

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

Received
on

MAY 15 2012

IN THE MATTER OF WESTAR ENERGY)
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

REPLY TO WESTAR'S RESPONSE TO OXY'S PETITION FOR RECONSIDERATION

COMES NOW, Occidental Chemical Corporation ("OXY") and respectfully files this Reply to the Response of Westar Energy, Inc. ("Westar") and Kansas Gas and Electric Company ("KGE") (Westar and KGE, collectively "Westar") to OXY's Petition for reconsideration filed on April 20, 2012. OXY files this Reply to bring address certain statements contained in Westar's Response.

1. On February 24, 2012, Westar filed what it claimed to be updated Transmission Delivery Charge (TDC) tariffs in the above-titled docket.
2. On March 21, 2012, OXY filed a Petition to Intervene and a Protest and Motion to Dismiss.
3. On March 21, 2012, the Commission issued a Suspension Order and Order Granting Temporary Waiver ("Suspension Order").
4. On April 6, OXY filed a Petition for Reconsideration of the Commission's Suspension Order.
5. On April 11, 2012, the Commission issued an Order Denying Occidental Chemical Corporation's Protest and Motion to Dismiss ("Order").
6. On April 25, 2012, the Commission issued an Order Denying OXY's Petition for Reconsideration of the Suspension Order.

7. On April 30, 2012 OXY filed a Petition for Reconsideration of the Commission's Order Denying Occidental Chemical Corporation's Protest and Motion to Dismiss.

8. On May 7, 2012, Westar filed a Response to OXY's Petition for Reconsideration ("Response"). In its Response, Westar makes certain incorrect statements. OXY brings these statements to the Commission's attention to ensure that the record is clear.

9. Westar's claim in its Response that no party has questioned the accuracy of Westar proposed increased transmission-related costs¹ is misplaced. One of the purposes of the hearing in this proceeding is to review Westar's requested cost increase. No party has yet had the opportunity to review or challenge Westar's claimed costs, and to determine its position on the accuracy of Westar's request.

10. Westar states that "[p]ursuant to applicable law, Westar is entitled to begin recovering its updated transmission-related costs on 30 business days notice to the Commission *regardless of how those costs are allocated.*"² The meaning of this statement is unclear. If Westar means that it is entitled to begin recovering updated transmission costs regardless of how *Westar* allocates those costs, that is incorrect. Westar is legally obligated to follow its Commission-approved tariff,³ which requires TDC costs to be allocated using the 12-CP method based on current test-year load research each time it files a retail rate proceeding,⁴ unless and until the Commission orders otherwise. If Westar means that it is entitled to begin recovering updated transmission costs regardless of how *the Commission* allocates those costs, that is

¹ Response at ¶7.

² Response at ¶9 (emphasis added).

³ See K.S.A. § 66-109.

⁴ See Westar's Transmission Delivery Charge Tariff at Sheet 2.

correct only to the extent that Westar has filed a valid application to recover those costs and the Commission has followed the proper processes under Kansas law. Westar's filing did not constitute a proper TDC update request pursuant to K.S.A. 66-1237 or a proper request for a tariff change under K.S.A. 66-117. Accordingly, Westar was not entitled to begin recovering these costs with 30 business days notice.

11. Westar's statement that no party, including OXY has challenged the Commission's waiver of the tariff⁵ is simply wrong. In this proceeding, the Commission waived the requirement to use updated 12-CP data as provided in Westar's tariff.⁶ OXY has challenged this waiver in both its April 6, 2012 Petition for Reconsideration of the Suspension Order and Order Granting Temporary Waiver⁷ and its April 30, 2012 Petition for Reconsideration of the Order Denying OXY's Protest and Motion to Dismiss.⁸

WHEREFORE, OXY respectfully requests that the Commission grant its Petition for Reconsideration.

WHEREFORE, OXY requests such other relief as is just and proper.

Respectfully submitted,



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⁵ Response at ¶11.

⁶ Suspension Order and Order Granting Temporary Waiver at ¶11.

⁷ OXY's Petition for Reconsideration at ¶7 (Apr. 6, 2012).

⁸ OXY's Petition for Reconsideration at ¶6 (Apr. 30, 2012).

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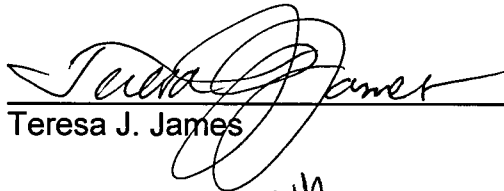
Attorneys for Occidental Chemical
Corporation ("OXY")

VERIFICATION

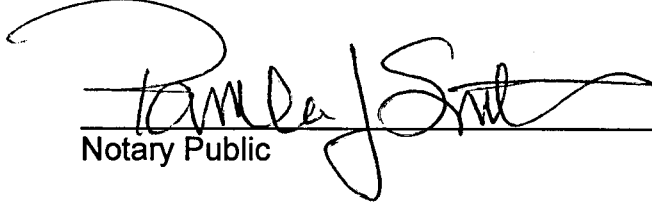
STATE OF KANSAS)
) ss:
COUNTY OF KANSAS)

Teresa J. James, of lawful age, being first duly sworn, upon oath states:

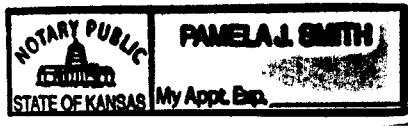
That she is one of the attorneys for the intervener, Occidental Chemical Corporation ("OXY"), that she has read the above and foregoing Petition for Reconsideration, knows the contents thereof, and knows that all of the statements made therein are true.


Teresa J. James

SUBSCRIBED AND SWORN to before me this 15th day of May, 2012.


Notary Public

My Appointment Expires:
2-16-15



CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Petition for Reconsideration was sent via electronic mail on this 15th day of May, 2012, to:

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May 15, 2012

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by
State Corporation Commission
of Kansas

RE: Docket No. 12-WSEE-651-TAR
Our File No. 30938-0002
Reply to Westar's Response to Oxy's Petition for Reconsideration

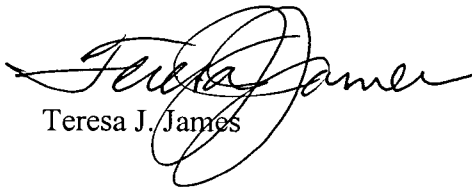
Dear Ms. Petersen-Klein:

Enclosed please find the original and seven copies of OXY Chemical Corporation's Reply to Westar's Response to Oxy's Petition for Reconsideration in the above referenced docket.

Please do not hesitate to contact me if you have any questions. Thank you.

Sincerely,

MARTIN, PRINGLE, OLIVER,
WALLACE & BAUER, L.L.P.



Teresa J. James

TJJ/pjs

Enclosures

cc: Service List
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Phillip Oldham
Stanford J. Smith
Anna Clovis