

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

Before Commissioners: Mark Sievers, Chairman
Ward Loyd
Thomas E. Wright

In the Matter of the Application of Westar)
Energy, Inc. for Approval of an Accounting)
Authority Order to Record and Defer Costs) Docket No: 11-WSEE-610-ACT
Related to Westar Energy's SmartStar)
Lawrence Project.)

**ORDER APPROVING APPLICATION FOR
ACCOUNTING AUTHORITY ORDER**

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

I. Background

1. On March 2, 2011, Westar Energy, Inc. (Westar) filed an Application requesting the Commission approve an Accounting Authority Order (AAO) to allow Westar to record and defer costs related to the development of its SmartStar Lawrence project. Application, March 2, 2011 (Application). Westar requests authority to: (1) defer expenses as a regulatory asset associated with this project in a separate sub account of 182.3, Regulatory Assets; (2) defer depreciation expense on capital investments, including smart meters and software development; and (3) earn a deferred return on investment at Westar's authorized return on rate base. Application, ¶ 6. Westar asked that it recover the amount deferred in the Regulatory Assets sub account through its Energy-Efficiency Rider (EER) in a future EER filing or amortized following a general rate review proceeding. Application, ¶ 7.

2. Westar stated it will install and implement smart meters for approximately 45,000 customers in the city of Lawrence, Kansas, so customers can monitor energy use and costs on a daily basis. Application, ¶ 4. The project will include an outage management system to determine the cause and location of power outages easier to restore service quicker. Application, ¶ 4. Westar received a Smart Grid Investment Grant of approximately \$19 million from the United States Department of Energy under the American Recovery and Reinvestment Act of 2009, which permits Westar to implement the \$39.5 million estimated project over a three-year period. Application, ¶¶ 3-4, 8.

3. Westar stated smart grid will benefit customers by enhancing service reliability and response to outages, making energy information available on daily basis, providing a robust web portal, enhancing two-way communication with thermostats, and providing optional services such as email and text alerts. Application, ¶ 5. Westar stated smart grid will benefit the company by providing advanced management tools for outage restoration, better utilization of existing electric system assets, operational efficiencies for meter reading and customer service, and an improved ability to meet changing customer expectations. Application, ¶ 6. Westar stated the expected customer benefits support deferral of costs to match timing of benefits with costs of the project, which provides the opportunity to compare the total project cost with benefits of pursuing smart grid in Kansas. Application, ¶ 11.

4. The Commission suspended the Application for a period of 240 days from the date the Application was made until October 28, 2011. K.S.A. 66-117(c). The Citizens' Utility Ratepayer Board (CURB) was granted intervention in the docket. Order Granting Petition for Intervention, July 1, 2011.

II. Discussion

A. Staff Report & Recommendation and CURB Response

5. The Commission Staff reviewed Westar's Application, and recommended the Commission approve an AAO and: (1) allow Westar to accumulate non-labor expenses, without carrying charges, associated with the project, since Westar's internal labor expenses are already included in base rates; (2) deny the request to defer depreciation expense and carrying charges on the capital investment portion of the project; and (3) examine deferred expenses in Westar's next rate case and not through an EER. Staff Report and Recommendation, June 30, 2011, pages 2, 7-8 (Staff Report, pp. 2, 7-8). As to the first recommendation, Staff stated the amount eligible for deferral was \$2,205,902, which Staff did not view as material enough to warrant accumulation of carrying charges, as it was 1.08% of Westar's 2010 reported net income and 0.22% of Westar's non-fuel operating expenses. Staff Report, pp. 8-9. Staff stated the Commission has allowed Westar to only record carrying charges on a regulatory asset related to ice storm events in the last five years, which caused Westar to invest a lot to restore service and repair its system. Staff Report, p. 9.

6. As to the second recommendation, Staff stated the Commission has not typically allowed deferral of depreciation and carrying charges related to capital investments in regulatory assets. Staff stated capital investments are seldom included in AAO requests because changes in the utility's plant, property and equipment are generally expected to be part of a utility's finances between rates cases. Staff concluded it was unnecessary and inequitable to allow Westar to accumulate carrying charges because of the level of savings Westar expects to realize, which can be used to offset incurred costs between rate cases. Staff Report, pp. 9-10.

7. As to the third recommendation, Staff stated the project is not primarily an energy-efficiency program, since the energy-efficiency aspects are far outweighed by the greater operational and financial efficiencies Westar is acquiring. Staff Report, pp. 11-12. Staff stated if the Commission later approved SmartStar as an energy-efficiency program, the pilot project costs are pre-implementation costs which the Commission would examine through traditional rate-making and not an EER. Staff Report, p. 12.

8. CURB opposed Staff's recommendation to approve the AAO, stating that the Commission should deny Westar's request as it is not appropriate in these circumstances and that Westar should argue for recovery of test-year costs in its upcoming rate case. CURB's Response to Staff's Report and Recommendation, July 20, 2011, pages 2, 6 (CURB Response, pp. 2, 6). CURB's reasons for opposition include: (1) test-year program expenses should be considered for recovery in Westar's rate case; (2) CURB generally opposes AAOs to preserve costs for future consideration except in extraordinary circumstances, (3) moderate expenditures as part of ongoing projects should be built into base rates rather than recovered on a piecemeal basis, and (4) it is inappropriate to approve cost recovery in advance of an initial review of reasonableness of the costs of the program. CURB Response, pp. 3-4.

9. CURB stated that if the Commission were to approve Staff's recommendation to approve the AAO, CURB agreed with Staff's recommendations to: (1) not include internal labor costs for inclusion in the regulatory asset because those are already included in base rates and the potential for over-recovery would be present; (2) not allow Westar to include carrying charges in the regulatory asset since the amount is small and should not be eligible for extraordinary treatment afforded by an AAO; (3) deny Westar's request to accumulate depreciation expense; and (4) not allow Westar to recover costs through its EER. CURB Response, pp. 1-2.

B. Westar's Response and Staff's Reply

10. Westar agreed with Staff's recommendation regarding deferral of non-labor expenses, but argued it should be allowed to record carrying charges and depreciation of the project's assets. Responsive Comments to Staff's Report and Recommendation, August 15, 2011, paragraph 6 (Westar Response, ¶ 6). Westar disagreed with Staff's recommendation to defer non-labor expenses without carrying charges, specifically with respect to the issue of whether carrying charges should be permitted on deferred expenses and the capital investment of the project. Westar Response, ¶ 6. Westar noted other instances when the Commission authorized Westar to defer and accrue a carrying charge on deferred amounts. Westar Response, ¶ 7.

11. Westar also disagreed with Staff's recommendation against deferral of depreciation expense. Westar stated that deferral will permit concurrent matching of depreciation expense incurred and realized benefits from the project, which aligns cost recognition and recovery following completion of the project. Westar Response, ¶ 10.

12. Staff reiterated that deferral of depreciation expenses and accrual of carrying charges should not be approved by the Commission. Staff's Reply to Westar's Responsive Comments to Staff's Report and Recommendation, August 25, 2011, paragraph 4 (Staff Reply, ¶ 4). Staff stated the nature of the expenses in the present Application do not warrant carrying charges, and that asking Westar to carry the costs of depreciation expense on capital projects until rates can become effective after the next rate case is appropriate. Staff Reply, ¶¶ 5-6, 15.

III. Findings and Conclusions

13. After reviewing the pleadings by the parties and evaluating the positions, the Commission finds and concludes that Westar's Application for an Accounting Authority Order

should be approved pursuant to Staff's recommendations contained in Staff's Report and Recommendation filed June 30, 2011. In particular, the Commission agrees with Staff's position that the SmartStar expenses presented in this Application do not warrant carrying charges at this time, and seeks to further examine these expenses in Westar's pending rate case, as discussed below. The Commission requests Westar continue to report back to the Commission concerning implementation of the SmartStar Lawrence project, particularly with respect to its focus on energy savings and the extent to which customers are given the opportunity to better control energy usage.

14. The Commission expresses its concern for the extended processing time taken to evaluate what accounting treatment should be afforded Westar's investment in the SmartStar Lawrence Project in this docket. In order to allow the Commission to further examine this issue, the Commission directs its Staff, Westar and CURB to propose a policy or practice for accounting treatment of depreciation, carrying costs and recovery through traditional rate-making processes as compared to an EER, for expense items such as the SmartStar Lawrence project, and submit these proposals for the Commission's consideration in Westar's pending rate case, Docket No. 12-WSEE-112-RTS. The Commission requests the proposal include the appropriate treatment of investments made by Westar between rate cases and provide a recommendation about how Commission decisions in such matters can be standardized and/or addressed on a timelier basis. The Commission intends to limit its consideration to Westar's AAO requests in Westar's rate case. The Commission directs the Prehearing Officer to work with Staff, Westar and CURB in Docket No. 12-WSEE-112-RTS to modify the procedural schedule to allow for filing of supplemental testimony to address this issue.

15. The Commission's determination with respect to the accounting treatment of the SmartStar Lawrence project is not intended to be designated as precedent under 2011 House Bill No. 2027, (b)(2)(A), *amending* K.S.A. 2010 Supp. 77-415, and thus may not be relied upon in any subsequent adjudication. The Commission intends to examine this issue further and articulate a policy in Westar's pending rate case, Docket No. 12-WSEE-112-RTS.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. Westar's Application for an Accounting Authority Order allowing Westar to record and preserve costs related to the development of its SmartStar Lawrence project is hereby approved, based upon Staff's recommendation, such that: (1) Westar is allowed to accumulate the non-labor expenses associated with its SmartStar Lawrence project, without carrying charges, in a sub-account of 182.3, Other Regulatory Assets; (2) Depreciation expense and carrying charges associated with the capital investments incurred as part of SmartStar Lawrence are denied at this time, and deferred for Commission consideration in Westar's pending rate case, Docket No. 12-WSEE-112-RTS; and (3) Recovery of costs should not be recovered through Westar's Energy-Efficiency Rider, but instead should be examined in Westar's next rate case. The Commission intends to limit its consideration to Westar's AAO requests in Westar's rate case, as set forth above in paragraph 14. The Commission directs the Prehearing Officer to work with Staff, Westar and CURB in Docket No. 12-WSEE-112-RTS to modify the procedural schedule to allow for filing of supplemental testimony to address this issue.

B. The Commission directs its Staff, Westar and CURB to propose a policy or practice for accounting treatment of depreciation, carrying costs and recovery through traditional rate-making processes as compared to an EER, for expense items such as the SmartStar

Lawrence project, and submit these proposals for the Commission's consideration in Westar's pending rate case, Docket No. 12-WSEE-112-RTS, as set forth above in paragraph 14.

C. The Commission's determination with respect to the accounting treatment of the SmartStar Lawrence project is not intended to be designated as precedent under 2011 House Bill No. 2027, (b)(2)(A), *amending* K.S.A. 2010 Supp. 77-415, and thus may not be relied upon in any subsequent adjudication.

D. Parties have 15 days, plus three days if service of this Order is by mail, from the date of service of this Order in which to petition the Commission for reconsideration. K.S.A. 66-118b; K.S.A. 2010 Supp. 77-529(a)(1).

E. 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 and proper.

BY THE COMMISSION IT IS SO ORDERED.

Sievers, Chairman; Loyd, Commissioner; Wright, Commissioner

Dated: OCT 19 2011


ORDER MAILED OCT 20 2011

Patrice Petersen-Klein
Executive Director

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PLEASE FORWARD THE ATTACHED DOCUMENT (S) ISSUED IN THE ABOVE-REFERENCED DOCKET TO THE FOLLOWING:

NAME AND ADDRESS	NO. CERT. COPIES	NO. PLAIN COPIES
NIKI CHRISTOPHER, ATTORNEY CITIZENS' UTILITY RATEPAYER BOARD 1500 SW ARROWHEAD ROAD TOPEKA, KS 66604 ***Hand Delivered***		
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MARTIN J. BREGMAN, EXEC DIR, LAW WESTAR ENERGY, INC. 818 S KANSAS AVENUE PO BOX 889 TOPEKA, KS 66601-0889		

ORDER MAILED OCT 20 2011

The Docket Room hereby certified that on this _____ day of _____, 20_____, it caused a true and correct copy of the attached ORDER to be deposited in the United States Mail, postage prepaid, and addressed to the above persons.

PLEASE FORWARD THE ATTACHED DOCUMENT (S) ISSUED IN THE ABOVE-REFERENCED DOCKET TO THE FOLLOWING:

NAME AND ADDRESS	NO. CERT. COPIES	NO. PLAIN COPIES
CATHRYN J. DINGES, CORPORATE COUNSEL WESTAR ENERGY, INC. 818 S KANSAS AVENUE PO BOX 889 TOPEKA, KS 66601-0889		

ORDER MAILED OCT 20 2011

The Docket Room hereby certified that on this ____ day of _____, 20____, it caused a true and correct copy of the attached ORDER to be deposited in the United States Mail, postage prepaid, and addressed to the above persons.