

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

Before Commissioners: Thomas E. Wright, Chairman
 Joseph F. Harkins
 Ward Loyd

In the Matter of the Application of Westar)
Energy, Inc. and Kansas Gas and Electric)
Company for an Order Authorizing them to) Docket No: 10-WSEE-775-TAR
Participate in Efficiency Kansas, Approve the)
SimpleSavings Program Rider, and Related)
Cost Recovery.)

**ORDER ADOPTING REPORT AND RECOMMENDATIONS
OF PREHEARING OFFICER**

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The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed the files and records, and being duly advised in the premises, the Commission makes the following findings and conclusions:

I. Background Information

1. On June 4, 2010, Westar Energy, Inc. and Kansas Gas and Electric Company (Westar) filed an Application seeking authorization of the Commission to be a partner utility in the Efficiency Kansas Revolving Loan Program. Application, June 4, 2010, ¶ 2 (Application, ¶ 2). Westar also proposed a SimpleSavings Program Rider, and a shared savings mechanism along with a deferral of the shared net benefits from the proposed program for recovery in a future Energy-Efficiency Rider. Application, ¶¶ 3, 8-9. The Commission set a Prehearing

Conference to discuss procedural schedule for July 2, 2010, with Prehearing Officer Doeblin presiding. June 18, 2010 Order, ¶¶ 5-6. The Commission noted that the 240-day deadline for filing its Order is January 31, 2011. June 18, 2010 Order, ¶ 4. The Commission has jurisdiction over this Application under K.S.A. 66-117 and K.A.R. 82-1-231.

2. On July 2, 2010, during the Prehearing Conference, the parties proposed alternate procedural schedules, with Staff and Westar agreeing to a procedural schedule similar to a normal tariff filing, and CURB requesting a procedural schedule similar to other recent energy-efficiency dockets. Report and Recommendations of Prehearing Officer, July 14, 2010, ¶ 4 (Report and Recommendations, ¶ 4). The Prehearing Officer took the proposed schedules under advisement, and recommended a modified procedural schedule similar to CURB's proposal.

3. At the Prehearing Conference, the parties agreed to be served electronically in this docket, with no hard copy follow-up. Report and Recommendations, ¶ 3.

4. The Prehearing Officer addressed the need for a public hearing and notice to customers, as set forth in paragraphs 9 through 12 below. The Commission's Director of Communications and Director of Public Affairs and Consumer Protection recommended two public hearings be held in this docket, as discussed below.

5. On July 14, 2010, the Prehearing Officer issued a Report and Recommendations of Prehearing Officer. The Prehearing Officer recommended adoption of a modified version of CURB's proposed procedural schedule, with the addition of dates for public hearings and also for the Office of Public Affairs and Consumer Protection (PACP Office) to file reports of public comments, as discussed in paragraphs 6 and 13 through 15 below. Report and Recommendations, ¶ 22. Any party wishing to object to or comment on matters set forth in the

Report and Recommendations was to file a response by July 23, 2010, at 3:00 p.m. Report and Recommendations, ¶ 25. No responses were filed.

II. Procedural Schedule

6. The Commission finds the modified procedural schedule recommended by the Prehearing Officer to be reasonable. The Commission adopts the modified procedural schedule, which is as follows:

<u>Date</u>	<u>Time</u>	<u>Action</u>
August 13, 2010	3:00 p.m.	Westar Direct Testimony
September 15, 2010		PACP Office files initial report of Public Comments
September 22, 2010	6:00 p.m.	Public Hearing in Topeka
September 23, 2010	6:00 p.m.	Public Hearing in Wichita
October 1, 2010	3:00 p.m.	Staff and Intervenor's Direct Testimony
October 15, 2010	3:00 p.m.	Staff and Intervenor's Cross-Answering Testimony
October 29, 2010	3:00 p.m.	Westar Rebuttal Testimony
November 10, 2010	10:30 a.m.	Settlement Conference (3 rd Floor Hearing Room)
November 12, 2010	10:30 a.m.	Prehearing Conference (3 rd Floor Hearing Room)
November 12, 2010	3:00 p.m.	Discovery Cut-off
November 12, 2010	3:00 p.m.	List of Disputed Issues
November 12, 2010	3:00 p.m.	Prehearing Motions Cut-off
November 15, 2010	5:00 p.m.	Public Comment Period Ends
November 16, 2010		PACP Office files final report of Public Comments
November 22-23, 2010	10:00 a.m.	Evidentiary hearing (1 st Floor Hearing Room)
December 6, 2010	3:00 p.m.	Westar Initial Post-Hearing Brief
December 20, 2010	3:00 p.m.	Staff and Intervenor's Responsive Post-Hearing Briefs

<u>Date</u>	<u>Time</u>	<u>Action</u>
December 31, 2010	3:00 p.m.	Westar Reply Brief
January 31, 2011		Order Date

A. Prehearing Conference and Evidentiary Hearing

7. The Commission agrees with the Prehearing Officer that a prehearing conference will be needed before an evidentiary hearing to address any pending matters, to establish procedures to use during the Evidentiary Hearing, and to consider any other prehearing issues that will promote the orderly and prompt conduct of this proceeding. K.S.A. 77-517; K.A.R. 82-1-222. To this end, the Commission sets the Prehearing Conference for November 12, 2010, beginning at 10:30 a.m., in the Third Floor Hearing Room of the Commission's Offices, 1500 SW Arrowhead Road, Topeka, KS 66604-4027. Prehearing Officer Melissa Doeblin, telephone 785-271-3186, email address m.doeblin@kcc.ks.gov, will preside. Any party who fails to attend or participate in the Prehearing Conference or in any other stage of this proceeding may be held in default under the Kansas Administrative Procedure Act (KAPA). K.S.A. 77-516(c)(8); K.S.A. 77-520. At the Prehearing Conference, this proceeding without further notice may be converted into a conference hearing or a summary proceeding for disposition of the matter as provided by KAPA. K.S.A. 77-516(c)(7).

8. In addition to the Prehearing Conference discussed above, the Commission schedules the Evidentiary Hearing, with the Commission presiding, to begin on November 22, 2010, at 10:00 a.m., and continue, as needed and ordered by the Commission, through November 23, 2010, in the First Floor Hearing Room of the Commission's Offices, 1500 SW Arrowhead Road, Topeka, KS 66604-4027, telephone 785-271-3100. Any party who fails to attend or

participate in the hearing or in any other stage of this proceeding may be held in default under the KAPA. K.S.A. 2009 Supp. 77-518(c)(8); K.S.A. 77-520.

B. Public Hearings and Notice

9. At the Prehearing Conference, the Prehearing Officer advised the parties that the Commission has conducted public hearings in recent energy-efficiency dockets. Report and Recommendations, ¶ 11. The Commission's Director of Communications and Director of Public Affairs and Consumer Protection jointly recommended that two public hearings be held in this docket. The recommendation is as follows:

Wednesday, September 22, 2010, Topeka, KS 6:00 p.m. to 8:00 p.m.

Kansas Corporation Commission
1500 SW Arrowhead Road, First Floor Hearing Room
Topeka, KS 66604

Video conference site:

Pittsburg State University (KAN-ED Network Participant)
Kansas Technology Center, Room S110
Rouse and Ford Street
Pittsburg, KS 66762

Thursday, September 23, 2010, Wichita, KS 6:00 p.m. to 8:00 p.m.

WSU Eugene M. Hughes Metropolitan Complex
5015 E. 29th Street N (29th and Oliver, Entrance "C", east side of building)
Wichita, KS 67220

10. The Commission considered the discussion at the Prehearing Conference and recommendations by the Commission's Director of Communications and Director of Public Affairs and Consumer Protection about dates and locations. The Commission adopts the recommendation on public hearings, and orders that two public hearings be conducted in this docket as laid out in paragraph 9 above, with public hearings in Wichita and Topeka, with video conferencing at the Topeka public hearing linking to a satellite location in Pittsburg.

11. The Prehearing Officer recommended notice of the public hearings and Westar's Application be included in a bill insert with the monthly billing statement for each customer in Westar's service territory. Report and Recommendations, ¶ 16. The Commission adopts the recommendation of the Prehearing Officer on notice, and directs that the bill insert comply with the Commission's regulations and explain the opportunity for the public to submit comments regarding the proposed changes. After consulting with the Commission's Director of Communications and Director of Public Affairs and Consumer Protection, the Prehearing Officer shall approve the notice to be provided in the bill insert to the company's customers. The Prehearing Officer shall rule on any dispute regarding the bill insert.

12. The Prehearing Officer also recommended that Westar be required to provide information to the public about this proceeding by publishing notice in larger newspapers throughout its region. Report and Recommendations, ¶ 17. The Prehearing Officer recommended Westar propose a list of newspapers for publishing such notice, and work with the Director of Communication and Director of Public Affairs and Consumer Protection to determine the timing of publication and the newspapers in which notice will be published. The Commission orders and directs that notice be published in newspapers approved by the Director of Communications. After consulting with the Director of Communications and the Director of Public Affairs and Consumer Protection, the Prehearing Officer shall approve the notice to be provided in the newspapers. The Commission directs Westar to work with the Director of Communications to determine the timing of publication.

C. Public Comments

13. The Commission agrees with the Prehearing Officer's recommendation to encourage the public to submit comments concerning this docket via electronic mail and in

writing. The Commission directs that the public comment period begin immediately and end on November 15, 2010 at 5:00 p.m., which is seven business days before the Evidentiary Hearing begins on November 22, 2010.

14. As recommended by the Prehearing Officer, the Commission desires that its PACP Office provide an initial report that summarizes public comments received now through September 14, 2010, and file the initial report on September 15, 2010. The PACP Office shall provide a final report that summarizes public comments received between September 15, 2010 and November 15, 2010, and file the final report on November 16, 2010.

15. In addition, the Commission directs Westar, CURB, and the PACP Office to make information concerning the proceeding more accessible to the public through use of websites. The Commission directs these parties to include on their respective websites links and contact information to assist members of the public in easily identifying how to contact the PACP Office to submit public comments and to easily access filings made in this docket. To the extent practicable, parties are encouraged to include background information explaining this proceeding.

III. Electronic Service

16. The Commission adopts the agreement of the parties to use electronic service on each other, with confidential papers served either electronically if confidentiality can be retained, or by some other method such as providing information on a compact disc, for serving all testimony, briefs, and orders, with waiver of receipt of a follow-up hard copy as required in K.A.R. 82-1-216(a)(6). Electronic service shall occur on or before 3:00 p.m., on the date scheduled for service. The parties shall specify that this electronic service constitutes service and that a hard copy will not follow, in order to make clear that paper copies will not also be

provided. The parties are still required to file the original and seven paper copies with the Commission. K.A.R. 82-1-215(a). In addition, the parties shall include the Prehearing Officer with electronic service of briefs and testimony at m.doeblin@kcc.ks.gov.

IV. Agency Attorneys of Record

16. As required by the KAPA, the Commission notes that the attorneys designated to appear on behalf of the agency in this proceeding are Matt Spurgin, telephone number 785-271-3279, email address m.spurgin@kcc.ks.gov; and Colleen Harrell, telephone number 785-271-3138, email address c.harrell@kcc.ks.gov; 1500 SW Arrowhead Road, Topeka, Kansas 66604-4027. K.S.A. 2009 Supp. 77-518(c)(2); K.S.A. 77-516(c)(2).

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. The Commission adopts the procedural schedule recommended in the Report and Recommendations of Prehearing Officer, as set forth above in paragraph 6.

B. The Commission schedules the Prehearing Conference for November 12, 2010, beginning at 10:30 a.m., in the Third Floor Hearing Room of the Commission's Offices, 1500 SW Arrowhead Road, Topeka, Kansas 66604-4027, as set forth above in paragraph 7. Prehearing Officer Melissa Doeblin, telephone number 785-271-3186, email address m.doeblin@kcc.ks.gov, will preside.

C. The Commission schedules the Evidentiary Hearing, with the Commission presiding, to begin on November 22, 2010, at 10:00 a.m., and continue, as needed and ordered by the Commission, through November 23, 2010, in the First Floor Hearing Room of the Commission's Offices, 1500 SW Arrowhead Road, Topeka, Kansas 66604-4027, as set forth above in paragraph 8. Any party who fails to attend or participate in the hearing or in any other

stage of this proceeding may be held in default under the Kansas Administrative Procedure Act. K.S.A. 2009 Supp. 77-518(c)(8); K.S.A. 77-520.

D. The Commission orders that two public hearings be conducted in this docket, as set forth above in paragraphs 9 through 10. The first public hearing shall be held on September 22, 2010, beginning at 6:00 p.m., at the Kansas Corporation Commission, First Floor Hearing Room, 1500 SW Arrowhead Road, Topeka, Kansas 66604. The Commission orders that videoconferencing be used on September 22, 2010, beginning at 6:00 p.m., to connect the Topeka public hearing to a satellite location in Pittsburg, Kansas. The second public hearing shall be held on September 23, 2010, beginning at 6:00 p.m., at the WSU Eugene M. Hughes Metropolitan Complex, 5015 E. 29th Street N, Wichita, Kansas 67220.

E. The Commission orders that Westar provide notice to its customers of the public hearings through a bill insert included with the monthly billing statement for each customer in Westar's service territory. The Commission directs the Commission's Director of Communications and Director of Public Affairs and Consumer Protection to develop a proposed notice, and the Prehearing Officer share the draft notice with the parties. After receiving feedback, if any, from the parties, the Prehearing Officer shall consult with the Director of Communications and Director of Public Affairs and Consumer Protection, and shall approve the notice to be provided in the bill insert to the company's customers, as set forth above in paragraph 11.

F. The Commission also orders that Westar provide general information to the public about this proceeding by publishing notice in the larger newspapers throughout its region, as set forth above in paragraph 12. The Commission directs Westar to provide a list of

newspapers for publishing such notice, and work with the Director of Communications to determine the timing of publication and newspapers in which notice will be published.

G. The Commission encourages the public to submit comments concerning this docket via electronic mail and in writing. The Commission approves the use of websites to make information available and orders that the PACP Office, the Director of Communications and the Commission's Information Technology Staff work with the parties to further this effort, as set forth above in paragraph 15. In addition, the PACP Office shall receive public comments and provide summaries of those comments, as set forth above in paragraphs 13-14.

H. The Commission approves the use of electronic service of testimony and briefs among the parties, and for Orders of the Commission and the Prehearing Officer, without follow-up hard copies, but continues to require the filing of the original and seven paper copies with the Commission, as set forth above in paragraph 16.

I. The Commission orders service of this order be made by electronic mail, with a note that no hard copy of this Order will follow. This is a procedural order and constitutes non-final agency action. K.S.A. 77-607(b)(2). Parties have 15 days from the date of electronic service of this Order in which to petition the Commission for reconsideration. K.S.A. 66-118b; K.S.A. 2009 Supp. 77-529(a)(1).

J. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further order or orders as it may deem necessary.

BY THE COMMISSION IT IS SO ORDERED.

Wright, Chairman; Harkins, Commissioner; Loyd, Commissioner

Dated: JUL 28 2010

ORDERED MAILED

JUL 28 2010

Susan Duffy EXECUTIVE
DIRECTOR

Susan K. Duffy
Executive Director

mrđ

CERTIFICATE OF SERVICE

10-WSEE-775-TAR

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing Order Adopting Report and Recommendations of Prehearing Officer was served by electronic mail this 28th day of July, 2010, to the following parties who have waived receipt of follow-up hard copies:

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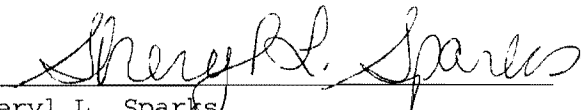
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