

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

In the Matter of the Joint Application of)
Westar Energy, Inc. and Kansas Gas and)
Electric Company for Approval of their Annual) Docket No. 14-WSEE-428-ACA
Energy Cost Correction Adjustment Factor.)
)

NOTICE OF FILING OF CORRESPONDENCE

The Staff hereby files a letter sent to Cathryn Dinges, counsel for Westar Energy, Inc.
and Kansas Gas and Electric Company, attached hereto and made a part hereof by reference.

Respectfully submitted,



Samuel Feather, #25475
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Mark Sievers, Chairman
Thomas E. Wright, Commissioner
Shari Feist Albrecht, Commissioner

Sam Brownback, Governor

March 27, 2014

Ms. Cathryn J. Dinges, Attorney
Westar Energy, Inc. and Kansas Gas and Electric
818 S. Kansas Ave.
Topeka, KS 66612

Re: KCC Docket 14-WSEE-428-ACA

Dear Ms. Dinges,

Commission records indicate that Westar Energy, Inc. and Kansas Gas and Electric ("Westar") filed an application for Commission approval of its Annual Energy Correction Adjustment factors under its Retail Energy Cost Adjustment clauses.

Staff has reviewed Westar's filing and finds that it is unnecessary to propose a suspension order for Commission issuance. In *BOC Gases*, the Kansas Court of Appeals held that monthly ECA reports are not requests for a rate change, and as such, do not by themselves trigger the rate change procedure of K.S.A. 66-117.¹ *BOC Gases* also held, that "[t]he right to suspend an automatic ECA is inherent in the KCC's broad regulatory power. The reporting and monitoring system would lack efficacy without the authority to suspend a utility's ECA when improprieties are suspected."² Therefore, an ECA filing, by itself does not need a suspension order absent Commission concern of utility impropriety.

Staff believes the same rationale is applicable to the instant ACA filing. Therefore, because Staff does not at this time suspect impropriety on the part of Westar, Staff will not be proposing a suspension order for Commission issuance. Staff's understanding is that Westar will implement its proposed ACA factor as contained in its application on an interim basis subject to final Commission approval.

If you have any questions or concerns, please do not hesitate to contact me.

¹ *BOC Gases, a Subsidiary of BOC Group, Inc. v. State Corp. Comm'n of the State of Kan.*, 117 P.3d 151, at 10 (Kan. App. 2005) (unpublished).

² *Id.*

Respectfully,

A handwritten signature in black ink, appearing to read "Sam Feather", is written over a horizontal line.

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CERTIFICATE OF SERVICE

14-WSEE-428-ACA

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing Notice of Filing of Correspondence was served by electronic service on this 27th day of March, 2014, to the following:

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