

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

Before Commissioners: Thomas E. Wright, Chairman
 Michael C. Moffet
 Joseph F. Harkins

In the Matter of the Applications of Westar)
Energy, Inc., and Kansas Gas and Electric) Docket No. 09-WSEE-925-RTS
Company for Approval to Make Certain)
Changes in their Charge for Electric Service.)

**ORDER SETTING PREHEARING CONFERENCE AND
DESIGNATING PREHEARING OFFICER**

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

1. On July 28, 2009, Westar Energy, Inc. (Westar North), and Kansas Gas and Electric Company (Westar South) (collectively Westar) initiated this Joint Application pursuant to K.A.R. 82-1-231(b)(3)(A) to make an "abbreviated filing" within 12 months of the Commission's order in a prior rate case, which allows Westar to eliminate data that duplicates information previous filed in the prior case. See *In the Matter of the Application of Westar Energy, Inc., and Kansas Gas Electric Company for Approval to Make Certain Changes in Their Charges for Electric Service*, KCC Docket No. 08-WSEE-1041-RTS (Docket 08-1041).

2. In Docket 08-1041, the parties reached an Agreement that resolved all contested issues, except whether rates for Westar North and Westar South should be consolidated. Having identified the issue of rate consolidation as a policy question appropriate for Commission

decision, the parties recommended this issue be bifurcated and addressed in a separate proceeding. Also in the Agreement, the parties anticipated this "abbreviated filing" and asked the Commission to expressly approve this filing under K.A.R. 82-1-231(b)(3). In its Order filed January 21, 2009, ¶ 39, the Commission approved use of an abbreviated rate proceeding. Jan. 21, 2009 Order, ¶ (E).

3. Also in Docket 08-1041, the Commission granted the parties' request to open a new docket to address whether rates for Westar North and Westar South should be consolidated. Order filed February 13, 2009. The docket addressing that issue is *In the Matter of the Investigation of Westar Energy, Inc., and Kansas Gas and Electric Company to Consider the Issue of Rate Consolidation and Resulting Rate Design*, Docket No. 09-WSEE-641-GIE. A prehearing conference is scheduled in Docket 09-641 for August 12, 2009, beginning at 1:30 p.m. Docket 09-641, Order filed June 12, 2009 (June 12, 2009 Order), ¶ 5 and ¶ (B).

4. Parties in this proceeding have advised the Prehearing Officer in Docket 08-641 that they believe it would be beneficial to conduct a prehearing conference in this matter at the close of the prehearing conference scheduled in Docket 09-641 for August 12, 2009, at 1:30 p.m. Other parties in Docket 08-641, which intend to intervene in this proceeding, agreed to the scheduling of a prehearing conference on August 12, 2009. All parties have waived the ten-day notice of hearing requirement in K.S.A. 2008 Supp. 77-518(a). The Prehearing Officer recommends the Commission schedule a prehearing conference in this docket on August 12, as proposed by the parties.

I. PREHEARING CONFERENCE

5. Having considered the recommendation of the Prehearing Officer in Docket 09-641, the Commission concludes that a prehearing conference will be beneficial in determining

the issues to be decided in this proceeding and in developing a schedule to recommend to the Commission. At this conference, parties should be prepared to discuss issues they believe the Commission will need to address regarding this abbreviated filing. Parties should also be prepared to discuss a procedural schedule for this docket, including discovery procedures; dates for filing of comments; the need for the Commission to conduct a hearing; and any other prehearing issues that will promote the orderly and prompt conduct of this proceeding. K.S.A. 77-517; K.A.R. 82-1-222. Also, parties should be prepared to discuss how the schedule in this docket will correspond to the procedure and schedule in Docket 09-641.

6. The Commission sets a **Prehearing Conference before a Prehearing Officer for August 12, 2009, beginning at 2:00 p.m., or immediately after the end of the prehearing conference in Docket 09-641, in the First Floor Hearing Room** of the Commission's Offices, 1500 SW Arrowhead Road, Topeka, KS 66604-4027. Any party who fails to attend or participate in the hearing or in any other stage of this proceeding may be held in default under KAPA. K.S.A. 77-516(c)(8); K.S.A. 77-520. At the prehearing conference, this proceeding without further notice may be converted into a conference hearing or a summary proceeding for disposition of the matter as provided by KAPA. K.S.A. 77-516(c)(7).

II. Designating Prehearing Officer

7. Although the Commission will conduct any evidentiary hearing in this docket, the Commission designates a prehearing officer to conduct prehearing conferences and to address any matters that are appropriately considered in a prehearing conference, including all items listed in KAPA at K.S.A. 77-517(b). These items include, for example, conversion of the proceeding to another type; exploration of settlement possibilities; clarification of issues; rulings on identity and limitation of the number of witnesses; objections to proffers of evidence;

determination of the extent to which direct evidence, rebuttal evidence, or cross-examination will be presented in written form, and the extent to which telephone or other electronic means will be used as a substitute for proceedings in person; order of presentation of evidence and cross-examination; discovery orders and protective orders; and such other matters as will promote the orderly and prompt conduct of the hearing. The Commission designates Martha J. Coffman, Advisory Counsel, 1500 SW Arrowhead Road, Topeka, KS 66604-4027, telephone 785-271-3105, email address m.coffman@kcc.ks.gov, to act as Prehearing Officer in this proceeding. K.S.A. 2008 Supp. 77-514; K.S.A. 77-516; K.S.A. 2008 Supp. 77-551. The Commission, as it deems necessary, may designate other staff members to serve in this capacity.

III. Agency Attorneys of Record

8. The attorneys designated to appear on behalf of the agency in this proceeding are Dana Bradbury, telephone number 785-271-3196, and Matthew Spurgin, telephone number 785-271-3279, 1500 Arrowhead Road, Topeka, KS 66604-4027. K.S.A. 2008 Supp. 77-518(c)(2); K.S.A. 77-516(c)(2).

IT IS THEREFORE BY THE COMMISSION ORDERED:

(A) The Commission directs parties to attend a prehearing conference on August 12, 2009, beginning at 2:00 p.m. or immediately following the prehearing conference in Docket 09-641, in the First Floor Hearing Room at the Commission's offices, 1500 SW Arrowhead Road, Topeka, KS 66604, as described in ¶¶ 5-6.

(B) The Commission appoints Martha J. Coffman to act as Prehearing Officer in this proceeding, as discussed in ¶ 7.

(C) This is a procedural order and constitutes non-final agency action. K.S.A. 77-607(b)(2). Parties have fifteen days, plus three days if service of this Order is by mail, from the

date of service of this Order in which to petition the Commission for reconsideration. K.S.A. 66-118b; K.S.A. 2008 Supp. 77-529(a)(1). Service of this Order will be by United States mail or hand delivery, but a courtesy copy will be sent to counsel of record by electronic mail.

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


BY THE COMMISSION IT IS SO ORDERED.

Wright, Chmn; Moffet, Com.; Harkins, Com.

Dated: AUG 07 2009

ORDERED MAILED

AUG 07 2009

 **EXECUTIVE
DIRECTOR**

Susan K. Duffy
Executive Director

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