

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of the Application of Kansas)
Gas and Electric Company for Approval of)
the Amendment to the Energy Supply) Docket No. 18-KG&E-303-CON
Agreement between Kansas Gas and Electric)
Company and Occidental Chemical)
Corporation.)

RESPONSE TO MOTION TO COMPEL

Occidental Chemical Corporation (“Occidental”), respectfully files its *Response to Motion to Compel* in response to the Motion to Compel of the Staff of the State Corporation Commission of the state of Kansas (“Staff” and “Commission,” respectively), dated April 13, 2018. Occidental states to the Commission as follows:

I. Background

1. On January 16, 2018, Kansas Gas and Electric Company, d/b/a Westar Energy (“Westar”) and Occidental Chemical Corporation (“Occidental”) filed a Joint Application requesting approval of an Energy Supply Agreement (“ESA” or “Agreement”) between Kansas Gas and Electric Company and Occidental Chemical Corporation.

2. Occidental currently takes service from Westar under the ESA initially approved by the Commission on May 22, 2013, in Docket No. 13-KG&E-451-CON. The contract was subsequently amended by Westar and Occidental, with such amendment approved by the Commission in Docket No. 17-KG&E-352-CON. In its Order approving the amendment, the Commission agreed with the recommendations of Staff and Westar, finding “the record supports a determination that the amended contract is necessary, will benefit remaining core Westar customers, and will result in just and reasonable rates.”¹ The Commission also stated that “the

¹ KCC Docket No. 17-KG&E-352-CON, Order Approving Amended Energy Supply Agreement, June 27, 2018, ¶ 8.

increased monthly minimum bill under the amended contract will give some additional assurance of fixed cost recovery."² The current effective ESA, as amended, will expire May 31, 2018.

3. As noted above, Westar and Occidental have now entered into a new Agreement and have submitted the Agreement to the Commission for approval in this docket. The Agreement is for an additional five-year term and is not substantively different from the current effective ESA. The agreement simply updates dates and contact information. The agreement does not change the terms and conditions of the current effective ESA or the rates Occidental pays under the current effective ESA.

4. On January 26, 2018, Occidental filed the Direct Testimony of Ms. Brenda Harris. In her testimony, Ms. Harris explains, "The Agreement does not change the terms and conditions of the currently effective ESA or the rates Occidental pays under the currently effective ESA. In effect, the Agreement simply extends the current ESA for an additional five-year term."³ Ms. Harris further testifies:

The cost of electricity is the largest cost input in...OxyChem's production processes. Westar's electric rates have increased materially over the last 10-15 years. Absent approval of the Agreement, OxyChem's Wichita facilities will be at a distinct rate disadvantage, compared to its plants - and its competitors' plants - in other states. In such a scenario, OxyChem would be forced to reexamine its level of ongoing operations at the Wichita facilities.⁴

5. On March 20, 2018, Occidental received Information Request Number 10 (DR 10) from Staff of the Commission. Therein, Staff requested Occidental "provide all 2017 invoices for electric service provided to [Occidental facilities in other states] and the Tariffs for each facility (excluding the Wichita plant)."⁵

² KCC Docket No. 17-KG&E-352-CON, Order Approving Amended Energy Supply Agreement, ¶ 8.

³ Direct Testimony of Brenda Harris, January 26, 2018, p. 4.

⁴ Direct Testimony of Brenda Harris, pp. 4-5.

⁵ Motion for Protective Order, April 16, 2018, Exhibit 1.

6. On March 27, 2018, Occidental provided an objection to Staff's information request.⁶ Occidental objected to Staff's request on the basis that it requests highly-confidential commercially-sensitive information which is not clearly relevant to this proceeding. Occidental also stated that potential disclosure of its invoice data, particularly to a competitive supplier of electricity such as Westar, could severely damage the company's position as a consumer of electric service. Occidental also notes that its invoices would include trade secrets and extremely commercially-sensitive information beyond the electricity prices paid at Occidental's various facilities, such as load factors and plant operating levels across numerous locations. If disclosed, this information could severely harm Occidental's competitive business operations, not only in Kansas, but in multiple other states in which Occidental operates.

7. Despite its objections, Occidental committed "to assist the KCC Staff in verifying that KG&E's tariff rates are above the rates paid at other [Occidental] facilities in other states."⁷ To that end, Occidental noted that its counsel would contact Staff to discuss alternative methods of responding to Staff's request without disclosure of Occidental's highly confidential invoice data.

8. On April 12, 2018, Occidental filed a Motion for a Protective Order. In its Motion, Occidental committed to provide additional information regarding its pricing disadvantage in Kansas to assist Staff's investigation, subject to reasonable protections ensuring confidential information will not be disclosed.⁸ Therefore, to facilitate the exchange of confidential information between Occidental and the Staff, Occidental requested the Commission issue a protective order.⁹

⁶ Motion for Protective Order, Exhibit 2.

⁷ Motion for Protective Order, Exhibit 2.

⁸ Motion for Protective Order, April 16, 2018, ¶ 10.

⁹ Motion for Protective Order, ¶ 12.

9. On April 13, 2018 – prior to the Commission's consideration and issuance of a protective order – Staff filed its Motion to Compel. In its Motion, Staff states its belief that any additional information provided by Occidental will be "something other than what was specifically requested in DR 10."¹⁰ Therefore, Staff demands the Commission compel Occidental to provide a full and complete response to Staff DR 10 within three days.¹¹

II. Standard of Discovery

10. Discovery in Commission proceedings is "limited to matters that are clearly relevant to the proceeding involved."¹² However, the discovery standards in Commission proceedings are not rigid. Noting that an administrative agency has wide latitude in controlling the scope of the discovery,¹³ this Commission has requested parties "make every effort to engage in cooperative, informal discovery to promptly resolve discovery disputes themselves. Cooperation reduces the acrimony in Commission proceedings and the involvement of the Commission itself in non-substantive disputes, while increasing public satisfaction with the Commission's decision-making process."¹⁴

11. As noted above, the Commission exercises broad discretion in determining the scope of discovery. And discovery is generally construed liberally, but the equities involved in each individual case provide limits. Citing the United States Supreme Court, the federal courts in Kansas have held,

"[D]iscovery, like all matters of procedure, has ultimate and necessary boundaries." In setting proper boundaries for the scope of discovery, the court must "balance the inquirer's right to know against the responder's right to be free from unwarranted

¹⁰ Staff Motion to Compel, April 13, 2018, ¶ 20.

¹¹ Staff Motion to Compel, p. 5.

¹² K.A.R. 82-1-234a

¹³ Matter of Collingwood Grain, Inc., 257 Kan. 237, 255–57, 891 P.2d 422, 434–35 (1995).

¹⁴ KCC Docket No. 99-WSRE-034-COM, Order on Motions to Compel, August 20, 1999, ¶ 5.

intrusions." Because each case and its related facts vary considerably, limitations are set on a case by case basis.¹⁵

12. Relevance, therefore, is not the ultimate question. Instead,

[T]he critical evaluation is whether the need for the information, considering its relevance and the nature of the case, outweighs the burden of the request. *Litigants have an obligation to tailor discovery to suit the particular exigencies of the litigation.* They ought not be permitted to use broadswords where scalpels will suffice....¹⁶

III. Response to Staff's Motion to Compel

A. Staff has made no good faith efforts to informally resolve this dispute.

13. Under the Kansas Rules of Civil Procedure, a Motion to Compel "must include a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make disclosure or discovery in an effort to obtain it without court action and must describe the steps taken by all attorneys or unrepresented parties to resolve the issues in dispute."¹⁷ Attached to Staff's Motion are three electronic messages, two from Staff counsel and one from Occidental's counsel. However, the Motion does not certify, and the messages do not demonstrate, any good faith attempts to resolve this matter. Further, Staff has filed its Motion to Compel prior to the provision of responsive information – which Occidental has committed to provide, subject to a protective order.

14. A review of the communications between the parties shows Staff has not made any substantive attempt at informally resolving this dispute. In fact, Staff has refused to even consider additional information from Occidental, which would very likely obviate the need for a Motion to Compel.¹⁸

¹⁵ *United States v. Medtronic, Inc.*, No. 95-1236-MLB, 2000 WL 1478476, at *1 (D. Kan. July 13, 2000).

¹⁶ *United States v. Medtronic, Inc.*, 2000 WL 1478476, at *3. Emphasis added.

¹⁷ K.S.A. 60-237(a).

¹⁸ As set forth below, Occidental is willing to provide information identifying the exact pricing it receives in other states.

15. To date, the only substantive dialogue between Occidental and Staff has been as follows:

1) March 20, 2018: Occidental received Staff's DR 10.¹⁹

2) March 27, 2018: Occidental provided its initial Response to Staff DR 10, wherein it objected to providing its 2017 invoices.²⁰

3) March 29, 2018: Staff contacted counsel for Occidental, stating that the information in Occidental's initial response was insufficient "to verify that indeed the other states have better rates sufficient to incent Oxy to move its facilities and employees to those other states."²¹

4) On April 4, 2018, Occidental informed Staff that it was preparing a supplemental response to DR 10, which would include, as one component thereof, the pricing differentials between Occidental facilities, by state – which is precisely the data Staff purports to need in order to verify the testimony of Occidental and Westar. However, Occidental noted that a protective order had not yet been issued in the proceeding and requested assurances of confidential treatment before sending the information to Staff.²²

5) Also, on April 4, 2018, without viewing Occidental's supplemental response, Staff informed Occidental's counsel that the supplemental response would not be responsive to Staff's DR.²³

16. As noted above, despite Staff's blanket rejection of its offer to provide additional information, Occidental continued to gather information for a supplemental response to Staff DR 10. Occidental is ready to provide this information to Staff upon the issuance of a protective order consistent with Occidental's Motion dated April 12, 2018. Occidental's response will contain information demonstrating to Staff the rates Occidental pays for electric service in other states,

¹⁹ See Staff DR 10 attached to the Motion to Compel.

²⁰ See Staff DR 10 attached to the Motion to Compel.

²¹ Staff Motion to Compel, see attached email correspondence between counsel for Occidental and Staff.

²² Staff Motion to Compel, see attached email correspondence between counsel for Occidental and Staff.

²³ Staff Motion to Compel, see attached email correspondence between counsel for Occidental and Staff; In addition to the above conversation, on April 11, 2018, counsel for Occidental informed Staff's counsel by telephone that Occidental had finished preparing a supplemental response to Staff DR 10, and Occidental would be requesting a protective order so the response, and the confidential information contained therein, could be provided to Staff.

which is directly responsive to Staff's inquiry. If further clarification or information is needed, Occidental is willing to consider and appropriately respond to additional discovery from Staff.

17. Occidental does not understand the reasoning for Staff's aggressive and litigious posture in this matter. Staff's stated position is that it will not accept any response "other than what was specifically requested in DR 10" (all 2017 invoices for electric service provided to Occidental facilities).²⁴ This position certainly does not constitute a good faith attempt to informally resolve discovery disputes, as contemplated under Kansas law. The federal courts have noted that an informal attempt at resolving a discovery dispute must be "more than mailing or faxing a letter to the opposing party. It requires that the parties in good faith converse, confer, compare views, consult, and deliberate, or in good faith attempt to do so."²⁵ Unfortunately, Staff's unwillingness to even view Occidental's supplemental response before resorting to legal action (a Motion to Compel) indicates it has no interest in "conferring," "comparing views," or "consulting" in good faith.

18. Occidental is willing to assist Staff in verifying the price disadvantage in Kansas. There is no need for the highly-contentious discovery dispute Staff is pressing. Occidental requests the Commission deny Staff's Motion to Compel and direct the parties to continue exchanging information in a good faith attempt to informally resolve this dispute.

B. Staff's Motion to Compel should be denied.

i. Occidental's price disadvantage can be verified in a less intrusive fashion than Staff's request for all invoices and tariffs.

19. Occidental is perplexed by the demands for Occidentals highly-confidential invoices in the present case, which Staff has never demanded in any prior proceeding. Occidental's

²⁴ Staff Motion to Compel, ¶ 20.

²⁵ *Green v. Harbor Freight Tools USA, Inc.*, No. 09-2380-JAR, 2010 WL 11435113, at *1 (D. Kan. June 18, 2010).

price disadvantage at its Wichita facilities, absent the special contract, is readily apparent. For instance, assuming Occidental pays only standard tariff industrial rates in every other jurisdiction, public data from the U.S. Energy Information Administration shows KG&E's industrial rates are much higher than those of Occidental's other providers.²⁶ This is not the *most* accurate method of verifying Occidental's testimony, but it is one way of testing the position.

20. More importantly, despite the fact that both Occidental and Westar have provided sworn and verified testimony describing Occidental's price disadvantage at its Wichita facilities, Occidental has committed to provide additional information to assist Staff's investigation. In its promised Supplemental Response to Staff's DR 10, Occidental will provide a *verified* response, which will identify the tariffs it takes service under in other jurisdictions. And, as noted above, Occidental will provide other *verified* information setting forth the prices Occidental pays for electric service in other states. This information is, of course, highly-confidential information. However, Occidental is committed to providing verified information conclusively demonstrating its pricing disadvantage.

ii. Staff DR 10 requests highly-confidential and proprietary information, which is not "clearly relevant" to this proceeding.

21. In its Motion to Compel, Staff cites the verified testimonies of Westar witness Chad Luce and Occidental witness Brenda Harris, who testify that Occidental faces an electric cost disadvantage at its facilities in Wichita, Kansas, as compared to its facilities in other states.²⁷ Staff continues, "the 2017 invoices and Tariffs from those plants are relevant to that claim."²⁸

²⁶ https://www.eia.gov/electricity/sales_revenue_price/pdf/table8.pdf

²⁷ Staff Motion to Compel, p. 4.

²⁸ Staff Motion to Compel, p. 4.

22. Occidental agrees that certain verified information from its invoices for electric service is relevant to establish the pricing disadvantage in Kansas. Therefore, provision of the full invoices is one possible method of verifying the price disadvantage. However, Occidental's invoices contain far more information than just the price of electricity at each facility. This additional information, which is *not clearly relevant*, includes highly-confidential and proprietary business information. Therefore, Staff's request is overly broad, as it would require disclosure of non-relevant, but highly-confidential, information. An alternative approach is for Occidental to provide specific data from verified business records, kept in the ordinary course, which will specifically identify the prices Occidental experiences at its facilities in Kansas and other states.

23. The unique nature of Occidental's operations is discussed in the Direct Testimony of Ms. Brenda Harris and has also been detailed in prior Occidental testimony, attached hereto as Exhibit 1.²⁹ Due to the nature of its operations, Occidental is uniquely reliant on electric service, making the usage and pricing of its electricity extremely sensitive information. Maintaining the confidentiality of this information is, therefore, vital to Occidental's interests in maintaining a competitive position in its sector of the American economy. In fact, much of the value of Occidental's enterprise is tied to proprietary and confidential commercial information relating to the manner in which it operates its plants, the combination of pricing mechanisms (tariffs, contracts, etc.) it utilizes for electric service in various jurisdictions, and other operationally-sensitive information. A competitor could identify much of this information through Occidental's invoices for electric service. To a sophisticated competitor, invoices contain much more information than the customer's average price of energy.

²⁹ See Direct Testimony of Brenda Harris, pp. 4-5; See also, Docket No. 13-KG&E-451-CON, Direct Testimony of Thomas J. Payton, January 9, 2013, relevant portion attached hereto as Exhibit 1.

24. Therefore, as noted in Occidental's Motion for Protective Order, the invoices include trade secrets and extremely commercially-sensitive information beyond the electricity prices paid at Occidental's various facilities. If disclosed to Occidental's competitors, this information would severely harm Occidental's competitive business operations.

25. In addition, disclosure of Occidental's invoice data to competitive electric suppliers, such as Westar Energy or others, would severely damage Occidental's competitive position as a consumer of electric services. As noted above, Occidental is uniquely reliant on competitively priced energy for the continued viability and profitability of its operations. Any disclosure, whether unintentional or deliberate, would severely damage Occidental's business interests.

26. For the above reasons, Occidental simply cannot agree to release its private invoices for electric service. Potential disclosure of these documents poses an unusual risk of harm to a business such as Occidental, which relies so heavily on energy services. Occidental urges the Commission to heed the direction of Kansas courts cited above and consider whether the relevance of Staff's request and the nature of this case, outweighs the burden of the request. Occidental submits that Staff's request has not met its "obligation to tailor discovery to suit the particular exigencies of the litigation."³⁰

27. As noted above, Occidental's pricing disadvantage in Kansas can be precisely verified in a less burdensome manner, which does not force the company to relinquish its legitimate interest in safeguarding its own information. Therefore, Occidental requests the Commission deny Staff's Motion to Compel and order the parties to seek less burdensome methods of verifying or quantifying Occidental's price disadvantage in Kansas.

³⁰ *United States v. Medtronic, Inc.*, 2000 WL 1478476, at *3.

C. Request for Protective Order

28. In its Motion for Protective Order, filed April 12, 2018, Occidental noted that it is not a public utility required to make its books and records available for Commission inspection at all times, pursuant to K.S.A. 66-129. However, Occidental recognized that demonstrating its pricing disadvantage in Kansas is in its interests in this proceeding, as it will facilitate approval of the Application. Therefore, even though Occidental and Westar have already provided sworn testimony to this fact, Occidental committed to provide additional relevant information to sufficiently verify its pricing disadvantage in Kansas.

29. However, because it is a private Kansas business, Occidental also requested the Commission reasonably balance the interests of discovery with Occidental's legitimate business interest in maintaining the confidentiality of its commercially-sensitive information and trade secrets.³¹ Noting that unintentional disclosures do occur, Occidental therefore requested discovery in this proceeding be appropriately-tailored to elicit only the information necessary to review the Application, similar to its request above.³²

30. As noted above, Occidental, as an extremely energy-intensive manufacturer, is uniquely interested in safeguarding its information and operational details, with regard to electric service. Furthermore, Occidental's pricing disadvantage in Kansas can be verified in a less burdensome manner than forcing the company to provide all of its invoices. Instead, Staff insists

³¹ See *In re City of Wichita*, 277 Kan. 487, 514, 86 P.3d 513, 531 (2004), "Where the parties have conflicting interests in material sought to be discovered, the protective power of the court may be sought by a party and the court must balance the litigant's interest in obtaining the requested information with the resisting party's interest, as well as the public interest in maintaining the confidentiality of the material. When a trial court orders production of confidential records, it has a duty to limit the availability and use of documents by carefully drawn protective provisions."

³² Motion for Protective Order, ¶ 11.

on fully reviewing some of the most closely-held information a private energy-intensive business possesses.

31. Consistent with its previous Motion for a Protective Order, Occidental specifically requests the Commission issue a Protective Order, pursuant to K.S.A. 60-236(c), requiring discovery in this proceeding be appropriately-tailored to elicit only the information necessary to review the Application. More specifically, Occidental requests the Commission require Staff to seek less burdensome methods of verifying or quantifying Occidental's price disadvantage in Kansas. Occidental also renews its request for the Commission to allow Occidental to provide its confidential information solely to Staff and to prohibit Staff from disclosing Occidental's confidential information to other parties.

32. Occidental has attempted to resolve this discovery dispute without Commission action. As noted above, Occidental has prepared a supplemental response to Staff's DR 10 which will precisely identify Occidental's price disadvantage in Kansas. However, to the extent Staff is unwilling to consider less burdensome methods of discovery – with less risk to Occidental's legitimate business interests – Occidental requests the Commission issue a protective order as described above.

33. The relief requested by Staff – full disclosure of Occidental's records without any balancing of the equities or consideration of methods which are less burdensome, less risky, and more precisely-tailored – has a chilling effect on participation in Commission proceedings by private businesses, who wish to maintain the integrity of their own records. If endorsed by the Commission, Staff's treatment of Occidental could also, therefore, have a chilling effect on operations in Kansas for energy intensive customers who require active engagement with this Commission.

34. Occidental simply cannot understand the strident approach being employed by the Staff in this matter. The nature of this Application is to ensure Occidental can remain a customer of Westar and a continued economic presence in Kansas – to the benefit of all ratepayers and the Kansas economy. As such, this proceeding should be collaborative and respectful. Occidental prays the Commission grant the relief below.

WHEREFORE, Occidental respectfully requests the Commission issue an order denying Staff's Motion to Compel and granting relief consistent with paragraph 31 above.

Respectfully submitted,

/s/ 

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VERIFICATION

STATE OF KANSAS)
) ss:
COUNTY OF JOHNSON)

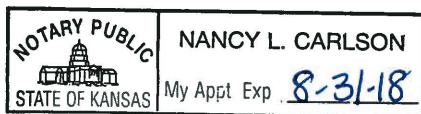
James P. Zakoura, being duly sworn upon his oath, deposes and states that he is the Attorney for Occidental Chemical Corporation, that he has read and is familiar with the foregoing *Response to Motion to Compel*, and the statements therein are true to the best of his knowledge, information, and belief.


James P. Zakoura

SUBSCRIBED AND SWORN to before me this 18th day of April, 2018.


Notary Public

My Appointment Expires:



BEFORE THE STATE CORPORATION COMMISSION OF
THE STATE OF KANSAS

JAN 09 2013

by
State Corporation Commission
of Kansas

IN THE MATTER OF
APPLICATION OF KANSAS GAS
AND ELECTRIC COMPANY FOR
APPROVAL OF THE ENERGY
SUPPLY AGREEMENT BETWEEN
KANSAS GAS AND ELECTRIC
COMPANY AND OCCIDENTAL
CHEMICAL CORPORATION

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DOCKET 13-KG&E-451-CON

DIRECT TESTIMONY OF

THOMAS J. PAYTON

ON BEHALF OF

OCCIDENTAL CHEMICAL CORPORATION

JANUARY 8, 2013

1 **Q. PLEASE DESCRIBE THE NATURE OF THE CHLORINE PRODUCTION**
2 **PROCESS.**

3 **A.** The chlorine production process is an *electrochemical* process whereby large amounts of
4 electricity are run through salt water in order to break the salt and water molecules up
5 into chlorine, caustic soda (lye) and hydrogen.

6 **Q. CAN YOU GIVE AN EXAMPLE?**

7 **A.** Yes. The chlorine production process is very similar to the common high school science
8 experiment whereby electricity is run between two wires in a glass of water in order to
9 break the water into its separate oxygen and hydrogen components that then bubble up
10 from each wire. The chlorine production process is very similar, except that (1) salt
11 water is used instead of plain water, and (2) the process is done on a scale millions of
12 times larger. When electricity is run through salt water instead of plain water, the
13 products are chlorine, caustic soda and hydrogen (instead of just oxygen and hydrogen).

14 **Q. WHAT IS A KEY TAKEAWAY OF THE ABOVE EXAMPLE?**

15 **A.** The chlorine process starts with a common and very low cost feedstock (salt water) and
16 then runs large amounts of electricity through it to produce useful products. Therefore,
17 the cost of electricity is by far and away the largest cost input in the production of
18 chlorine and is key to its economical production.

19 **Q. HOW IS THIS DIFFERENT FROM MANY OTHER INDUSTRIAL**
20 **PROCESSES?**

21 **A.** Very few other industrial processes have as high a ratio of electricity cost to their overall
22 production cost. For example, the largest cost input for a steel mill might be iron ore or
23 scrap metal and the largest cost for a refinery might be crude oil.

1 **Q. IS THE COST OF ELECTRICITY A VERY SUBSTANTIAL OPERATING**
2 **EXPENSE FOR THE OXYCHEM WICHITA FACILITIES?**

3 **A.** As explained above, absolutely.

4 **Q. DOES OXYCHEM HAVE AN EXISTING ELECTRIC SERVICE AGREEMENT**
5 **(“ESA”) WITH WESTAR?**

6 **A.** Yes.

7 **Q. WHAT IS THE STATUS OF THAT EXISTING ESA?**

8 **A.** Due to the high cost of electricity, OxyChem provided Westar notice of termination of its
9 existing ESA on October 1, 2012, to be effective January 31, 2013.

10 **Q. HOW MUCH HAVE ELECTRIC RATES INCREASED FOR OXYCHEM’S**
11 **WICHITA FACILITIES OVER THE PAST FIVE YEARS?**

12 **A.** Approximately 60%.

13 **Q. WHAT IS THE PRIMARY CAUSE OF THIS INCREASE?**

14 **A.** The increase is primarily the result of cost shifts or automatic pass-through items,
15 especially those that impacted the RECA (fuel factor), including the consolidation of
16 Westar North and Westar South rate areas into a single rate area. Items impacting the
17 RECA will have a disproportionately negative impact on a large high load factor
18 customer who takes large amounts of off-peak power (such as OxyChem’s Wichita
19 facilities). The portion of the overall increase arising from direct percentage adjustments
20 to the HLF rate in retail rate cases is a smaller part of the total increase.

CERTIFICATE OF SERVICE

I hereby certify that true copy of the foregoing was served by electronic mail (when available) or regular U.S. mail (unless otherwise noted), the 18th day of April, 2018, to the parties below:

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/s/ **Andrew J. French**

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