

**THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS**

In the Matter of the Application of Kansas )  
Gas and Electric Company for Approval of )  
the Amendment to the Energy Supply ) Docket No. 18-KG&E-303-CON  
Agreement Between Kansas Gas and )  
Electric Company and Occidental Chemical )  
Corporation. )

**MEMORANDUM IN SUPPORT OF CURB**

The Staff of the Kansas Corporation Commission (“Staff” and “Commission,” respectively), hereby states the following in support of the Citizens’ Utility Ratepayer Board’s (CURB’s) *Memorandum in Opposition to Motion for Protective Order Filed by Occidental Chemical* (Memo):

1. On April 17, 2018, the Commission issued a Protective Order in this matter governing the handling of confidential information in this docket.
2. Occidental Chemical Corporation (Occidental) has asked the Commission to amend the Protective Order to only allow Staff to view information designated as confidential by Occidental.<sup>1</sup> This would prevent both CURB and Westar from viewing information Occidental designates as confidential.
3. CURB’s Memo indicates, along with other arguments, that such restriction would violate CURB’s due process rights because without access to the relevant information concerning the pending matter, it is unable to adequately represent residential and small commercial ratepayers.

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<sup>1</sup>See Occidental Chemical Corporation Motion for Protective Order (April 12, 2018); Occidental’s Response to Staff’s Motion to Compel (April 18, 2018). Staff’s interpretation

4. CURB also points out that Occidental has the burden of proving the confidential nature of its data, and that Occidental has failed to show the nature of the confidential information in accordance with Commission requirements. Additionally, CURB asserts that Occidental has failed to explain how providing confidential information to CURB would harm or potentially harm Occidental. Therefore, CURB asks the Commission to reject Occidental's request.

**Support for CURB**

5. Staff has reviewed CURB's Memo and supports CURB's position.

6. The due process argument CURB appears to be making is that they cannot reasonably be on notice or have an opportunity to be heard if the relevant facts are kept in secret. Common sense should lead one to this conclusion and Staff does not feel it necessary to belabor the point.

7. Furthermore, Staff would simply point out that nobody in this docket (besides Occidental) has even seen the data claimed confidential in this matter. It is impossible for Staff to argue about whether the information is worthy of trade secret status without seeing the information.

WHEREFORE, for the reasons set forth above, Staff respectfully requests that the Commission deny Occidental's request for a special Protective Order.

Respectfully Submitted,



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Michael Neeley, S. Ct. #25027  
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STATE OF KANSAS            )  
  ) ss.  
COUNTY OF SHAWNEE    )

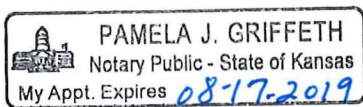
**VERIFICATION**

Michael Neeley, being duly sworn upon his oath deposes and states that he is Litigation Counsel for the State Corporation Commission of the State of Kansas, that he has read and is familiar with the foregoing *Memorandum in Support of CURB* and that the statements contained therein are true and correct to the best of his knowledge, information and belief.



\_\_\_\_\_  
Michael Neeley # 25027  
Kansas Corporation Commission of the  
State of Kansas

Subscribed and sworn to before me this 20th day of April, 2018.

  
\_\_\_\_\_  
Notary Public

My Appointment Expires: August 17, 2019

## CERTIFICATE OF SERVICE

18-KG&E-303-CON

I, the undersigned, certify that a true and correct copy of the above and foregoing Memorandum in Support of CURB was served by electronic service on this 20th day of April, 2018, to the following:

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**CERTIFICATE OF SERVICE**

18-KG&E-303-CON

  
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Pamela Griffeth  
Administrative Specialist