

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of a the Complaint Against)
Westar Energy, Inc. by Steven N. and Mary) Docket No. 16-WSEE-066-COM
Kay Ricke

MOTION TO DISMISS OF WESTAR ENERGY, INC.

Westar Energy, Inc. (Westar) submits the following Motion to Dismiss (Motion) the Complaint filed by Steven N. and Mary Kay Ricke (Mr. and Mrs. Ricke). In support of its Motion, Westar states as follows:

1. On or about August 14, 2015, Mr. and Mrs. Ricke filed their Complaint in this matter. Westar received the Complaint on October 27, 2015.
2. Mr. and Mrs. Ricke contend that they should be allowed to opt out of having an AMI meter installed and be permitted to continue using a standard meter at their home. They also contend that the installation of an AMI meter will allow Westar to charge them higher rates during peak hours.
3. None of the allegations made by Mr. and Mrs. Ricke constitute a violation of any law, regulation, or Westar's Electric Tariffs (Tariffs). There is no provision in Westar's Tariffs that prevent Westar from utilizing an AMI meter instead of a standard meter. Westar is simply required to provide electric service to any customer in its territory that requests service. In fact, the Commission has approved Westar's recovery of the costs associated with the AMI meters thereby finding that Westar's installation of the AMI meters was reasonable and prudent. *See* Docket No. 12-WSEE-112-RTS (Westar's 2012 general rate case where costs associated with SmartStar Lawrence were included in rates), Docket No. 11-WSEE-610-ACT (order approving accounting authority order allowing Westar to defer costs associated with SmartStar Lawrence for

recovery in rates), Docket No. 15-WSEE-115-RTS (order approving settlement that allows for installation of AMI meters for all remaining customers, finding that such installation is reasonable and prudent, and addressing cost recovery for those meters).

4. K.A.R. 82-1-220(b)(1) of the Commission's regulations states that a formal complaint must:

Fully and completely advise each respondent and the commission as to the provisions of law or the regulations or orders of the commission that have been or are being violated by the acts or omissions complained of, or that will be violated by a continuance of acts or omissions.

5. Mr. and Mrs. Ricke have not met the requirements of the above-cited regulation. They have not indicated that Westar has violated any provision of any law, regulation, or order.

6. Moreover, Westar legally cannot charge different rates to Mr. and Mrs. Ricke during peak hours without filing and obtaining Commission approval of a tariff authorizing such rates. Mr. and Mrs. Ricke's contention that installation of an AMI meter will result in Westar charging different rates is simply unfounded.

7. Finally, Mr. and Mrs. Ricke's contentions regarding health risk and security and privacy issues associated with the installation of AMI meters are mere allegations and are unsupported by any actual evidence.

8. The Complaint should be dismissed for failure to state a claim.

WHEREFORE, Westar having fully responded to the Complaint respectfully requests that the Commission dismiss the Complaint for failure to state a claim and for such other and further relief as may be appropriate.

Respectfully submitted,

WESTAR ENERGY, INC.

Cathryn Dinges

Cathryn J. Dinges, #20848
Senior Corporate Counsel
818 South Kansas Avenue
Topeka, Kansas 66612
(785) 575-8344; Telephone
(785) 575-8136; Fax
Cathy.Dinges@westarenergy.com

VERIFICATION

STATE OF KANSAS)
) ss:
COUNTY OF SHAWNEE)

Cathryn J. Dinges, being duly sworn upon her oath deposes and says that she is one of the attorneys for Westar Energy, Inc.; that she is familiar with the foregoing **Motion to Dismiss**; 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 2nd day of November, 2015.



Debbielee A. Papps

Notary Public

My Appointment Expires: June 26, 2017

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of November, 2015, the foregoing **Motion to Dismiss** was electronically filed with the Kansas Corporation Commission and electronically served to all parties of record.


Cathryn J. Dinges