

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

In the Matter of Westar Energy, Inc. and )  
Kansas Gas and Electric Company Seeking ) Docket No. 15-WSEE-021-TAR  
Commission Approval for Tariff Revisions )  
to the Energy Efficiency Rider. )

**COMMISSION STAFF'S REPLY TO CURB'S REPLY AND WESTAR'S RESPONSE**

COMES NOW Staff of the State Corporation Commission of the State of Kansas (Staff and Commission, respectively) and in response to the *Reply to Staff's Report and Recommendation* of the Citizens' Utility Ratepayer Board (CURB) dated September 29, 2014, and the *Response to CURB's Reply to Staff's Report and Recommendation* of Westar Energy, Inc., and Kansas Gas and Electric Company (Westar) dated October 7, 2014, files its Reply. In support hereof, Staff states as follows:

**I. Background**

1. On July 15, 2014, Westar filed proposed tariff revisions relating to its Energy Efficiency (EE) Rider pursuant to K.S.A. 66-117.
2. On July 18, 2014, CURB filed a Petition to Intervene in this proceeding. CURB was granted intervention on July 31, 2014.
3. On September 18, 2014, Staff filed its Report and Recommendation (R&R) recommending approval of Westar's Application, as filed, with the condition that Westar file its next EE Rider on or before July 31, 2015.<sup>1</sup>

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<sup>1</sup> Staff Report and Recommendation, September 18, 2014, p. 3. (Staff R&R, p. 3.)

### **A. CURB's Reply**

4. On September 29, 2014, CURB filed its own report in Reply to Staff's R&R. In its Reply, CURB recommends the Commission disallow \$25,310.51 in expenses from Westar's EE Education Programs.<sup>2</sup> CURB also recommends the Commission disallow \$2,653.18 in expenses from Westar's Building Operator Certification Program.<sup>3</sup>

5. CURB next turns to the approval status of Westar's EE programs. CURB notes the program budgets for four of Westar's five EE programs will expire in 2014. Because these program budgets will expire this year, CURB states, "If Westar intends to continue to offer its programs beyond 2014, it should formally request Commission approval to continue the programs."<sup>4</sup>

6. CURB also argues Westar has not conducted Evaluation, Measurement, and Verification (EM&V) of its EE programs, in conformance with the Commission's Order in Docket No. 08-GIMX-442-GIV.<sup>5</sup> Therefore, CURB recommends "the Commission order Westar to conduct a complete EM&V in accordance with the 442 Docket with EM&V expenditures limited to 5% of the program budgets...available for review by Staff, CURB and Commission no later than September 1, 2015."<sup>6</sup>

### **B. Westar's Response to CURB's Reply**

7. On October 7, 2014, Westar filed its Response to CURB's Reply. In its Response, Westar addresses the disallowances recommended by CURB, the scope of the present

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<sup>2</sup> CURB's Reply to Staff's Report & Recommendation, September 29, 2014, pp. 4-5. (CURB Reply, pp. 4-5.)

<sup>3</sup> CURB Reply, p. 6.

<sup>4</sup> CURB Reply, pp. 10-11.

<sup>5</sup> Docket No. 08-GIMX-442-GIV, Order Following Collaborative on Benefit-Cost Testing and Evaluation, Measurement, and Verification, April 13, 2009, ¶ 149. (08-442 Order Following Collaborative, ¶ 149.)

<sup>6</sup> CURB Reply, p. 15.

proceeding, the approval status of its EE programs, and its responsibilities with regard to EM&V.

8. First, Westar notes that it does not object to CURB's proposed accounting adjustment. Westar does not discuss the merits of the disallowances, but does note the small size of the adjustment.<sup>7</sup>

9. Westar next argues that CURB's arguments regarding expired budgets and EM&V should not be considered in this docket. Westar notes the scope of this docket is limited to review of expenditures related to its EE programs. Therefore, Westar contends the approval status of its programs' budgets and the need for EM&V are extraneous issues that should not be considered within the context of this proceeding.<sup>8</sup>

10. Though it contends the above issues should not be addressed in this docket, Westar continues by responding to CURB's assertions regarding program budgets and EM&V. Westar rejects CURB's argument that its EE programs expire "after five years just because the Commission requires a five-year budget to be submitted" as part of the initial Application for each program's approval.<sup>9</sup> Westar explains that the five-year budget is simply an Application requirement, and the Commission has never otherwise explicitly required approved budgets for EE programs.<sup>10</sup>

11. Westar also contends it is not required to perform additional EM&V for any of its programs. For the SimpleSavings program, Westar states that an EM&V would not be useful or

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<sup>7</sup> Westar's Response to CURB's Reply to Staff's Report and Recommendation, October 7, 2014, ¶ 3. (Westar Response, ¶ 3.)

<sup>8</sup> Westar Response, ¶¶ 6-7.

<sup>9</sup> Westar Response, ¶ 9.

<sup>10</sup> Westar Response, ¶ 11.

worth the expense required to conduct it.<sup>11</sup> Furthermore, Westar argues that Staff is responsible for conducting any EM&V on the SimpleSavings program.<sup>12</sup>

12. Finally, Westar details the evaluation activities it has undertaken with regard to its other EE programs.<sup>13</sup> Westar also asserts it has “complied with its obligations to conduct EM&V in accordance with the guidance that has been provided by the Commission. If the Commission chooses to adjust or develop its rules regarding EM&V further in the future, Westar will adjust its methods for performing EM&V as necessary to comply with the new rules.”<sup>14</sup>

## **II. Staff’s Reply**

### **A. CURB’s Recommended Disallowances**

13. Staff agrees that sponsorship and corporate image advertising expenses are regularly disallowed by the Commission, as they are not required for the provision of sufficient and efficient electric service. However, in the context of this proceeding, these types of expenses are allowable when they are within the scope of a particular EE education program and further the goals of such program.

14. During the course of its audit, Staff reviewed the education program expenses contested by CURB. Generally, the expenditures maintain some nexus with the associated EE education programs, though the connection is not plainly apparent in every instance. For example, the expenditures include rewards for participating in the educational programs, advertise the educational program logos, or relate to promotional items given away as part of a larger educational effort.<sup>15</sup>

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<sup>11</sup> Westar Response, ¶ 13.

<sup>12</sup> Westar Response, ¶¶ 15-16.

<sup>13</sup> Westar Response, ¶ 17.

<sup>14</sup> Westar Response, ¶ 18.

<sup>15</sup> Staff notes the educational nature of the baseball cap expenditures cited by CURB is not readily apparent without further detail. The caps only include a Westar logo, not the logo for the associated EE educational program. However, the caps were provided in conjunction with an event where Westar was conducting educational activities.

15. However, because Westar does not object to CURB's adjustment, and is no longer seeking recovery of the associated costs, Staff will not address this issue further.

### **B. Scope of This Proceeding**

16. Staff largely agrees with Westar regarding the scope of the instant proceeding. This docket was opened on Westar's Application for determination of costs to be recovered through Westar's EE Rider. In short, this is an audit proceeding to ensure program expenditures are within the scope of the approved programs and are appropriate for recovery.

17. This docket should not be used as a vehicle to assess the overall approval status of Westar's programs or the need for EM&V of those programs. However, Staff notes CURB has raised legitimate concerns that are appropriate for consideration by the Commission. Therefore, Staff recommends the Commission limit its substantive determination in this docket to the amount to be recovered through Westar's EE Rider but also develop processes to address the issues raised by CURB in a timely fashion. Staff recommends specific processes in the sections below.

### **C. Approval Status of Westar's EE Programs**

18. Staff is uncertain of CURB's claim that four of Westar's five EE programs will expire in 2014. However, Staff does agree that the subject programs' five-year *budgets* will expire. Because of the uncertainty of this situation, Staff requires additional time to evaluate the legal effect of the expiration of the five-year budgets and whether Westar is required to maintain Commission-approved budgets for its programs. Furthermore, as noted above, this docket is not the appropriate proceeding to address this issue. Staff recommends the Commission open a generic docket to investigate the effect of Westar's expired EE program budgets and whether

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Therefore, while Staff prefers Westar to use the logo of its educational program, this specific expenditure appears to be sufficiently related to the educational program activities in this situation.

Westar should be required to seek approval of new budgets. Staff also recommends the Commission should note approval of Westar's programs at their 2014 budgeted levels while this issue is pending.

#### **D. Necessity for EM&V of Westar's EE Programs**

19. With regard to EM&V of Westar's EE programs, Staff has no recommendation on the sufficiency of any EM&V conducted by Westar or whether Westar is obligated to conduct further EM&V of its programs. Staff does note the specific process for conducting EM&V is outlined in Docket No. 10-GIMX-013-GIV (013 Docket). In that proceeding, the Commission stated:

Upon determination by Staff that an evaluation docket should be opened, Staff should file a motion to open a docket (or the Commission may open a docket via issuance of an appropriate order). The procedure in general would be as discussed herein, including Staff selection of an EM&V provider with input from the utility and other interested parties, planning of the EM&V process with the utility and other interested parties, and Staff's submission of a report and recommendation to the Commission. The Commission will then issue an order regarding selection of the EM&V provider and the recommended EM&V process and output. Upon performing the EM&V, the EM&V provider shall, via coordination through Staff, provide a draft version of the final report to Staff and the utility for informal comments and revisions. The EM&V provider will then file its completed final report with the Commission. Parties may submit comments and reply comments addressing the EM&V provider's final report. Staff may be directed to file a report and recommendation to the Commission addressing the EM&V final report and any comments and reply comments. The Commission will issue an order without a hearing. Parties may request a hearing following issuance of the Commission's order.<sup>16</sup>

20. As stated above, this issue exceeds the scope of this proceeding. However, in accordance with the procedure outlined in the 013 Docket, Staff will evaluate the need to open an evaluation docket for Westar's programs. Staff further commits to engage both Westar and

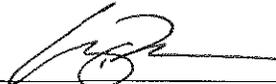
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<sup>16</sup> 10-GIMX-013-GIV, Order Adopting Energy Efficiency Program EM&V RFP and Procedures, October 4, 2010, ¶¶ 51-54. (10-013 Order, ¶¶ 51-54.)

CURB in this process. If EM&V is appropriate, given KCC policy and the current state of Westar's programs, Staff will file a motion to open a docket for such purpose.

WHEREFORE Staff submits its *Reply to CURB's Reply and Westar's Response* and recommends the Commission (1) accept CURB's proposed adjustments to Westar's EE Rider amount; (2) approve all expiring Westar EE program budgets on an interim basis at their current budgeted levels; (3) open a generic docket to investigate the effect of Westar's expired EE program budgets and whether Westar should be required to seek approval of new budgets; and (4) direct Staff to evaluate the need to open an evaluation docket for Westar's EE programs.

Respectfully submitted,



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STATE OF KANSAS        )  
  ) ss.  
COUNTY OF SHAWNEE    )

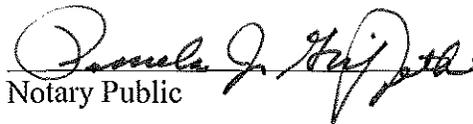
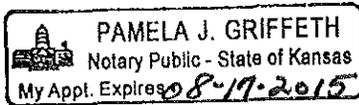
**VERIFICATION**

Andrew French, being duly sworn upon his oath deposes and states that he is Litigation Counsel for the State Corporation Commission of the State of Kansas, that he has read and is familiar with the foregoing *Commission Staff's Reply to CURB's Reply and Westar's Response* and that the statements contained therein are true and correct to the best of his knowledge, information and belief.



Andrew French # 24680  
Kansas Corporation Commission of the  
State of Kansas

Subscribed and sworn to before me this 9th day of October, 2014.



Notary Public

My Appointment Expires: August 17, 2015

## CERTIFICATE OF SERVICE

15-WSEE-021-TAR

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing Commission Staff's Reply to CURB's Reply and Westar's Response was served by electronic service on this 9th day of October, 2014, to the following:

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**CERTIFICATE OF SERVICE**

15-WSEE-021-TAR

  
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