



**Midwest  
Energy, Inc.**

**February 19, 2018**

**Testimony in support of Substitute for SB 323**

**Representative Joe Seiwert, Chair**

**From: Allie Devine on behalf of Midwest Energy, Inc.**

Thank you, Chairman Seiwert and committee members for allowing me to testify in support of Substitute for SB 323. Midwest Energy is a not-for-profit gas and electric cooperative serving central and western Kansas. Midwest provides bundled electric service to approximately 50,000 electric retail customers and wholesale electric sales and/or transmission service to ten municipal electric systems. Midwest is a Transmission Owning Member of the Southwest Power Pool (SPP), a Federal Energy Regulatory Commission (FERC) approved Regional Transmission Organization (RTO) that oversees the bulk electric grid and wholesale power market in 14 states in the central United States, including Kansas.

Midwest is caught in an unintentional dual regulatory scheme between the Kansas Corporation Commission and the FERC that is costing the company and its member-owners hundreds of thousands of dollars. Other transmission owning cooperatives face the same issue. Currently a cooperative transmission owner is caught in a regulatory loop where the KCC first reviews an update to transmission rates, then those rates are submitted to the SPP for FERC review.<sup>1</sup> The FERC may make changes inconsistent with the prior KCC order. The KCC may or may not accept those changes, leaving the cooperative in a dilemma with no clear exit ramp.

Midwest recently completed a KCC review of an update to its transmission formula rate, and the SPP submitted those rate changes to FERC for inclusion in the SPP regional tariff. The SPP regional transmission tariff is subject to FERC jurisdiction, and therefore FERC can regulate Midwest's transmission rate by regulating the SPP's

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<sup>1</sup> Absent inclusion in the SPP regional tariff, Midwest's tariff would be exempt from FERC regulation due to Midwest's size and cooperative status per the Energy Policy Act of 2005.

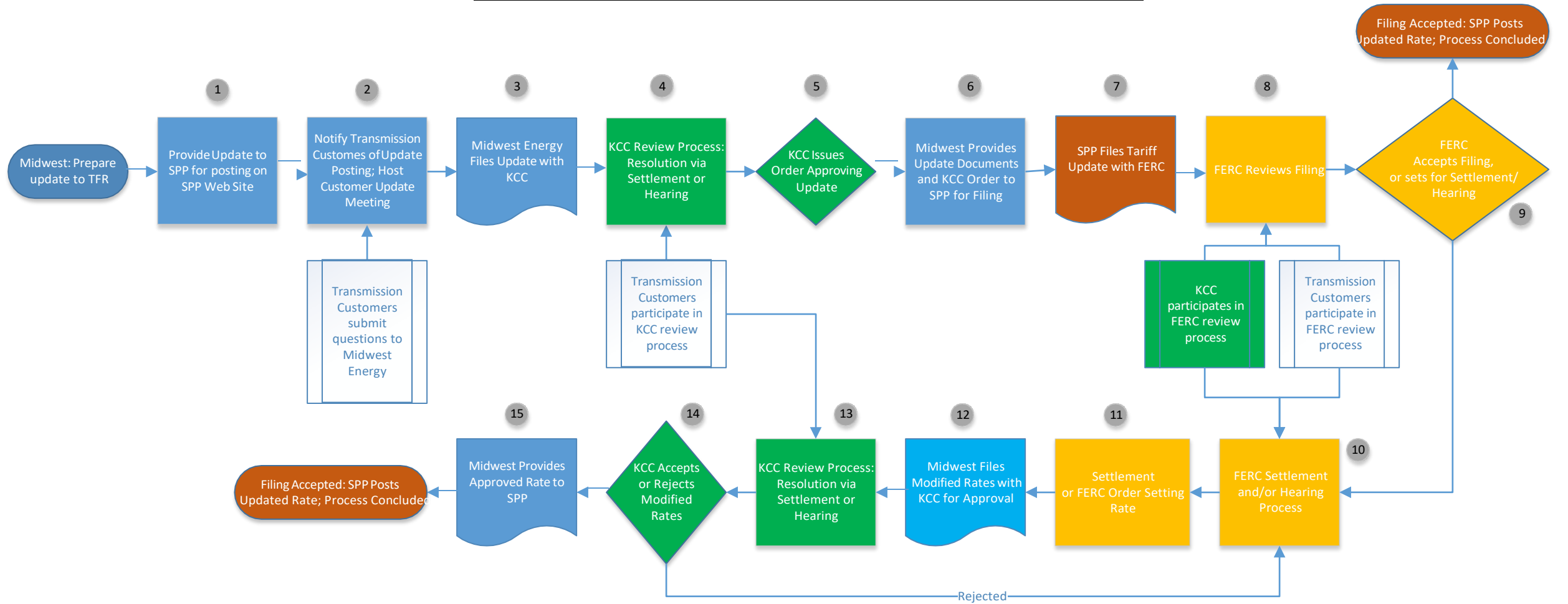
transmission rate. No interested party protested the rate changes submitted to the FERC; nevertheless, the FERC set the matter for hearing, assigned a settlement judge, and conducted a nearly year-long review of Midwest's KCC-approved transmission rates. When FERC Trial Staff made it apparent they disagreed with the findings of the KCC, and proposed changes to those rates, the process devolved into a lengthy discussion of regulatory authority between the FERC and the KCC. A settlement is currently being processed which contemplates that Midwest will execute a series of regulatory initiatives at both the FERC and the KCC.

Midwest, working with the KCC staff, drafted the language of Section 2 of Substitute for SB 323 starting on page 3 lines 43 through page 6 line 19. The changes to current law are on page 5 lines 1-10. This language removes the rate review requirement for transmission-owning electric cooperatives from the KCC when the cooperative recovers its charges and fees for transmission services through an open access transmission tariff of an RTO such as the SPP, which has its rates approved by the FERC. This language was reviewed by the Citizens Utility Rate Board, other Kansas utilities, and the KCC and no one has opposed it. The language is also similar to language included in Section 1 relating to municipal energy agencies. Transmission customers remain assured of independent review of the cooperative's rates, without the need for redundant and potentially conflicting review and unnecessary regulatory and legal expenses for all parties.

Midwest has incurred significant expenses in following the dual regulatory process. Midwest has spent approximately \$450,000 on legal support fees to navigate this one dual jurisdiction dilemma. Based on our history, approval of future rate changes at only one regulatory commission will likely have legal expenses in the vicinity of only \$60,000. Reducing regulatory burdens and costs will ultimately benefit the customers through lower rates.

Thank you for your consideration of Substitute for SB 323.

**Current Regulatory Review Process – Cooperative Transmission Rates**



### Streamlined Regulatory Review Process – Cooperative Transmission Rates Following Amendment of KSA 66-104d(f)

