the facilities of the serving utility and customer's wiring. Thus, the service point is the point of demarcation between the serving utility and the customer's wiring. The service point, therefore, defines the location where the serving utility wiring ends and the customer's wiring begins.

7. The Westar practice for underground installations is to define service point at the meter location. The meter is the demarcation where Westar's installed wiring ends and customer's installed wiring begins. As such, Westar would be the "operator" of the underground electric service line to the meter and the customer would be the "operator" beyond that point. This is the case whether that is a residential or a commercial/industrial situation, as described in more detail in responses to other Commission questions. This is also consistent with Westar's

Commission-approved tariff. With this practice, Westar is code compliant and the service point (point of demarcation) is clearly defined for the responsibility of locating underground lines by the utility and the customer, and for any contractor working on, around, or near the property.

8. Interpreting "operator" under KUUDPA this way also promotes safety by having a clear point of demarcation between the utility and the customer where each is responsible for the lines that they installed and of which they have historic knowledge regarding design and installation. This also allows flexibility among various utilities having differing tariff provisions based upon each utility's particular electrical system and customer demographics.

9. Finally, what works for Westar and its customers may not be appropriate for other utilities. But if ownership and operation is interpreted for all under KUUDPA as a distinct point of demarcation between utility and customer lines, then it will be clear to all who is responsible for any given portion of underground wiring. While Westar may utilize the meter as the point of demarcation, other utilities may be better serve their customers by using a transformer or other devices (such as a meter loop) to establish the point of demarcation.

B. Should the utility service provider be required to provide locates for residential underground electric service up to the location of the customer meter or the building wall of the residence, whichever is further downstream?

10. Westar's practice for residential locates is to locate facilities up to the "service point" which is the meter, and no farther. A contractor can easily discern where Westar's locates terminate by locating the physical meter where the residential customer's responsibility for locates begins. Customer electrical systems are dynamic always subject to change. A utility company would not be aware of all changes to a customer's electrical system nor would they be aware of the protection scheme of the customer's system. Thus, experience has proven the safer and more practical choice is to have the utility locate the utility wiring to a specific and

understood point of demarcation (in Westar's case, the meter) and the customer locate their wiring beyond/behind the meter.

a. What is the risk to the customer of not providing locates under this scenario?

11. If the utility is providing the locates to a specific and understood point of demarcation (in Westar's case, the meter), there is no added risk to the customer.

b. What is the risk/cost to the utility of being required to provide locates under this scenario?

12. In Westar's case, there would be no added risk or cost for locates to a specific and understood point of demarcation (in Westar's case, the meter) because this is Westar's current practice.

C. For commercial customers, should the utility service provider be required to provide locates up to the building wall, the current transformer cabinet, or the customer meter, whichever is further downstream?

13. As stated before, the utility should provide locates up to the point of delivery (service point), which in Westar's case for commercial customers is the meter. Commercial customers can vary in size and shape so where the meter is actually located varies by particular customer. Military facilities, such as Fort Riley, are large complex systems, as are industrial customers. Size and set-up matters. Westar negotiates the location of the meter(s) with each customer who does not have a standard design with the meter at the building's exterior wall.

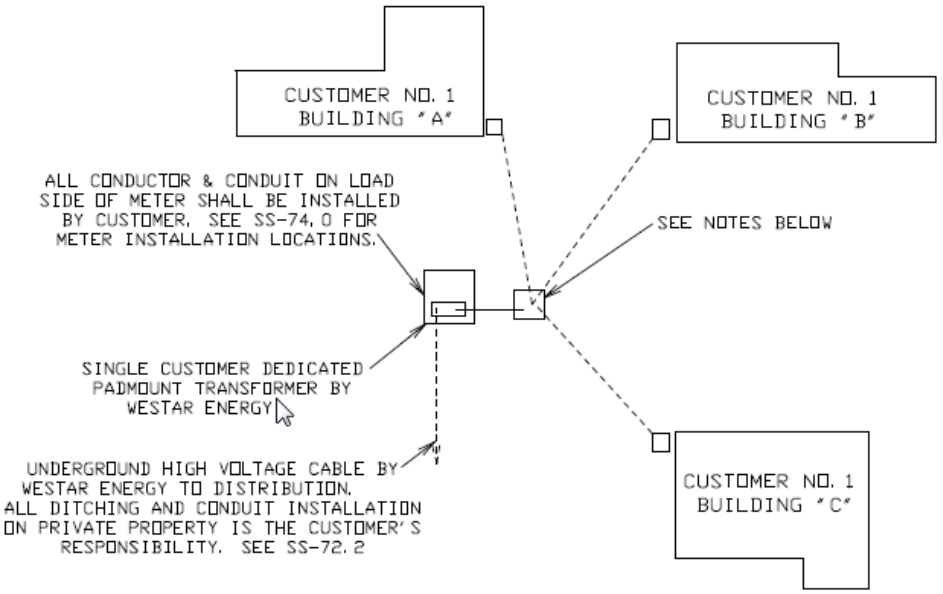
14. By example, in the diagram below, the customer has three buildings served from one transformer. There are times when this one metering point is at the padmount transformer, other times when it is on a cabinet adjacent to the padmount transformer or on a stand just outside the transformer, and there are times when the metering point is on one building or every building. The National Electrical Code (NEC) applies to all customers except those also operating as an electric utility. The following NEC articles apply to disconnects:

NEC 210.4 (B) states, "Each multiwire branch circuit shall be provided with a means that will simultaneously disconnect all underground conductors at the point where the branch circuit originates." This means a customer disconnect will be installed when the meter location is at the cabinet or adjacent to padmount transformer. It is not needed on the cabinet or adjacent to the padmount transformer if metering is at building location.

NEC 225.32 states, "The disconnecting means shall be installed either inside or outside of the building or structure served or where the conductors pass through the building or structure. The disconnecting means shall be at a readily accessible location nearest the point of entrance of the conductors."

NEC 225.31 states, "Means shall be provided for disconnecting all underground conductors that supply or pass through the building or structure."

NEC 225.33 limits "the maximum number of the disconnecting means to not more than six switches in a single enclosure."



15. This means the utility requires disconnects at the meter if the meter is remote and the customer would need utility intervention to disconnect the underground circuit when the meter is on building. When meter is on the buildings as in the example above, the utility company provides locates to the buildings. When the meter is on the cabinet adjacent to the transformer or on the transformer, the customer provides locates for their own circuits, as the

utility company is not aware of all branch circuits or the variations of these branch circuits, which can change in time.

16. It is safer to have the premise owner locate all branch circuits, because of their knowledge of the branch circuits and the branch circuits' protective devices. When the meter is on one building, the utility company would locate up to the building with the meter and then the customer would locate all underground circuits past the meter (point of delivery). If the meters are located on each individual building, then the utility would provide locates to all buildings with meters as those would be separate points of delivery for each individual building.

a. What is the risk to the customer of not providing locates under this scenario?

17. If the utility is providing the locates to a specific and understood point of demarcation (in Westar's case, the meter), there is no added risk to the customer.

b. What is the risk/cost to the utility of being required to provide locates under this scenario?

18. There would be no added risk or cost for locates to a specific and understood point of demarcation (in Westar's case, the meter), because this is Westar's current practice.

D. If it is required to locate customer-owned facilities, should the utility service provider only be required to locate those facilities to the boundaries of the common utility easement?

19. The utility should not be required to locate customer-owned facilities. To avoid confusion and promote clarity of actual locations of lines, the utility should only be required to provide locates to the point of delivery (the meter in Westar's case) because it is a clear point of demarcation between the lines the utility has placed and the customer-designed system beyond the meter.

E. What is the liability of an operator in providing locates for customer installed/ owned facilities?

20. If the definition of "operator" provided above is used, liability is placed on the entity who designed/installed the electric underground system (circuit), which would be the utility up to the point of delivery (meter) and the customer beyond that point. If the customer installs the facilities, the customer should be liable for its locates. This is the safest system because the customer will have a thorough knowledge and understanding of their own system. Any other scenario places liability on a utility for underground wiring that it did not design or install, which is inappropriate.

21. In some instances, such as commercial/industrial or rural residential customers, the customer prefers the utility's lines terminate somewhere other than the building structure. In those instances, the utility is able to work with the customer on a termination point (usually via a meter loop pole or meter stand) and the customer agrees to assume all responsibility for lines installed on their property beyond that point. When this occurs, KUUDPA should clearly interpret both the owner and operator as the customer for the lines the customer installs.

F. If an operator is not required to provide locates of customer installed/owned facilities, should the operator be required to alert the customer to the fact that locating customer-owned facilities is the customer's obligation?

22. As long as the "operator" is considered to be the entity installing the facility, this will not be an issue because the utility would not be considered the operator of the customer-designed and installed portion of the electrical system. The safest mode of operation is to have the customer locate customer owned facilities because only the customer knows and understands their protective systems and the dynamics of how their system has changed over time.

23. For Westar, the meter is the point of demarcation and all customers would be aware of this and their obligation. In residential situation, this isn't really an issue. In commercial/industrial situations, this is only an issue in cases where the point of delivery isn't at

the building wall. In those instances, the utility will have an agreement with the customer regarding the design and each party would know their respective responsibilities.

G. What are the best practices that may be employed by an excavator to avoid damaging customer-owned facilities when no locate marks are present or the provided locate marks are of questionable accuracy?

24. An excavator needs to contact the utility and the customer in any non-residential situation to identify the point of service and determine if the customer has installed any underground lines beyond that point. In the instance of an excavator questioning the accuracy of the markings, the excavator should contact the respective party owning and operating the line in question, prior to digging, to discuss the accuracy of the marks and take any necessary corrective measures.

III. CONCLUSION

WHEREFORE, the Companies respectfully request that the Commission accept their responses to the Commission Staff's questions.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of October, 2017, Westar Energy, Inc.'s Comments in Response to Commission Questions was electronically served on all parties on the service list of record on this date.

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