

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

Before Commissioners: Shari Feist Albrecht, Chair
 Jay Scott Emler
 Pat Apple

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.)

ORDER APPROVING TARIFF REVISIONS TO 2015 ENERGY EFFICIENCY RIDER

This matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed its files and records, the Commission makes the following findings:

1. On July 15, 2015, Westar Energy, Inc. and Kansas Gas and Electric Company (Westar) filed an Application for approval of tariff revisions to its 2015 Energy Efficiency Rider (EER) and for recovery of costs associated with its various energy efficiency programs. Westar requested an EER rate of \$0.000228/kWh on monthly customer bills, based upon \$4,558,828 in net recoverable expenses under its various energy efficiency programs.

2. The EER is designed to recover costs associated with Commission-approved energy efficiency programs deferred over a twelve-month period ending in June of each year plus any true-up amount from the prior period.¹ Westar's Application seeks recovery of costs incurred in relation to Commission-approved demand response and energy efficiency programs in the amount of \$4,558,828, which includes unrecovered expenses of \$4,700,093 incurred from

¹ Notice of Filing of Staff Report and Recommendation (Staff R&R), Sept. 15, 2015, p. 1.

the period of July 1, 2014, through June 30, 2015, and over-recovered costs of \$141,265 incurred from the prior period.²

3. On September 15, 2015, Staff filed a Report and Recommendation (R&R) recommending approval of Westar's Application, as revised by Staff, in an EER amount of \$4,700,962. Staff further recommended the Commission require Westar to file for approval of its next EER in July 2016, and utilize Staff's recommended methodology for calculating the annual true-up in future EER filings.³

4. On September 23, 2015, the Citizens' Utility Ratepayer Board (CURB)⁴ filed its Reply to Staff's R&R, recommending: (1) disallowance of \$1,597,077 in expenses for Westar's Energy Efficiency Demand Response (EEDR) program, incurred after the expiration of the program's Commission-approved five-year budget; (2) disallowance of \$137 in expenses for Westar's Simple Savings program, incurred after the expiration of the program; (3) disallowance of \$7,876.11 in expenses associated with Westar's Application in Docket No. 15-WSEE-181-TAR (15-181 Docket); (4) approval of Staff's corrections to Westar's true-up calculation; and (5) allowing Westar to recover \$3,096,009 through its EER, resulting in an EER rate of \$0.000156 per kWh.⁵

5. On September 28, 2015, Staff filed its Response to CURB's Reply to Staff's R&R, identifying two main points of contention between Staff and CURB: (1) Staff disagrees with CURB's contention that because Westar's EEDR program's budget expired on December 9, 2014, all expenses incurred from December 10, 2014 to June 30, 2015, should be disallowed; and (2) Staff considers the \$7,876.11 in expenses to be directly attributable to the administration

² *Id.*, pp. 1-2.

³ *Id.*, p. 1.

⁴ On August 27, 2015, CURB was granted intervention.

⁵ Notice of Filing of CURB's Reply to Staff's Report and Recommendation, Sept. 23, 2015, p. 2.

of the WattSaver program, and appropriate for recovery through the EER, whereas CURB believes those costs are associated with the 15-181 Docket.⁶

6. On October 5, 2015, Westar filed its Response to CURB's Reply to Staff's R&R, agreeing with Staff's positions.⁷ But Westar differs from Staff in arguing its EEDR program has not expired. Westar also disputes CURB's suggestion that costs incurred to perform EM&V for the WattSaver program are "pre-implementation" costs to be recovered through traditional ratemaking.⁸ Since the WattSaver program was already in effect when the disputed costs were incurred, Westar asserts those costs incurred by its consultant are directly related to the administration of the WattSaver program and appropriately recovered through the EER.⁹

7. On October 7, 2015, CURB filed its Response to the Commission Staff's Response to CURB's Report and Recommendation and Westar Energy, Inc. and Kansas Gas and Electric Company's Response to CURB's Reply to Staff's Report and Recommendation, claiming because Westar chose not to submit a budget for its energy efficiency programs in accordance with the guidelines established in Docket No. 08-GIMX-441-GIV, it cannot expect to recover \$1,597,077 in expenses incurred outside of a Commission-approved budget.¹⁰ CURB contends requiring ratepayers to provide \$1,597,077 for program costs that the Commission has not determined are appropriate for recovery would be "unjust" and expresses its concerns that if these costs are later disallowed, there may be no legal way to return these dollars to ratepayers.¹¹

⁶ Staff's Response to CURB's Report and Recommendation, ¶ 10.

⁷ Westar Energy, Inc. and Kansas Gas and Electric Company's Response to CURB's Reply to Staff's Report and Recommendation, Oct. 5, 2015, ¶ 7.

⁸ *Id.*, ¶ 11.

⁹ *Id.*

¹⁰ CURB's Response to the Commission Staff's Response to CURB's Report and Recommendation and Westar Energy, Inc. and Kansas Gas and Electric Company's Response to CURB's Reply to Staff's Report and Recommendation, Oct. 7, 2015, ¶ 2.

¹¹ *Id.*, ¶¶ 4-5.

CURB's Response did not specifically address disallowance of \$7,876.11 in expenses associated with Westar's application in the 15-181 Docket.

8. The first issue for the Commission to address is whether Westar's EEDR program's budget expired on December 9, 2014, and if so, whether all expenses incurred from December 10, 2014 to June 30, 2015, should be disallowed.

9. Westar claims that just because the Commission requires a five-year budget to be submitted with the initial Application, it does not follow that the approved energy efficiency program expires after five years. Westar offers no legal authority in support of its position. Both Staff and CURB believe that the EEDR program budget expired on December 9, 2014.

10. Even though the budget expired, it does not automatically follow that expenses associated with the program should be disallowed. While the budget has expired, the EEDR tariff approved by the Commission's Order Approving Energy Efficiency Demand Response Program Rider issued on December 9, 2009,¹² is still in effect. The Order does not include any provisions that would terminate the program or the tariff in the event of a lapsed budget.

11. In Docket No. 15-WSEE-532-MIS, Westar is requesting approval of interim budgets for its Energy Efficiency Programs, including its EEDR. Therefore, Westar intends to continue its EEDR program. Since Westar is operating under an approved tariff, it is still entitled to recover its expenses. Westar has incurred expenses related to its EEDR program, which it is entitled to recover provided those expenses are prudently incurred.

12. CURB does not claim Westar's expenses associated with the EEDR are imprudent. Staff advises the expenses are just and reasonable as they are below the original

¹² See Order Approving Energy Efficiency Demand Response Program Rider, Docket No. 10-WSEE-141-TAR, Dec. 9, 2009.

budget.¹³ Westar's claimed expenses of \$3,568,246 are well below the \$4,800,000 originally budgeted from the EEDR program.¹⁴

13. Based on its audit of Westar's EER Application, Staff concluded the costs incurred in relation to Commission-approved demand response and energy efficiency programs were effectively recorded by Westar for these programs from July 1, 2014 through June 30, 2015.¹⁵ The Commission finds that Westar has incurred expenses related to its EEDR program, and that those expenses are just and reasonable as they are below the original budget.¹⁶

14. The second issue presented relates to the \$7,876.11 in expenses incurred in Docket No. 15-WSEE-181-TAR that Westar seeks to recover through its EER. The challenged expenses were paid to Victor Eusebio, a consultant hired to assist with data request responses related to the WattSaver program. CURB appears to be contesting recovery of the expenses paid to Eusebio based on its belief "that program pre-implementation costs be handled via traditional rate-making."¹⁷ Since the WattSaver program had already been implemented before Eusebio incurred his expenses, the Commission concludes these costs are not "pre-implementation" costs. Instead, Eusebio's work appears to be directly attributable to the administration of the WattSaver program. Therefore, the challenged \$7,876.11 in expenses is appropriately recovered through the EER.

15. In calculating the true-up, Westar multiplied the actual monthly kilowatt hour usage under the current EER rate, replicating the amount of monthly revenue that should have

¹³ Staff's Response to CURB's Report and Recommendation, Sept. 28, 2015, ¶ 8.

¹⁴ *Id.*

¹⁵ Staff R&R, p. 2.

¹⁶ Staff's Response to CURB's Report and Recommendation, Sept. 28, 2015, ¶ 8.

¹⁷ Notice of Filing of CURB's Reply to Staff's Report and Recommendation, p. 7.

been billed to customers, before comparing that figure to the amount of revenue recorded to its billing system with the difference described as the over/under-recovery for the month.

16. Staff determined that this calculation fails to compare the monthly revenue Westar was authorized to collect with the monthly revenue actually collected, and therefore does not achieve the desired true-up. Therefore, Staff recommended a revised true-up calculation, where the projected monthly kilowatt hour usage is multiplied by the current EER rate, resulting in the monthly revenue that Westar is authorized to collect. After calculating the monthly revenue Westar is authorized to collect, Staff compared it to the monthly revenue actually collected, with the difference being the over/under-recovery for the month. Westar agrees with Staff's revised true-up methodology and subsequently submitted a revised calculation of its 2015 EER. The revised calculation incorporated the correct true-up amount which is an under-recovery of \$28,970.

17. The Commission adopts Staff's revised true-up methodology.

THEREFORE, THE COMMISSION ORDERS:

A. Westar's EER amount of \$4,700,962 is approved, conditioned on Westar filing for approval of its next EER in July 2016, and utilizing Staff's recommended methodology for calculating the annual true-up in future EER filings.

B. Electronic service will be used in this proceeding, including this Order.

C. The parties have 15 days from the date this Order was served electronically to petition for reconsideration.¹⁸

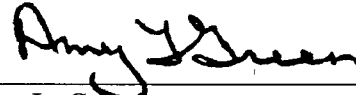
D. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further orders as it deems necessary.

¹⁸ K.S.A. 66-118b; K.S.A. 77-529(a)(1).

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Apple, Commissioner.

Dated: NOV 19 2015



Amy L. Green
Secretary to the Commission

BGF

EMAILED

NOV 19 2015

CERTIFICATE OF SERVICE

16-WSEE-021-TAR

I, the undersigned, certify that a true copy of the attached Order has been served to the following parties by means of

Electronic Service on NOV 19 2015

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