

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of the Application of Midwest)
Energy, Inc. for Approval of its 2017 Update)
To the Annual Transmission Revenue) Docket No. 17-MDWE-495-TFR
Requirement (ATRR) Associated With its)
Transmission Formula Rate.)

MOTION FOR WAIVER OR SUSPENSION OF DEADLINE TO FILE MAY 10
ANNUAL UPDATE

COMES NOW, Midwest Energy, Inc. (“Midwest Energy” or “Company”) and hereby files this Motion with the Corporation Commission of the State of Kansas (“KCC” or “Commission”) for a waiver or suspension of the requirement to file its Annual Update to its Annual Transmission Revenue Requirement (“ATRR”) associated with its Transmission Formula Rate (“TFR”) by May 10, 2018. In support of its motion, Midwest Energy hereby states as follows:

1. On August 25, 2016, in Docket No. 16-MDWE-324-TFR (the “16-324 Docket”) the Commission approved the formula rate template and protocols governing Midwest Energy’s Transmission Formula annual updates and true-ups.¹ Pursuant to these protocols, on or before May 10 of each year, Midwest Energy is required to recalculate its Annual Transmission Revenue Requirement (“ATRR”) and Network Service Rates, and file an Annual Update in a compliance docket with a TFR designation.

¹ See, Order Approving Unanimous Settlement Agreement, Docket No. 16-MDWE-324-TFR, August 25, 2016.

2. On May 10, 2017, in accordance with these protocols, Midwest Energy filed an Application for Approval of its 2017 Update to the Annual Transmission Revenue Requirement associated with its TFR. This 2017 Annual Update filing was docketed as the instant docket, Docket No. 17-MDWE-495-TFR.

3. On January 23, 2018, in the 16-324 Docket, Midwest Energy filed an Application with the Commission requesting approval of revisions to its TFR template and implementation protocols that resulted from an Offer of Settlement (“Settlement”) at the Federal Energy Regulatory Commission (“FERC”) in FERC Docket No. ER17-469-000.

4. In that Application, Midwest Energy requested expedited approval of the proposed changes to its TFR, citing the need to obtain FERC approval and have the proposed changes in place prior to the filing of its next Annual Update on May 10, 2018.

5. On March 5, 2018, Kansas Governor Jeff Coyler signed Sub. For S.B. 323, which, *inter alia*, amends K.S.A. 66-104d(f) by rescinding Commission jurisdiction over “charges or fees for transmission services that are recovered through an open access transmission tariff of a regional transmission organization which has its rates approved by the federal energy regulatory commission.”² The relevant part of Sub. For S.B. 323 is codified as K.S.A. 66-104d(f)(2).

6. In its April 3, 2018 Order Acknowledging Receipt of 2017 Update to Annual Transmission Revenue Requirement, the Commission cited to the new statute and acknowledged receipt of Midwest Energy’s 2017 Annual Update, but noted that due to the newly enacted K.S.A. 66-104d(f)(2), the Commission lacks jurisdiction to take any action on the Application.

7. The Commission further noted in its April 3, 2018 Order that Midwest Energy’s annual update filings will be for informational purposes only, and that 17-MDWE-495-TFR will

² K.S.A. 66-104d(f)(2).

serve as the compliance docket for Midwest Energy to file its annual updates under the protocols adopted in the 16-324 Docket. The Commission specified that though the annual updates will now be for informational purposes only, the requirement to file them in compliance with the protocols adopted in the 16-324 Docket remains in place.

8. Midwest Energy hereby requests a waiver or suspension of the May 10 deadline to file its 2018 Annual Update. As noted above, the FERC settlement in FERC Docket No. ER17-469-000 remains pending, and Midwest Energy is unable to predict when approval of the settlement will take place. The FERC Offer of Settlement requests approval of revisions to its formula rate template and implementation protocols that are notably different from the template and protocols in the 16-324 docket. Midwest Energy submits that to make an Annual Update filing by the May 10, 2018 deadline, pursuant to outdated protocols and based upon a previous formula rate, would have no value, create unnecessary costs, and be administratively burdensome for both Midwest Energy and the Commission. If Midwest Energy did make such a filing, it would need to re-file at the KCC subsequent to FERC approval of the Settlement in order to incorporate the new formula rate template.


9. Midwest Energy commits to keeping the Commission and its Staff apprised of the status of Settlement approval at FERC, and will make any necessary notifications with the KCC within thirty (30) days of receiving Settlement approval from FERC.

WHEREFORE, Midwest Energy respectfully requests that the Commission suspend or waive the May 10 deadline for filing its Annual Update, and for any such further relief as the Commission may deem just and appropriate.

Respectfully submitted,

POLSINELLI PC

By:


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ATTORNEYS FOR
MIDWEST ENERGY, INC.

VERIFICATION

STATE OF MISSOURI)
) SS.
COUNTY OF JACKSON)

Anne E. Callenbach, being first duly sworn upon her oath, deposes and states that she is Counsel for Midwest Energy, Inc., that she has read and is familiar with the foregoing pleading, and that the statements therein are true to the best of her knowledge, information and belief.



Anne E. Callenbach

Subscribed and sworn to before me this 10th day of May, 2018.



PHYLLIS E. EDWARDS
NOTARY PUBLIC-NOTARY SEAL
STATE OF MISSOURI
CLAY COUNTY
MY COMMISSION EXPIRES 1/30/2021
COMMISSION # 13471396

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document was e-mailed, this 10th day of May, 2018, to:

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