

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. 16-WSEE-021-TAR
Commission Approval for Tariff Revisions)
to the 2015 Energy Efficiency Rider.)

STAFF'S RESPONSE TO CURB'S REPORT AND RECOMMENDATION

The Staff of the Kansas Corporation Commission (Staff and Commission, respectively) hereby states the following in response to The Citizens' Utility Ratepayer Board's (CURB's) Report and Recommendation (R&R) filed September 23, 2015:

I. Background

1. On July 15, 2015, Westar Energy, Inc., and Kansas Gas and Electric Company (Westar) filed proposed tariff revisions relating to its Energy Efficiency Rider (EER) pursuant to K.S.A. 66-117. Westar requested an EER rate of \$0.000228/kWh on monthly customer bills, based upon \$4,558,828 in net recoverable expenses under Westar's various energy efficiency programs.

2. On September 15, 2015, Staff filed an R&R recommending the Commission approve an EER for Westar to recover \$0.000235/kWh on monthly customer bills, based upon \$4,700,962 in net recoverable expenses under Westar's various energy efficiency programs.

3. On September 23, 2015, CURB filed a responsive R&R recommending the Commission approve an EER for Westar to recover \$0.000156/kWh on monthly customer bills, based upon \$3,096,009 in net recoverable expenses under Westar's various energy efficiency programs.

II. Points of Contention between Staff and CURB

4. There are two main points of contention between Staff and CURB.

5. The first point of contention relates to the recovery of \$1,597,077 in expenses for Westar's Energy Efficiency Demand Response (EEDR) program. According to CURB, the EEDR program's budget expired on December 9, 2014, pursuant to Docket No. 10-WSEE-141-TAR (10-141 Docket). Because Westar's current application seeks EER recovery of expenses incurred between July 1, 2014, and June 30, 2015, CURB recommends disallowance of all expenses incurred from December 10, 2014, to June 30, 2015.

6. Staff does not dispute that the budget has expired. However, Staff does not recommend disallowance of these expenses for three reasons.

7. First, the EEDR tariff is still in effect. The EEDR tariff is currently approved and on file with the Commission.¹ No evidence has been provided to indicate that a lapsed budget means the program should be halted or the tariff terminated. CURB implies such as result. Staff cannot find any support for these contentions in the 10-141 Docket and believes it would be unjust to require Westar to continue under the terms of its approved tariff but not receive expense recovery. The EEDR program was approved and the terms of the tariff have been deemed just and reasonable.² Lack of a budget should not be considered fatal to cost recovery under an approved tariff. Moreover, Westar has petitioned for budget approval in Docket No. 15-WSEE-532-MIS (15-532 Docket), indicating that it has not abandoned the program. Westar has clearly incurred expenses in relation to an approved program and should be able to recover until the Commission makes a determination in the 15-532 Docket.

¹See Order Approving Energy Efficiency Demand Response Rider, Docket No. 10-WSEE-141-TAR (Dec. 9, 2009).

²See Order Approving Energy Efficiency Demand Response Rider, Docket No. 10-WSEE-141-TAR (Dec. 9, 2009). In addition to the EEDR tariff being in effect, requiring Occidental Chemical Corporation (OxyChem) to utilize the EEDR was referenced in Westar and OxyChem's special contract. The OxyChem contract runs until May 22, 2018. Below is from section 4.7 of the redacted contract:

4.7 A. Customer agrees to continue to be served on the EEDR tariff for a term equal to the ESA and agrees to enroll and participate in the EEDR for a term equal to the ESA.

B. Interruptible Block #I shall be served pursuant to the rate and terms of the EEDR. The EEDR incentive credit is incorporated as part of the rates stated in Article 5 of this Agreement. The capacity in Interruptible Block #1 will be interruptible as provided in the EEDR.

8. Second, the presented expenses fall within reasonable limits. The original budget for the EEDR program was \$4,800,000 per year. Westar's claimed expense in this proceeding is \$3,568,246.³ This is not outside the realm of what was considered just and reasonable when the program was first approved.

9. Finally, as pointed out in Staff's R&R, the EER operates with a true-up mechanism, such that if the Commission concludes in the 15-532 Docket that programs should be discontinued or extended with diminished budgets, the Commission will be able to correct any over collection.

10. The second point of contention between Staff and CURB relates to \$7,876.11 in expenses Westar is attempting to recover through the EER rider that were incurred in Docket No. 15-WSEE-181-TAR. The expenses were incurred to engage the services of a consultant, Victor Eusebio, to assist with data request responses in relation to the WattSaver program. Staff considers these costs to be directly attributable to the administration of the WattSaver program, and as such, appropriate for recovery through the EER rider. CURB points out that the Commission expressed a desire in Docket No. 08-GIMX-441-GIV for "pre-implementation" costs to be recovered through traditional ratemaking. However, these costs are not "pre-implementation" costs. The WattSaver program was already implemented at the time these expenses were incurred and they can be directly traced to the administration of the program.

WHEREFORE, Staff respectfully moves that the Commission issue an order adopting Staff's recommendations filed September 15, 2015.

Respectfully submitted,



³See Notice of Filing of Staff's Report and Recommendation, p.5 (Sept. 15, 2015).

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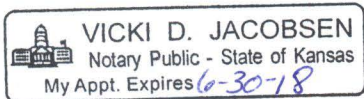
VERIFICATION

Michael Neeley, 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 *Staff's Response to CURB's Report and Recommendation* and that the statements contained therein are true and correct to the best of his knowledge, information and belief.



Michael Neeley # 25027
Kansas Corporation Commission of the
State of Kansas

Subscribed and sworn to before me this 28th day of September, 2015.


Notary Public

My Appointment Expires: June 30, 2018

CERTIFICATE OF SERVICE

16-WSEE-021-TAR

I, the undersigned, certify that a true and correct copy of the above and foregoing Staff's Response to Curb's Report and Recommendation was served via electronic service this 28th day of September, 2015, to the following:

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/s/ Vicki Jacobsen

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