

BEFORE THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

MAR 15 2012

In the Matter of Westar Energy, Inc. and )  
Kansas Gas and Electric Company Seeking )  
Commission Approval to Implement Changes )  
in their Transmission Delivery Charges Rate )  
Schedules )

by  
State Corporation Commission  
of Kansas

Docket No. 12-WSEE-651-TAR

**STAFF'S MOTION FOR A SUSPENSION ORDER AND AN ORDER GRANTING  
TEMPORARY WAIVER**

COMES NOW the Staff of the State Corporation Commission of the State of Kansas (Staff and Commission, respectively) and files its Motion for a Suspension Order and an Order Granting Temporary Waiver. In support of its Motion, Staff states as follows:

1. Through its Transmission Delivery Charge (TDC) Tariff, Westar Energy, Inc. and Kansas Gas and Electric Company (collectively, Westar) recovers the retail share of its Company-wide transmission-related costs assessed by Southwest Power Pool (SPP), including Westar's forecasted annual transmission revenue requirement (ATRR), as calculated under Westar's Federal Energy Regulatory Commission (FERC) approved transmission formula rate (TFR).<sup>1</sup>

2. On February 24, 2012, Westar Energy, Inc. filed its Application seeking Commission approval of its updated Transmission Delivery Charge (TDC) rates within its TDC tariff. Westar stated that it filed these updates in accordance with K.S.A. 66-1237, which states that utilities "may seek to recover costs associated with transmission of electric power, in a manner consistent with the determination of transmission related costs from an order of a regulatory authority having legal jurisdiction, through a separate transmission delivery charge

---

<sup>1</sup> Report and Recommendation, Docket No. 11-WSEE-599-TAR (Dec. 2, 2011), p. 1.

included in customers' bills." Westar also stated that it provided work papers supporting the calculations to Staff.

3. In addition to updating its TDC rates, Westar's Application seeks Commission approval of revisions to its TDC tariff language. Some of the proposed revisions were approved by the Commission in Westar's last TDC update, Docket No. 11-WSEE-599-TAR. However, some of the proposed revisions have not been pre-approved by the Commission and could result in significant changes to the allocation of costs among the various retail customer classes.

4. On or about March 1, 2012, Staff spoke with counsel for Westar and requested that Westar make its workpapers part of the record in this docket and provide a narrative explanation of the proposed revisions to its TDC tariff language. Westar agreed to file its workpapers and a narrative explanation.

5. On March 6, 2012, Westar filed Supplemental Information Regarding Proposed Tariff Language Changes and workpapers regarding Westar's TDC filing.

6. K.S.A. 66-1237(c) only addresses updates to transmission-related costs. Pursuant to K.S.A. 66-1237(c), Westar may begin billing out the updated TDC rates to its retail customers on a subject-to-refund basis after submitting a report to the Commission at least 30 business days in advance. The abbreviated timeframe is appropriate where the formula for recovery is already in place, and the filing is limited to updating the transmission-related costs (i.e. the inputs to the formula; not the formula itself).<sup>2</sup>

7. K.S.A. 66-1237(a)-(b) addresses the process for establishing an initial TDC and is not limited to 30 days. Applications involving new or revised tariffs, including those made under K.S.A. 66-1237(a)-(b) are subject to the timeframes set forth in K.S.A. 66-117. Pursuant

---

<sup>2</sup> See *BOC Gases v. Kansas Corporation Comm'n*, 117 P.3d 151, 2005 WL 1949952, at p. 10 (Kan. App.) (2005).

to K.S.A. 66-117, the Commission may suspend, up to 240 days, a public utility's application for "any changed rate, joint rate, toll, charge or classification or schedule of charges, or any rule or regulation or practice pertaining to the service or rates." A suspension allows for a full investigation of the proposed changes and a hearing, if necessary.

8. In the current docket, Westar bootstrapped a tariff change – subject to suspension and review under K.S.A. 66-117 – to a transmission-related cost update which may go into effect upon 30-days notice, pursuant to K.S.A. 66-1237(c). The filing places the Commission in a difficult position because the requested tariff revisions (requiring a full investigation) affect the allocation of the transmission-related cost update (which goes into effect in 30 business days), and the cost update cannot go into effect until a decision is made—at least on an interim basis—regarding the allocation methodology.

9. From Staff's perspective, there are three options for allocation: (1) allocate the costs according to the current tariff language, which contemplates using new 12 coincident-peak (12-CP) data; (2) allocate the costs as proposed by Westar in its Application, or; (3) maintain the current allocation. Each option is discussed below.

10. **Option 1.** Since there is no time to properly investigate Westar's requested tariff changes before the cost update goes into effect on April 6, 2012, the Commission could direct Westar to abide by the current tariff language. The current language states:

[T]he Company shall reset the TDC Unit Charges by reallocating costs using this 12 CP method based on current test-year load research each time it files a retail rate proceeding, and at minimum, once every five years, to limit cost shifting among retail classes.<sup>3</sup>

This language appears to require Westar to use the 12-CP data from its recently filed general rate case, Docket No. 12-WSEE-112-RTS. However, the tariff was written when Westar's North and

---

<sup>3</sup> Westar's TDC Tariff, Sheet 2.

South service areas were treated as separate systems. Docket No. 12-WSEE-112-RTS presents the first instance of company-wide 12-CP data and Staff requires more time to review the consequences of this data. Westar explained in its Supplemental Information that the recent process of rate consolidation between Westar's North and South rate areas may have "caused a disconnect between the 12-CP allocation ratio from Docket No. 08-WSEE-1041-RTS and the 12-CP ratio that Westar presented in its recently filed general rate case, Docket No. 12-WSEE-112-RTS."<sup>4</sup> As stated by Westar, "principles of gradualism and fairness, as well as issues related to consolidation of rate areas and customer migration" are considerations that should be taken into account.<sup>5</sup>

11. **Option 2.** Westar's Application proposes to use the new 12-CP data for the increase only, rather than the entire TDC amount.<sup>6</sup> Implementing this methodology requires significant revisions to the tariff, with considerable consequences for ratepayers, without a full investigation. Such revisions are subject to a 240-day suspension period under K.S.A. 66-117, and Staff is without sufficient time to make a proper investigation of the tariff revisions within the abbreviated timeframe for cost updates.

12. **Option 3.** The Commission could direct Westar to allocate the costs of both the current TDC amount and the increase based on the current allocation methodology, subject to refund. Maintaining the current allocation methodology preserves the status quo and leaves the other two options on the table for the next TDC update. If the Commission interprets the tariff language as requiring Westar to use the new 12-CP data, it could grant a temporary waiver of this requirement until Staff has time to conduct a proper investigation. Granting a temporary

---

<sup>4</sup> Westar's Transmission Delivery Charge Supplemental Information Regarding Proposed Tariff Language Changes, pp. 1-2 (Mar. 6, 2012).

<sup>5</sup> *Id.* at p. 1.

<sup>6</sup> *Id.*; Westar's Proposed 2012 TDC Tariff, Sheet 2.

waiver is less detrimental than approving comprehensive and lasting changes to the tariff on short notice, as contemplated in Option 2.

13. Staff recommends proceeding with Option 3 in the interim, until Staff can properly analyze all of the data provided by Westar and make a recommendation to the Commission. Staff requests the Commission grant a temporary waiver of the tariff requirement to use updated 12-CP data. Staff recommends that the new TDC rate and rate allocation be subject to refund pending the outcome of the investigation.

14. Staff further recommends that the Commission suspend the effective date of Westar's requested tariff revisions for 240 days pursuant to K.S.A. 66-117.

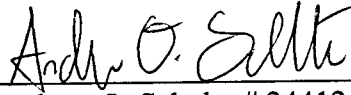
15. For the Commission's convenience, and due to the impending deadline<sup>7</sup> of March 26, 2012 for Commission action, Staff has attached a proposed order granting Staff's motion (Attachment A). Staff moves the Commission to approve the proposed order as presented.

WHEREFORE, Staff respectfully requests that the Commission grant its Motion for a Suspension Order and an Order Granting Temporary Waiver.

---

<sup>7</sup> Westar filed its Application on February 24, 2012. Pursuant to K.S.A. 66-117(c), if the Commission does not suspend the proposed schedule within 30 days, the Application shall be deemed approved. Staff notes that Westar's supplemental filing on March 6, 2012 may be cause to restart the clock at the option of the Commission, but takes no position regarding that issue.

Respectfully submitted,



---

Andrew O. Schulte # 24412  
Litigation Counsel  
Ray O. Bergmeier # 24974  
Litigation Counsel  
Kansas Corporation Commission  
1500 SW Arrowhead Rd.  
Topeka, Kansas 66604-4027  
Phone: (785) 271-3119  
Fax: (785) 271-3167  
[a.schulte@kcc.ks.gov](mailto:a.schulte@kcc.ks.gov)  
[r.bergmeier@kcc.ks.gov](mailto:r.bergmeier@kcc.ks.gov)

ATTORNEYS FOR STAFF



5. Staff also stated that in the current docket, Westar “bootstrapped” a tariff change, subject to suspension and review under K.S.A. 66-117, to a transmission-related cost update which may go into effect upon 30-days notice, pursuant to K.S.A. 66-1237(c). Staff Motion, ¶ 8.

6. Staff stated it is without sufficient time to make a proper investigation of the tariff revisions within the abbreviated timeframe for cost updates. Staff Motion, ¶ 11.

7. With respect to the allocation of the TDC rates charged to Westar’s retail customers, Staff stated there are three options for allocation of those rates: (1) allocate the costs according to the current tariff language, which contemplates using new 12 coincident-peak (12-CP) data; (2) allocate the costs as proposed by Westar in its Application; or (3) maintain the current allocation on an interim basis. Staff Motion, ¶ 9.

8. Staff recommended that the Commission adopt Option 3. Staff noted that under Option 3, the Commission could direct Westar to allocate the costs of both the current TDC amount and the increase based on the current allocation methodology, subject to refund and that this option would preserve the status quo. Staff Motion, ¶ 12. Staff further recommended that the Commission grant a temporary waiver of the current tariff requirement to use updated 12-CP data until Staff has time to conduct a proper investigation. Staff Motion, ¶ 13.

9. Staff also requested that the Commission suspend the effective date of Westar’s requested tariff revisions for 240 days pursuant to K.S.A. 66-117. Staff Motion, ¶ 14.

10. Upon review of Staff’s Motion for a Suspension Order and an Order Granting Temporary Waiver, the Commission grants Staff’s requests.

11. The Commission temporarily waives the requirement to use updated 12-CP data, as provided in Westar’s TDC tariff, and directs Westar to allocate the costs of both the current TDC amount and the increase based on the current allocation methodology. This allocation will be subject to refund upon completion of Staff’s investigation and subsequent Commission order.

12. By allowing the rate to go into effect based on the current allocation methodology, the Commission is not limiting its authority to review the rate itself pursuant to K.S.A. 66-1237.

13. A full investigation of the Westar's requested tariff revisions, which may result in a hearing, is deemed necessary and proper. Commission Staff is without sufficient time to fully review, consider and analyze whether the proposed revisions are just and reasonable.

14. The Commission finds and concludes that suspension of Westar's requested tariff revisions and deferral of their effective date are required to allow sufficient time for a full investigation of this matter. Westar's request for tariff revisions should be suspended for a period of 240 days from the date the application was made, February 24, 2012, until Sunday, October 21, 2012, pursuant to K.S.A. 66-117(c). However, given the end of the 240-day suspension period falls on a weekend, the deadline for Commission Order in this matter is Monday, October 22, 2012, pursuant to K.S.A. 66-117(c) and K.S.A. 2010 Supp. 77-503(c).

**IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:**

A. Staff's Motion for a Suspension Order and an Order Granting Temporary Waiver is hereby granted.

B. The Commission temporarily waives the requirement to use updated 12-CP data, as provided in Westar's TDC tariff.

C. Westar shall allocate the costs of the both the current TDC amount and increase based on the current allocation methodology on an interim basis until Staff has the opportunity to fully investigate Westar's proposed allocation methodology. This allocation will be subject to refund upon completion of Staff's investigation and subsequent Commission order.

D. Westar's request for tariff revisions is suspended for two hundred forty (240) days from the date of filing until October 22, 2012, as set forth above.

E. The parties have fifteen days, plus three days if service is by mail, from the date the order was served in which to petition the Commission for reconsideration of any issues decided herein. K.S.A. 66-118b; K.S.A. 2010 Supp. 77-529.

F. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further order, or orders, as it may deem necessary.

**BY THE COMMISSION IT IS SO ORDERED.**

Sievers, Chmn.; Loyd, Com.; Wright, Com.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Patrice Petersen-Klein  
Executive Director

RB

## CERTIFICATE OF SERVICE

12-WSEE-651-TAR

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing Staff's Motion For a Suspension Order and an Order Granting Temporary Waiver was placed in the United States mail, postage prepaid, or hand-delivered this 15th day of March, 2012, to the following:

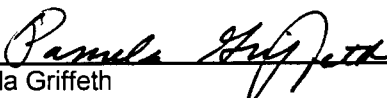
RAY BERGMEIER, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD ROAD  
TOPEKA, KS 66604-4027  
Fax: 785-271-3354  
r.bergmeier@kcc.ks.gov  
\*\*\*Hand Delivered\*\*\*

ANDREW SCHULTE, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD ROAD  
TOPEKA, KS 66604-4027  
Fax: 785-271-3354  
a.schulte@kcc.ks.gov  
\*\*\*Hand Delivered\*\*\*

CATHRYN J. DINGES, CORPORATE COUNSEL  
WESTAR ENERGY, INC.  
818 S KANSAS AVENUE  
PO BOX 889  
TOPEKA, KS 66601-0889  
Fax: 785-575-8136  
cathy.dinges@westarenergy.com

MICHAEL B. HEIM, SR. REGULATORY ANALYST  
WESTAR ENERGY, INC.  
818 S KANSAS AVENUE  
PO BOX 889  
TOPEKA, KS 66601-0889  
michael.heim@westarenergy.com

DICK F. ROHLFS, DIRECTOR, RETAIL RATES  
WESTAR ENERGY, INC.  
818 S KANSAS AVENUE  
PO BOX 889  
TOPEKA, KS 66601-0889  
Fax: 785-575-6472  
dick.rohlfs@westarenergy.com

  
\_\_\_\_\_  
Pamela Griffeth  
Administrative Specialist