

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

Before Commissioners:     Mark Sievers, Chairman  
                              Thomas E. Wright  
                              Shari Feist Albrecht

In the Matter of Midwest Energy, Inc.'s     )  
Compliance with the Commission's Order in     )  
Docket No. 13-GIME-391-GIE.     )     Docket No. 13-MDWE-466-CPL  
   )  
   )

**ORDER ON PETITION TO INTERVENE AND MOTION FOR PROTECTIVE ORDER**

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having examined the files and records, and being duly advised in the premises, the Commission makes the following findings:

1.     On December 13, 2012, the Commission opened a general Investigation of the Annual Determination for the Statewide Retail Rate Impact Resulting from Affected Utilities Meeting the Renewable Portfolio Requirement Pursuant to K.S.A. Supp. 2012 66-1260 in Docket No. 13-GIME-391-GIE (391 Docket). The stated purpose of the 391 Docket was to "require submission of information related to a utility's portfolio requirement" so that the Commission can prepare its annual report to the Legislature, due on March 1.<sup>1</sup> On December 19, 2012, the Citizens' Utility Ratepayer Board (CURB) filed a Petition to Intervene in the 391 Docket, and was granted intervention on January 2, 2013.<sup>2</sup>

<sup>1</sup> Order Opening General Investigation Docket (391 Docket) (Dec. 13, 2012), paragraph 1 (Dec. 13, 2012 Order, ¶ 1).

<sup>2</sup> Petition to Intervene, (391 Docket) (Dec. 19, 2012); Order Granting Intervention to Citizens' Utility Ratepayer Board (391 Docket) (Jan. 2, 2013).

2. On January 16, 2013, Docket No. 13-MDWE-466-CPL (466 Docket) was opened in order to permit Midwest Energy, Inc (Midwest) to comply with the Commission's requirements in the 391 Docket and maintain confidentiality.<sup>3</sup>

3. On January 24, 2013, CURB filed a Petition to Intervene and Motion for Protective Order (Petition). In its Petition, CURB notes it was granted intervention in the 391 Docket without limitation or restriction.<sup>4</sup> CURB "requests permission to intervene in this docket to represent the interests of the residential and small commercial ratepayers of Kansas. The rates paid and the services received will or may be affected by any Commission order or activity in this proceeding."<sup>5</sup>

4. The Commission has broad discretion to grant a petition for intervention if it is in the interest of justice, if the intervention will not impair the orderly and prompt conduct of the proceedings, and if the party has stated facts demonstrating its legal rights, duties and privileges, immunities or other legal interests may be substantially affected by the proceeding.<sup>6</sup> Further, at any time during a proceeding, the Commission may impose limitations on an intervenor's participation.<sup>7</sup> Additionally, the Commission is responsible for ensuring utilities comply with Commission orders and approves the use of compliance dockets as an internal monitoring mechanism. Discovery motions, protests, and other litigious filings are not appropriate in compliance dockets and will not be accepted for filing by the Docket Room. The Commission has the authority to limit filings which may interfere with the prompt and orderly conduct of Staff's review of Midwest's compliance filings.<sup>8</sup>

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<sup>3</sup> See, Notice of Filing of Confidential Report, (Jan. 16, 2013).

<sup>4</sup> Petition, ¶ 4.

<sup>5</sup> Petition, ¶ 6.

<sup>6</sup> K.S.A. 2011 Supp. 77-521; K.A.R. 82-1-225.

<sup>7</sup> K.S.A. 2011 Supp. 77-521(c).

<sup>8</sup> K.A.R. 82-1-225(c)(2).

4. Therefore, the Commission finds that CURB's intervention should be limited to receiving notice of filings in this docket. CURB will not be given access to confidential filings or allowed to file discovery motions, protests, or other litigious filings, and as such, CURB's Motion for Protective Order is denied. Such notices shall be delivered to counsel of record, as follows:

David Springe #15619  
Niki Christopher #19311  
C. Steven Rarrick, #13127  
Citizens' Utility Ratepayer Board  
1500 SW Arrowhead Road  
Topeka, KS 66604  
(785) 271-3200 (tel.)  
(785) 271-3116 (fax)

5. In addition to counsel of record for CURB listed above, service of electronic notices, pleadings, and correspondence should be delivered to CURB's other designees:

Shonda Smith  
Office Manager  
Citizens' Utility Ratepayer Board  
1500 SW Arrowhead Road  
Topeka, KS 66604  
Email: [sdsmith@curb.ks.gov](mailto:sdsmith@curb.ks.gov)

Della Smith  
Administrative Specialist  
Citizens' Utility Ratepayer Board  
1500 SW Arrowhead Road  
Topeka, KS 66604  
Email: [dsmith@curb.ks.gov](mailto:dsmith@curb.ks.gov)

6. The Commission approves of the use of electronic service in this docket among the parties. The parties may serve each other electronically and waive receipt of a follow-up hard copy as required in K.A.R. 82-1-216(a)(c). Electronic service shall occur by 3:00 p.m. on the date due, unless otherwise set forth in this or another order. The parties shall specify this electronic service constitutes official service and that no hard copy will follow, making clear that paper copies will not be provided to the parties.

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

(A) The Citizens' Utility Ratepayer Board is granted limited intervention in the above-captioned proceeding. Counsel of record for the petitioner, and its other designees, shall receive service of all pleadings in this matter, as set forth above. The Citizens' Utility Ratepayer Board's Motion for Protective Order is denied.

(B) The Commission directs this Order be served by electronic mail, with a note that no hard copy will follow. This Order is procedural and constitutes non-final agency action.<sup>9</sup>

(C) Parties have fifteen (15) days from the date of electronic service of this order in which to petition the Commission for reconsideration of any issue or issues decided herein.<sup>10</sup>

(D) The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further orders as it may deem necessary and proper.

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

Sievers, Chmn; Wright, Com; Albrecht, Com.

Dated:           FEB 13 2013          



ORDER MAILED FEB 14 2013

Patrice Petersen-Klein  
Executive Director

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<sup>9</sup> K.S.A. 77-607(b)(2).

<sup>10</sup> K.S.A. 66-118b; K.S.A. 2011 Supp. 77-529(a)(1).

PLEASE FORWARD THE ATTACHED DOCUMENT (S) ISSUED IN THE ABOVE-REFERENCED DOCKET TO THE FOLLOWING:

NAME AND ADDRESS	NO. CERT. COPIES	NO. PLAIN COPIES
NIKI CHRISTOPHER, ATTORNEY CITIZENS' UTILITY RATEPAYER BOARD 1500 SW ARROWHEAD ROAD TOPEKA, KS 66604 ***Hand Delivered***		
C. STEVEN RARRICK, ATTORNEY CITIZENS' UTILITY RATEPAYER BOARD 1500 SW ARROWHEAD ROAD TOPEKA, KS 66604 ***Hand Delivered***		
DELLA SMITH CITIZENS' UTILITY RATEPAYER BOARD 1500 SW ARROWHEAD ROAD TOPEKA, KS 66604 ***Hand Delivered***		
SHONDA SMITH CITIZENS' UTILITY RATEPAYER BOARD 1500 SW ARROWHEAD ROAD TOPEKA, KS 66604 ***Hand Delivered***		
DAVID SPRINGE, CONSUMER COUNSEL CITIZENS' UTILITY RATEPAYER BOARD 1500 SW ARROWHEAD ROAD TOPEKA, KS 66604 ***Hand Delivered***		
HOLLY FISHER, LITIGATION COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD RD TOPEKA, KS 66604-4027 ***Hand Delivered***		
MICHAEL J. VOLKER, DIR REGULATORY & ENERGY SERVICES MIDWEST ENERGY, INC. 1330 CANTERBURY ROAD PO BOX 898 HAYS, KS 67601-0898		

ORDER MAILED FEB 14 2013

The Docket Room hereby certified that on this            day of           , 20          , it caused a true and correct copy of the attached ORDER to be deposited in the United States Mail, postage prepaid, and addressed to the above persons.