BEFORE THE

STATE OF KANSAS
STATE CORPORATION COMMISSION

In the Matter of the Applications of Westar Energy, Inc., and Kansas Gas and Electric Company for Approval to Make Certain Changes in their Charges for Electric Service	)))))	**Docket No. 08-WSEE-1041-RTS**

DIRECT TESTIMONY OF MICHAEL J. MAJOROS, JR.

ON BEHALF OF

THE CITIZENS' UTILITY RATEPAYER BOARD
KANSAS INDUSTRIAL CUSTOMERS
UNIFIED SCHOOL DISTRICT #259

September 29, 2008

Introduction

Q. State your name, position, and business address.

A. My name is Michael J. Majoros, Jr. I am Vice President of Snavely King Majoros O'Connor & Bedell, Inc. ("Snavely King"), located at 1111 14th Street, N.W., Suite 300, Washington, D.C. 20005.

Q. Describe Snavely King.

A. Snavely King is an economic consulting firm founded in 1970 to conduct research on a consulting basis into the rates, revenues, costs, and economic performance of regulated firms and industries. Snavely King represents the interests of government agencies, businesses, and individuals who are consumers of telecom, public utility, and transportation services.

We have a professional staff of twelve economists, accountants, engineers and cost analysts. Most of our work involves the development, preparation, and presentation of expert witness testimony before Federal and state regulatory agencies. Over the course of our 38-year history, members of the firm have participated in more than 1,000 proceedings before almost all of the state commissions and all Federal commissions that regulate utilities or transportation industries.

Q. Have you prepared a summary of your qualifications and experience?

A. Yes, Appendix A is a summary of my qualifications and experience. Appendix B contains a tabulation of my appearances as an expert witness before state and Federal regulatory agencies.

Q. For whom are you appearing in this proceeding?

A. I am appearing on behalf of the following consortium of clients: Citizens' Utility Ratepayer Board ("CURB"); Kansas Industrial Customers ("KIC"); and Unified School District No. 259 (Sedgwick County, Kansas.)

Subject and Purpose of Testimony

Q. What is the subject of your testimony?

A. My testimony addresses depreciation.

Q. What is the purpose of your testimony?

A. My testimony presents the results of my review of and my opinion concerning the reasonableness of Westar Energy, Inc.'s and Kansas Gas and Electric Company's (collectively, "Westar" or "the Company") depreciation proposals.

Q. Do you have any specific experience in the field of public utility depreciation?

A. Yes, I and other members of my firm specialize in the field of public utility depreciation. We have appeared as expert witnesses on this subject before the regulatory commissions of almost every state in the country. I have testified in over one hundred proceedings on the subject of public utility depreciation and represented various clients in several other proceedings in which the parties settled the depreciation. I have also negotiated on behalf of clients in fifteen of the Federal Communications Commission's ("FCC") Triennial Depreciation Represcription conferences.

Q. Have you ever appeared before the Kansas State Corporation Commission ("KCC")?

A. Yes, I have appeared before the KCC on several occasions, including appearances on behalf of Staff as well as my clients in this proceeding.

Q. Do you have any prior experience involving Westar?

A. Yes, I have participated in Westar's last two rate cases, Docket Nos. 01-WSRE-436-RTS and 05-WSEE-981-RTS. In both cases, I prepared a Westar depreciation study as a basis for my testimony.

Westar's Present Depreciation Rates

Q. What is the source of the Westar's current depreciation rates?

A. The Kansas Corporation Commission ("KCC") established the current depreciation rates in Docket No. 05-WSEE-981-RTS.

Q. What was the outcome of that case?

A. Exhibit___ (MJM-1) shows the current depreciation rates. The current production plant rates are straight line remaining life depreciation rates using the life-span procedure to compute the average remaining life. These rates include interim future net salvage but no terminal future net salvage.[1] The current transmission, distribution and general plant depreciation rates are straight-line remaining life depreciation rates, using the average service life ("ASL") procedure.[2] These rates also incorporate future net salvage. Effectively, the Commission approved all of Company's average service lives in the transmission, distribution, and general functions and all of the Company's net salvage requests.[3]

Q. Can Westar explain how the current rates, which it states are reasonable, were calculated?

A. No, Westar does not even know how those rates were calculated. In response to CURB 206 and 208 (attached as Exhibit___(MJM-2)), Westar states it does not

[1] See response to KCC-90.
[2] Docket No. 05-WSEE-981-RTS, Spanos Direct Testimony, p. 9.

know how the rates were calculated – citing to calculations made by Staff Witness Mr. Holloway.

Q. Did Westar ever use the new depreciation rates for production plant?

A. No, Westar has not utilized all of its KCC-approved production plant depreciation rates since sometime prior to August 2001.[4] Instead, it used its financial book depreciation rates for regulatory accounting purposes.

Q. What is a financial book depreciation rate?

A. This is the depreciation rate Westar uses to prepare its financial statements for its shareholders and the Securities and Exchange Commission. Westar's financial books are prepared in conformance with Generally Accepted Accounting Principles ("GAAP"). Westar's regulatory books are prepared in conformance with the regulatory accounting principles codified in the FERC Uniform System of Accounts, as modified by the KCC for ratemaking purposes in Kansas.

Westar's Proposed Depreciation Adjustments

Q. Will you summarize the Company's depreciation rate proposals in this proceeding?

A. Mr. John Spanos of Gannett Fleming sponsors incomplete depreciation studies for Westar North and Westar South. His studies are incomplete because they only include steam and wind production plant. Mr. Spanos's incomplete studies would increase annual depreciation expense by $9.7 million for Westar North and $10.2 million for Westar South, relative to current depreciation rates it apparently

[3] Docket No. 05-WSEE-981-RTS, *Order on Rate Applications*, Issued December 28, 2005, p. 45.
[4] Kongs Testimony ("Kongs"), pp. 6-9.

does not use.[5] Westar also proposes several adjustments driven by the fact that it did not implement depreciation rates ordered by this Commission. It states that it did not adopt the ordered depreciation rates because they would cause it "to be out of compliance with Generally Accepted Accounting Principles (GAAP)."[6]

Conclusions

Q. Do you agree with the Company's depreciation proposals?

A. No. Westar failed to meet its burden of proof by virtue of filing an incomplete depreciation study to support a significant increase. If Westar wants to have its depreciation rates reviewed, it should submit all of its depreciation rates for review, not just the ones it wants to increase. The KCC should deny Westar's depreciation rate increases. Second, I disagree with several of Westar's depreciation adjustments relating to its failure to adopt depreciation rates ordered by this Commission. It bases these adjustments on a faulty premise concerning the relationship of GAAP and regulatory accounting, they represent retroactive ratemaking, and they are an affront to the Commission's authority.

Burden of Proof

Q. Who has the burden of proving that the KCC should increase Westar's depreciation rates?

A. Westar has the burden of proof.

Q. Why does Westar have the burden of proof?

A. The KCC enunciated the burden of proof in Docket No. 02-KGSG-329-PGA. It stated:

[5] Kongs, pp. 5-6.
[6] Kongs, pp. 6-9.

> 5. Generally, the burden of proof can refer to either the burden of persuasion or the burden of going forward with evidence. Under Kansas rules of evidence, the term "burden of proof" is synonymous with "the burden of persuasion." K.S.A. 60-401(d). The burden of persuasion means a party has an obligation to meet the requirements of a rule of law that the fact to be established must be proven by a requisite degree of belief. K.S.A. 60-401(d). As a general rule, burden of persuasion or the burden of proof lies with the party who initiates an action. The initiating party must prove the allegations of its application by a preponderance of the evidence. *In re Estate of Robison, 236 Kan. 431,439, 690 P.2d. 1383 (1984).*[7]

In this case, Westar is proposing to increase its depreciation rates and the resulting expense by approximately $20 million, which it would pass on to ratepayers. Consequently, Westar has the burden of proof and persuasion that such increase is appropriate.

Q. Has Westar met its burden of proof?

A. In my non-legal opinion, but as an expert in the field, Westar has not met its burden of proof. Mr. Spanos's incomplete depreciation study does not persuade me that Westar's depreciation expense should be increased by $20 million.

Incomplete Study

Q. Why did Mr. Spanos file an incomplete study?

A. Exhibit___ (MJM-3) is the Company's response to CURB-139 and the response to KCC-260, to which its response to CURB referred. Staff asked why the study did not include the transmission, distribution and general plant accounts. Westar's answer effectively says that it did not agree with the steam production rates it was instructed to use, so it hired a consultant to change those rates, but

[7] KCC Docket No. 02-KGSG-329-PGA, *Order Denying Reconsideration*, paragraph 5, May 26, 2002.

that the rates for the "transmission, distribution, general plant and other accounts were reasonable and without controversy by any party to the proceeding."[8]

Q. Do you agree with Westar's rationale?

A. No, I do not agree with Westar's rationale. First, in Docket No. 05-WSEE-981-RTS, even though I accepted Mr. Spanos's requested parameters, I did not agree with all of his depreciation rates in the transmission, distribution and general plant accounts. I objected to Mr. Spanos's net salvage approach, which charges current ratepayers for un-incurred future inflation.

Furthermore, it is irrelevant whether anyone challenged those rates. If Westar wanted to change its depreciation rates in this proceeding, it should have filed a complete depreciation study. Instead, it cherry-picked steam production plant for an increase, but did not consider any other account that may warrant a decrease; this is bad policy.

USoA Requirements for Depreciation Rate Changes

Q. Is there any standard rationale or requirement for complete depreciation studies?

A. Yes, the Uniform System of Accounts requires complete studies from any electric utility requesting a depreciation rate change.

Q. Please summarize the USoA requirements for depreciation rate changes.

A. Section 35.13 (h) (10) (iv) of the Commission's Regulations states:

> ....If the depreciation rates used for Period I or Period II data differ from those employed to support the utility's prior approved jurisdictional electric rate, the utility shall include in or append to Statement AJ detailed studies in support of such changes. These detailed studies shall include:

[8] See response to KCC-260.

> (A) Copies of any reports or analyses prepared by any independent consultant or utility personnel to support the proposed rates; and
>
> (B) A detailed capital recovery study showing by primary account the depreciation base, accumulated provision for depreciation, cost of removal, net salvage, estimated service life, attained age of survivors, accrual rate, and annual depreciation expense. (Emphasis added)

A "detailed capital recovery study" means a complete - not partial - study.

Required Filing

Q. Should Mr. Spanos have filed a detailed depreciation study, in order to change Westar's existing depreciation rates?

A. Yes, USoA rules require a detailed study to support a change to depreciation rates for ratemaking. Depreciation involves many different components and plant accounts. While some rates may increase, others may go in the opposite direction. That is why it is appropriate to file a detailed study rather than apply a piecemeal application. In my opinion, Mr. Spanos should have prepared and submitted a detailed ("full-blown") depreciation study of all accounts. This would include the transmission, distribution and general plant accounts.

Q. What are the components of a detailed depreciation study?

A. The National Association of Regulatory Utility Commissioners ("NARUC") defined a "detailed study" as follows:

> In all but the smallest of utility properties, depreciation accruals and depreciation rates are developed after a careful review of all applicable factors. For purposes of this discussion a review of this type is designated as a "detailed study." On large utilities such a detailed review will involve mortality studies and other forms of service life determination together with an analysis of applicable net salvage estimates. Such a study may also involve a

consideration of the method of computing depreciation and the categories around which the estimates are to be developed.[9]

Data Problems

Q. Did you request the data necessary to complete the rest of Westar's depreciation study, i.e., the transmission, distribution and general plant functions?

A. Yes, I did. CURB-160 requested the necessary data to perform new life studies. Westar's objection to that data request is contained in Exhibit___ (MJM-4).

Q. Was any data relating to the transmission, distribution and general plant functions provided?

A. Yes. Staff requested the Original Cost by Year of Installation for each account, which after initially objecting, Westar eventually provided in part.[10] Although this type of data is not sufficient for use in life studies, it does allow for the calculation of updated remaining lives, which would have allowed me to perform a depreciation study update, as opposed to a new study.

Q. Were you able to use the data Westar provided to Staff in response to KCC-250?

A. Only for Westar North. The data provided for Westar North was as requested – the Original Cost by Year of Installation. For Westar North, I was able to calculate new remaining lives as of December 31, 2007, using the average service lives currently in use. The data provided for Westar South consisted of hard copy plant-in-service records for 2002 through 2007. The Company noted

[9] *Public Utility Depreciation Practices*, December 1968, National Association of Regulatory Utility Commissioners, December 1968. ("NARUC Manual-1968.")

[10] See response to KCC-250.

in its response to KCC-250, "data prior to this was contained in the depreciation study provided in the 2005 rate review – Docket No. 05-WSEE-981-RTS." Plant-in-service records do not provide aged data – they merely show the activity in a given year. I attempted unsuccessfully to append the data provided for Westar South with the data provided in Docket No. 05-WSEE-981-RTS. For some accounts, I simply did not have the previous data; for other accounts; I was not able to combine the data in a way that resulted in the correct current balance.

Q. What did you eventually decide?

A. After spending substantial time on the effort, I decided that I was not to my satisfaction able to create a data file sufficient to update Westar South's remaining lives. That, combined with Westar's refusal to provide the data I had originally requested, led to my decision to abandon my attempt to update the depreciation studies for Westar North and Westar South. Although I would have been able to do so for Westar North, it makes no sense to do one but not the other.

Other Depreciation Adjustments

Q. What other depreciation adjustments has Westar proposed?

A. Just as it did in Docket No. 05-WSEE-981-RTS, Westar again proposes several adjustments driven by the fact that it did not implement depreciation rates ordered by this Commission in prior cases. It states that it did not adopt the ordered depreciation rates because they would cause it "to be out of compliance with Generally Accepted Accounting Principles (GAAP)."[11] It bases these adjustments on a faulty interpretation of the relationship of GAAP and regulatory

accounting. Furthermore, they represent retroactive ratemaking, and they are an affront to the Commission's authority.

Q. Did you agree with these adjustments in Docket No. 05-WSEE-981-RTS?

A. No, the following colloquy is from my direct testimony in Docket No. 05-WSEE-981-RTS.[12]

> **Q. When did the KCC approve the Company's present depreciation rates?**
>
> A. The KCC approved the present depreciation rates as of July 2001 in Westar's last rate case; Docket No. 01-WSRE-436-RTS.[13]
>
> **Q. Did Westar book the new depreciation rates in July 2001?**
>
> A. No. Mr. Kongs' testimony provides a rather confusing explanation of how and why the Company did not adopt the new rates due to its appeal of this Commission's decision to approve the new rates in Docket No. 01-WSRE-436-RTS.[14] His explanation is made no more clear in his extremely complicated responses to several data requests, which I have attached to this testimony as Exhibit___ (MJM-1).
>
> **Q. What is the result of Westar's failure to book the approved rates when approved?**
>
> A. Mr. Kongs argues for a rate base increase of $8.1 million for Westar North and $12.0 million for Westar South. Mr. Kongs also proposes to amortize these differences over ten years, outside of the Company's depreciation study.
>
> **<u>Westar's Appeal Adjustment</u>**
>
> **Q. Do you agree with Westar's appeal adjustment?**
>
> A. I do not oppose a rate base adjustment, as long as it is in the correct amount. However, I do not believe that the amounts that Westar calculated are sufficiently supported. That is because it

[11] Kongs, pp. 6-9.
[12] Docket No. 05-WSEE-981-RTS, Majoros Direct Testimony, pp. 6-7.
[13] See response to CURB 58. (Docket No. 05-WSEE-981-RTS)
[14] Direct Testimony of Kevin Kongs, pages 6 to 7. (Docket No. 05-WSEE-981-RTS)

> appears that Westar has understated the impact of the cost of removal and dismantling cost, which were included in the rates approved in Docket No. 01-WSRE-436-RTS. This potential understatement has an impact on the proper cost of removal depreciation rates going-forward. In fact, Westar may have inappropriately created a regulatory asset instead of a regulatory liability in conjunction with its implementation of SFAS No. 143.
>
> At this point, it is incumbent for Mr. Kongs to provide a much more detailed and comprehensible explanation and quantification of what Westar actually did in this regard. Once the correct number is established, its effect belongs in the depreciation study as a component of the resulting remaining life depreciation rates rather than as a separate amortization. That is where it would be if Westar had not defied the Commission's Order in the last case.

Q. Has Mr. Kongs provided a detailed and comprehensible explanation and quantification of these adjustments in this case?

A. No.

Relationship of GAAP to Regulatory Accounting

Q. What is the relationship of GAAP versus regulatory accounting?

A. Westar uses GAAP to prepare its financial book and SEC financial statements. In fact, if Westar is like many other utilities, its GAAP books are its official books of record. Utilities typically adjust their GAAP books to arrive at their regulatory books. As I indicated earlier, the FERC USoA, as modified by the KCC, constitutes Westar's regulatory accounting system and reporting system. The KCC can require Westar to adopt an accounting procedure or depreciation rate for regulatory accounting and/or ratemaking purposes. The KCC may not require Westar to adopt an accounting procedure or depreciation rate for GAAP purposes. The KCC does not control GAAP; the public accounting profession and the SEC control GAAP. On the other hand, GAAP does not control

ratemaking or regulatory accounting in Kansas. The KCC controls ratemaking and regulatory accounting in Kansas. The KCC is the only regulatory agency with the ability and obligation to regulate Westar's rates and to protect Westar's ratepayers. Consequently, the GAAP depreciation rates are irrelevant. Westar's concern that KCC-ordered depreciation rates do not comply with GAAP depreciation rates is irrelevant. Otherwise, we would not need the KCC; Westar's external auditors could set rates.

Retroactive Ratemaking

Q. What is retroactive ratemaking?

A. Retroactive ratemaking refers to an improper recovery of costs that were properly recoverable in a past period or periods.[15] I have attached as Exhibit___(MJM-5) an excerpt from a 1998 PUR Text discussing the issue.[16] It states in part:

> "Retroactive ratemaking" refers to an improper recovery of costs that were properly recoverable in a past period or periods. In the absence of express statutory direction, it is unlawful for an agency to alter the past legal consequences of past actions, 1/ such as awarding damages for past illegal conduct.
>
> The Indiana commission usefully summarized the three basic functions served by the rule against retroactive ratemaking 3/:
>
> a) Protecting the public by ensuring that current customers pay for their own service and not for past deficits:
>
> b) Preventing utilities from using future rates to protect the financial investment of their stockholders, i.e., providing a guaranty, rather than opportunity, for a fair rate of return: and

[15] *The Process of Ratemaking*, Leonard Saul Goodman, 1998 Public Utilities Reports, p. 165.
[16] *Id.*, pp. 165-166.

c) Requiring utilities to bear losses and enjoy gains that depend on their own managerial efficiency.

1/ Bowen v. Georgetown Univ. Hosp., 488 U.S.204 (1988): American Min. Congress v. U.S. Environmental Protection Agency, 965 F.2d 759, 769 (9th Cir. 1992)

3/ Re Northern Indiana Pub. Svc. Co., 157 PUR4th 206,228 (Ind. URC, 1991)

Q. Why do you believe Westar's regulatory asset adjustments represent retroactive ratemaking?

A. According to Mr. Kongs, Westar chose to book the wrong depreciation rates, and now he is asking for a regulatory asset to recover the difference between what he booked and what the KCC authorized. Mr. Kongs has the burden of persuading this commission that recovery of the resulting past deficit is not retroactive ratemaking.

Commission's Authority

Q. What is the KCC's authority to set depreciation rates?

A. The Commission is given full power, authority and jurisdiction to supervise and control the electric public utilities, as defined in K.S.A. 66-101a, doing business in Kansas, and is empowered to do all things necessary and convenient for the exercise of such power, authority and jurisdiction.[17] It is my understanding that regulated utilities are obligated to follow KCC rulings until the Commission rules otherwise, and the KCC has gone so far as to fine a utility (KGS, for failure to meet

[17] K.S.A. 66-101.

quality of service standards). The KCC's powers under these statutes "shall be liberally construed."

Q. What do you conclude regarding the KCC's authority to set depreciation rates?

A. I conclude that the KCC has substantial authority to set depreciation rates. Moreover, I conclude that Westar should have used those depreciation rates for regulatory accounting purposes. Regardless of how Westar explains it now, Mr. Kongs' testimony in this case and in Westar's prior case flouts the KCC's authority regarding the depreciation rates it previously ordered.

Recommendation Regarding Regulatory Assets

Q. What do you recommend regarding these other regulatory asset adjustments Mr. Kongs proposes?

A. Intuitively, I believe the KCC should disallow these adjustments, if for no other reason that Westar flouted the KCC's authority. However, at a minimum, Westar must reclassify the regulatory assets back to the depreciation reserve.

Q. Would this reclassification deny Westar recovery of these amounts?

A. No, it will provide Westar recovery of these amounts just as it should have been all along, i.e., through the proper calculation of remaining life depreciation rates.

Q. When will that occur?

A. It will occur when Westar files a complete depreciation study.

Q. What about Mr. Kongs' amortization adjustments relating to these amounts?

A. The KCC should disallow the amortization because it is not necessary. Westar will capture it in properly-calculated depreciation rates.

Summary

Q. Please summarize your testimony.

A. Westar filed an incomplete depreciation study that the KCC should not approve. It will increase production plant depreciation on a selective basis without considering other major plant functions. Westar's current depreciation rates in these functions are virtually impossible to recreate; even Westar cannot recreate them, and Westar failed to provide the data necessary to complete its study. Westar bases its deprecation-related regulatory assets on faulty premises. They appear to reflect retroactive ratemaking and are an affront to the KCC's authority. At a minimum, Westar must reclassify these adjustments to accumulated depreciation where they should have been in first place. The KCC must disallow the related amortization because it is not necessary; it will be picked up when Westar files a complete deprecation study.

Q. Have you prepared an exhibit that summarizes your recommendations?

A. Yes. Exhibit___(MJM-6) summarizes my recommendations.

Q. Does this complete your testimony?

A. Yes, it does.

VERIFICATION

WASHINGTON,)
) ss:
DISTRICT OF COLUMBIA)

I, Michael J. Majoros, Jr., of lawful age, being first duly sworn upon his oath states:

That he is an attorney for the Citizens' Utility Ratepayer Board, that he has read the above and foregoing document, and, upon information and belief, states that the matters therein appearing are true and correct.

SUBSCRIBED AND SWORN to before me this 25th day of September, 2008.

Notary Public

My Commission expires: March 14, 2011.

Michael J. Majoros, Jr.

Experience

Snavely King Majoros O'Connor & Lee, Inc.

Vice President and Treasurer (1988 to Present)
Senior Consultant (1981-1987)

Mr. Majoros provides consultation specializing in accounting, financial, and management issues. He has testified as an expert witness or negotiated on behalf of clients in more than one hundred thirty regulatory federal and state regulatory proceedings involving telephone, electric, gas, water, and sewerage companies. His testimony has encompassed a wide array of complex issues including taxation, divestiture accounting, revenue requirements, rate base, nuclear decommissioning, plant lives, and capital recovery. Mr. Majoros has also provided consultation to the U.S. Department of Justice and appeared before the U.S. EPA and the Maryland State Legislature on matters regarding the accounting and plant life effects of electric plant modifications and the financial capacity of public utilities to finance environmental controls. He has estimated economic damages suffered by black farmers in discrimination suits.

Van Scoyoc & Wiskup, Inc., *Consultant (1978-1981)*

Mr. Majoros conducted and assisted in various management and regulatory consulting projects in the public utility field, including preparation of electric system load projections for a group of municipally and cooperatively owned electric systems; preparation of a system of accounts and reporting of gas and oil pipelines to be used by a state regulatory commission; accounting system analysis and design for rate proceedings involving electric, gas, and telephone utilities. Mr. Majoros provided onsite management accounting and controllership assistance to a municipal electric and water utility. Mr. Majoros also assisted in an antitrust proceeding involving a major electric utility. He submitted expert testimony in FERC Docket No. RP79-12 (El Paso Natural Gas Company), and he co-authored a study entitled Analysis of Staff Study on Comprehensive Tax Normalization that was submitted to FERC in Docket No. RM 80-42.

Handling Equipment Sales Company, Inc.

Controller/Treasurer (1976-1978)

Mr. Majoros' responsibilities included financial management, general accounting and reporting, and income taxes.

Ernst & Ernst, *Auditor (1973-1976)*

Mr. Majoros was a member of the audit staff where his responsibilities included auditing, supervision, business systems analysis, report preparation, and corporate income taxes.

University of Baltimore - *(1971-1973)*

Mr. Majoros was a full-time student in the School of Business.

During this period Mr. Majoros worked consistently on a part-time basis in the following positions: Assistant Legislative Auditor – State of Maryland, Staff Accountant – Robert M. Carney & Co., CPA's, Staff Accountant – Naron & Wegad, CPA's, Credit Clerk – Montgomery Wards.

Central Savings Bank, *(1969-1971)*

Mr. Majoros was an Assistant Branch Manager at the time he left the bank to attend college as a full-time student. During his tenure at the bank, Mr. Majoros gained experience in each department of the bank. In addition, he attended night school at the University of Baltimore.

Education

University of Baltimore, School of Business, B.S. – Concentration in Accounting

Professional Affiliations

American Institute of Certified Public Accountants
Maryland Association of C.P.A.s
Society of Depreciation Professionals

Publications, Papers, and Panels

"Analysis of Staff Study on Comprehensive Tax Normalization," FERC Docket No. RM 80-42, 1980.

"Telephone Company Deferred Taxes and Investment Tax Credits – A Capital Loss for Ratepayers," Public Utility Fortnightly, September 27, 1984.

"The Use of Customer Discount Rates in Revenue Requirement Comparisons," Proceedings of the 25th Annual Iowa State Regulatory Conference, 1986

"The Regulatory Dilemma Created By Emerging Revenue Streams of Independent Telephone Companies," Proceedings of NARUC 101st Annual Convention and Regulatory Symposium, 1989.

"BOC Depreciation Issues in the States," National Association of State Utility Consumer Advocates, 1990 Mid-Year Meeting, 1990.

"Current Issues in Capital Recovery" 30th Annual Iowa State Regulatory Conference, 1991.

"Impaired Assets Under SFAS No. 121," National Association of State Utility consumer Advocates, 1996 Mid-Year Meeting, 1996.

"What's 'Sunk' Ain't Stranded: Why Excessive Utility Depreciation is Avoidable," with James Campbell, Public Utilities Fortnightly, April 1, 1999.

"Local Exchange Carrier Depreciation Reserve Percents," with Richard B. Lee, Journal of the Society of Depreciation Professionals, Volume 10, Number 1, 2000-2001

"Rolling Over Ratepayers," Public Utilities Fortnightly, Volume 143, Number 11, November, 2005.

"Asset Management – What is it?," American Water Works Association, Pre-Conference Workshop, March 25, 2008.

Michael J. Majoros, Jr.

Date	Jurisdiction / Agency	Docket	Utility
		Federal Courts	
2005	US District Court, Northern District of AL, Northwestern Division 55/56/57/	CV 01-B-403-NW	Tennessee Valley Authority
		State Legislatures	
2006	Maryland General Assembly 61/	SB154	Maryland Healthy Air Act
2006	Maryland House of Delegates 62/	HB189	Maryland Healthy Air Act
		Federal Regulatory Agencies	
1979	FERC-US 19/	RP79-12	El Paso Natural Gas Co.
1980	FERC-US 19/	RM80-42	Generic Tax Normalization
1996	CRTC-Canada 30/	97-9	All Canadian Telecoms
1997	CRTC-Canada 31/	97-11	All Canadian Telecoms
1999	FCC 32/	98-137 (Ex Parte)	All LECs
1999	FCC 32/	98-91 (Ex Parte)	All LECs
1999	FCC 32/	98-177 (Ex Parte)	All LECs
1999	FCC 32/	98-45 (Ex Parte)	All LECs
2000	EPA 35/	CAA-00-6	Tennessee Valley Authority
2003	FERC 48/	RM02-7	All Utilities
2003	FCC 52/	03-173	All LECs
2003	FERC 53/	ER03-409-000, ER03-666-000	Pacific Gas and Electric Co.
		State Regulatory Agencies	
1982	Massachusetts 17/	DPU 557/558	Western Mass Elec. Co.
1982	Illinois 16/	ICC81-8115	Illinois Bell Telephone Co.
1983	Maryland 8/	7574-Direct	Baltimore Gas & Electric Co.
1983	Maryland 8/	7574-Surrebuttal	Baltimore Gas & Electric Co.
1983	Connecticut 15/	810911	Woodlake Water Co.
1983	New Jersey 1/	815-458	New Jersey Bell Tel. Co.
1983	New Jersey 14/	8011-827	Atlantic City Sewerage Co.
1984	Dist. Of Columbia 7/	785	Potomac Electric Power Co.
1984	Maryland 8/	7689	Washington Gas Light Co.
1984	Dist. Of Columbia 7/	798	C&P Tel. Co.
1984	Pennsylvania 13/	R-832316	Bell Telephone Co. of PA
1984	New Mexico 12/	1032	Mt. States Tel. & Telegraph
1984	Idaho 18/	U-1000-70	Mt. States Tel. & Telegraph
1984	Colorado 11/	1655	Mt. States Tel. & Telegraph

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1984	Dist. Of Columbia 7/	813	Potomac Electric Power Co.
1984	Pennsylvania 3/	R842621-R842625	Western Pa. Water Co.
1985	Maryland 8/	7743	Potomac Edison Co.
1985	New Jersey 1/	848-856	New Jersey Bell Tel. Co.
1985	Maryland 8/	7851	C&P Tel. Co.
1985	California 10/	I-85-03-78	Pacific Bell Telephone Co.
1985	Pennsylvania 3/	R-850174	Phila. Suburban Water Co.
1985	Pennsylvania 3/	R850178	Pennsylvania Gas & Water Co.
1985	Pennsylvania 3/	R-850299	General Tel. Co. of PA
1986	Maryland 8/	7899	Delmarva Power & Light Co.
1986	Maryland 8/	7754	Chesapeake Utilities Corp.
1986	Pennsylvania 3/	R-850268	York Water Co.
1986	Maryland 8/	7953	Southern Md. Electric Corp.
1986	Idaho 9/	U-1002-59	General Tel. Of the Northwest
1986	Maryland 8/	7973	Baltimore Gas & Electric Co.
1987	Pennsylvania 3/	R-860350	Dauphin Cons. Water Supply
1987	Pennsylvania 3/	C-860923	Bell Telephone Co. of PA
1987	Iowa 6/	DPU-86-2	Northwestern Bell Tel. Co.
1987	Dist. Of Columbia 7/	842	Washington Gas Light Co.
1988	Florida 4/	880069-TL	Southern Bell Telephone
1988	Iowa 6/	RPU-87-3	Iowa Public Service Company
1988	Iowa 6/	RPU-87-6	Northwestern Bell Tel. Co.
1988	Dist. Of Columbia 7/	869	Potomac Electric Power Co.
1989	Iowa 6/	RPU-88-6	Northwestern Bell Tel. Co.
1990	New Jersey 1/	1487-88	Morris City Transfer Station
1990	New Jersey 5/	WR 88-80967	Toms River Water Company
1990	Florida 4/	890256-TL	Southern Bell Company
1990	New Jersey 1/	ER89110912J	Jersey Central Power & Light
1990	New Jersey 1/	WR90050497J	Elizabethtown Water Co.
1991	Pennsylvania 3/	P900465	United Tel. Co. of Pa.
1991	West Virginia 2/	90-564-T-D	C&P Telephone Co.
1991	New Jersey 1/	90080792J	Hackensack Water Co.
1991	New Jersey 1/	WR90080884J	Middlesex Water Co.
1991	Pennsylvania 3/	R-911892	Phil. Suburban Water Co.
1991	Kansas 20/	176, 716-U	Kansas Power & Light Co.
1991	Indiana 29/	39017	Indiana Bell Telephone
1991	Nevada 21/	91-5054	Central Tele. Co. – Nevada
1992	New Jersey 1/	EE91081428	Public Service Electric & Gas
1992	Maryland 8/	8462	C&P Telephone Co.
1992	West Virginia 2/	91-1037-E-D	Appalachian Power Co.
1993	Maryland 8/	8464	Potomac Electric Power Co.
1993	South Carolina 22/	92-227-C	Southern Bell Telephone
1993	Maryland 8/	8485	Baltimore Gas & Electric Co.
1993	Georgia 23/	4451-U	Atlanta Gas Light Co.
1993	New Jersey 1/	GR93040114	New Jersey Natural Gas. Co.

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1994	Iowa 6/	RPU-93-9	U.S. West – Iowa
1994	Iowa 6/	RPU-94-3	Midwest Gas
1995	Delaware 24/	94-149	Wilm. Suburban Water Corp.
1995	Connecticut 25/	94-10-03	So. New England Telephone
1995	Connecticut 25/	95-03-01	So. New England Telephone
1995	Pennsylvania 3/	R-00953300	Citizens Utilities Company
1995	Georgia 23/	5503-0	Southern Bell
1996	Maryland 8/	8715	Bell Atlantic
1996	Arizona 26/	E-1032-95-417	Citizens Utilities Company
1996	New Hampshire 27/	DE 96-252	New England Telephone
1997	Iowa 6/	DPU-96-1	U S West – Iowa
1997	Ohio 28/	96-922-TP-UNC	Ameritech – Ohio
1997	Michigan 28/	U-11280	Ameritech – Michigan
1997	Michigan 28/	U-112 81	GTE North
1997	Wyoming 27/	7000-ztr-96-323	US West – Wyoming
1997	Iowa 6/	RPU-96-9	US West – Iowa
1997	Illinois 28/	96-0486-0569	Ameritech – Illinois
1997	Indiana 28/	40611	Ameritech – Indiana
1997	Indiana 27/	40734	GTE North
1997	Utah 27/	97-049-08	US West – Utah
1997	Georgia 28/	7061-U	BellSouth – Georgia
1997	Connecticut 25/	96-04-07	So. New England Telephone
1998	Florida 28/	960833-TP et. al.	BellSouth – Florida
1998	Illinois 27/	97-0355	GTE North/South
1998	Michigan 33/	U-11726	Detroit Edison
1999	Maryland 8/	8794	Baltimore Gas & Electric Co.
1999	Maryland 8/	8795	Delmarva Power & Light Co.
1999	Maryland 8/	8797	Potomac Edison Company
1999	West Virginia 2/	98-0452-E-GI	Electric Restructuring
1999	Delaware 24/	98-98	United Water Company
1999	Pennsylvania 3/	R-00994638	Pennsylvania American Water
1999	West Virginia 2/	98-0985-W-D	West Virginia American Water
1999	Michigan 33/	U-11495	Detroit Edison
2000	Delaware 24/	99-466	Tidewater Utilities
2000	New Mexico 34/	3008	US WEST Communications, Inc.
2000	Florida 28/	990649-TP	BellSouth -Florida
2000	New Jersey 1/	WR30174	Consumer New Jersey Water
2000	Pennsylvania 3/	R-00994868	Philadelphia Suburban Water
2000	Pennsylvania 3/	R-0005212	Pennsylvania American Sewerage
2000	Connecticut 25/	00-07-17	Southern New England Telephone
2001	Kentucky 36/	2000-373	Jackson Energy Cooperative
2001	Kansas 38/39/40/	01-WSRE-436-RTS	Western Resources
2001	South Carolina 22/	2001-93-E	Carolina Power & Light Co.
2001	North Dakota 37/	PU-400-00-521	Northern States Power/Xcel Energy
2001	Indiana 29/41/	41746	Northern Indiana Power Company

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2001	New Jersey 1/	GR01050328	Public Service Electric and Gas
2001	Pennsylvania 3/	R-00016236	York Water Company
2001	Pennsylvania 3/	R-00016339	Pennsylvania America Water
2001	Pennsylvania 3/	R-00016356	Wellsboro Electric Coop.
2001	Florida 4/	010949-EL	Gulf Power Company
2001	Hawaii 42/	00-309	The Gas Company
2002	Pennsylvania 3/	R-00016750	Philadelphia Suburban
2002	Nevada 43/	01-10001 &10002	Nevada Power Company
2002	Kentucky 36/	2001-244	Fleming Mason Electric Coop.
2002	Nevada 43/	01-11031	Sierra Pacific Power Company
2002	Georgia 27/	14361-U	BellSouth-Georgia
2002	Alaska 44/	U-01-34,82-87,66	Alaska Communications Systems
2002	Wisconsin 45/	2055-TR-102	CenturyTel
2002	Wisconsin 45/	5846-TR-102	TelUSA
2002	Vermont 46/	6596	Citizen's Energy Services
2002	North Dakota 37/	PU-399-02-183	Montana Dakota Utilities
2002	Kansas 40/	02-MDWG-922-RTS	Midwest Energy
2002	Kentucky 36/	2002-00145	Columbia Gas
2002	Oklahoma 47/	200200166	Reliant Energy ARKLA
2002	New Jersey 1/	GR02040245	Elizabethtown Gas Company
2003	New Jersey 1/	ER02050303	Public Service Electric and Gas Co.
2003	Hawaii 42/	01-0255	Young Brothers Tug & Barge
2003	New Jersey 1/	ER02080506	Jersey Central Power & Light
2003	New Jersey 1/	ER02100724	Rockland Electric Co.
2003	Pennsylvania 3/	R-00027975	The York Water Co.
2003	Pennsylvania /3	R-00038304	Pennsylvania-American Water Co.
2003	Kansas 20/ 40/	03-KGSG-602-RTS	Kansas Gas Service
2003	Nova Scotia, CN 49/	EMO NSPI	Nova Scotia Power, Inc.
2003	Kentucky 36/	2003-00252	Union Light Heat & Power
2003	Alaska 44/	U-96-89	ACS Communications, Inc.
2003	Indiana 29/	42359	PSI Energy, Inc.
2003	Kansas 20/ 40/	03-ATMG-1036-RTS	Atmos Energy
2003	Florida 50/	030001-E1	Tampa Electric Company
2003	Maryland 51/	8960	Washington Gas Light
2003	Hawaii 42/	02-0391	Hawaiian Electric Company
2003	Illinois 28/	02-0864	SBC Illinois
2003	Indiana 28/	42393	SBC Indiana
2004	New Jersey 1/	ER03020110	Atlantic City Electric Co.
2004	Arizona 26/	E-01345A-03-0437	Arizona Public Service Company
2004	Michigan 27/	U-13531	SBC Michigan
2004	New Jersey 1/	GR03080683	South Jersey Gas Company
2004	Kentucky 36/	2003-00434,00433	Kentucky Utilities, Louisville Gas & Electric
2004	Florida 50/ 54/	031033-EI	Tampa Electric Company
2004	Kentucky 36/	2004-00067	Delta Natural Gas Company

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2004	Georgia 23/	18300, 15392, 15393	Georgia Power Company
2004	Vermont 46/	6946, 6988	Central Vermont Public Service Corporation
2004	Delaware 24/	04-288	Delaware Electric Cooperative
2004	Missouri 58/	ER-2004-0570	Empire District Electric Company
2005	Florida 50/	041272-EI	Progress Energy Florida, Inc.
2005	Florida 50/	041291-EI	Florida Power & Light Company
2005	California 59/	A.04-12-014	Southern California Edison Co.
2005	Kentucky 36/	2005-00042	Union Light Heat & Power
2005	Florida 50/	050045 & 050188-EI	Florida Power & Light Co.
2005	Kansas 38/ 40/	05-WSEE-981-RTS	Westar Energy, Inc.
2006	Delaware 24/	05-304	Delmarva Power & Light Company
2006	California 59/	A.05-12-002	Pacific Gas & Electric Co.
2006	New Jersey 1/	GR05100845	Public Service Electric and Gas Co.
2006	Colorado 60/	06S-234EG	Public Service Co. of Colorado
2006	Kentucky 36/	2006-00172	Union Light, Heat & Power
2006	Kansas 40/	06-KGSG-1209-RTS	Kansas Gas Service
2006	West Virginia 2/	06-0960-E-42T, 06-1426-E-D	Allegheny Power
2006	West Virginia 2/	05-1120-G-30C, 06-0441-G-PC, et al.	Hope Gas, Inc. and Equitable Resources, Inc.
2007	Delaware 24/	06-284	Delmarva Power & Light Company
2007	Kentucky 36/	2006-00464	Atmos Energy Corporation
2007	Colorado 60/	06S-656G	Public Service Co. of Colorado
2007	California 59/	A.06-12-009, A.06-12-010	San Diego Gas & Electric Co., and Southern California Gas Co.
2007	Kentucky 36/	2007-00143	Kentucky-American Water Co.
2007	Kentucky 36/	2007-00089	Delta Natural Gas Co.
2008	Kansas 40/	08-ATMG-280-RTS	Atmos Energy Corporation
2008	New Jersey 1/	GR07110889	New Jersey Natural Gas Co.
2008	North Dakota 37/	PU-07-776	Northern States Power/Xcel Energy
2008	Pennsylvania 3/	A-2008-2034045 et al	UGI Utilities, Inc. / PPL Gas Utilities Corp.
2008	Washington 63/	UE-072300, UG-072301	Puget Sound Energy
2008	Pennsylvania 3/	R-2008-2032689	Pennsylvania-American Water Co. - Coatesville
2008	New Jersey 1/	WR08010020	NJ American Water Co.

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PARTICIPATION AS NEGOTIATOR IN FCC TELEPHONE DEPRECIATION RATE REPRESCRIPTION CONFERENCES

COMPANY	YEARS	CLIENT
Diamond State Telephone Co. 24/	1985 + 1988	Delaware Public Service Comm
Bell Telephone of Pennsylvania 3/	1986 + 1989	PA Consumer Advocate
Chesapeake & Potomac Telephone Co. - Md. 8/	1986	Maryland People's Counsel
Southwestern Bell Telephone – Kansas 20/	1986	Kansas Corp. Commission
Southern Bell – Florida 4/	1986	Florida Consumer Advocate
Chesapeake & Potomac Telephone Co.-W.Va. 2/	1987 + 1990	West VA Consumer Advocate
New Jersey Bell Telephone Co. 1/	1985 + 1988	New Jersey Rate Counsel
Southern Bell - South Carolina 22/	1986 + 1989 + 1992	S. Carolina Consumer Advocate
GTE-North – Pennsylvania 3/	1989	PA Consumer Advocate

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PARTICIPATION IN PROCEEDINGS WHICH WERE SETTLED BEFORE TESTIMONY WAS SUBMITTED

STATE	DOCKET NO.	UTILITY
Maryland 8/	7878	Potomac Edison
Nevada 21/	88-728	Southwest Gas
New Jersey 1/	WR90090950J	New Jersey American Water
New Jersey 1/	WR900050497J	Elizabethtown Water
New Jersey 1/	WR91091483	Garden State Water
West Virginia 2/	91-1037-E	Appalachian Power Co.
Nevada 21/	92-7002	Central Telephone - Nevada
Pennsylvania 3/	R-00932873	Blue Mountain Water
West Virginia 2/	93-1165-E-D	Potomac Edison
West Virginia 2/	94-0013-E-D	Monongahela Power
New Jersey 1/	WR94030059	New Jersey American Water
New Jersey 1/	WR95080346	Elizabethtown Water
New Jersey 1/	WR95050219	Toms River Water Co.
Maryland 8/	8796	Potomac Electric Power Co.
South Carolina 22/	1999-077-E	Carolina Power & Light Co.
South Carolina 22/	1999-072-E	Carolina Power & Light Co.
Kentucky 36/	2001-104 & 141	Kentucky Utilities, Louisville Gas and Electric
Kentucky 36/	2002-485	Jackson Purchase Energy Corporation

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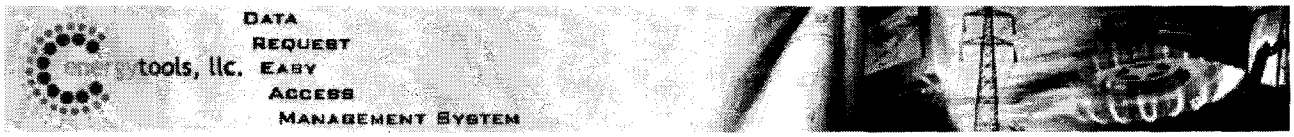
Clients

1/ New Jersey Rate Counsel/Advocate	33/ Michigan Attorney General
2/ West Virginia Consumer Advocate	34/ New Mexico Attorney General
3/ Pennsylvania OCA	35/ Environmental Protection Agency Enforcement Staff
4/ Florida Office of Public Advocate	36/ Kentucky Attorney General
5/ Toms River Fire Commissioner's	37/ North Dakota Public Service Commission
6/ Iowa Office of Consumer Advocate	38/ Kansas Industrial Group
7/ D.C. People's Counsel	39/ City of Witchita
8/ Maryland's People's Counsel	40/ Kansas Citizens' Utility Rate Board
9/ Idaho Public Service Commission	41/ NIPSCO Industrial Group
10/ Western Burglar and Fire Alarm	42/ Hawaii Division of Consumer Advocacy
11/ U.S. Dept. of Defense	43/ Nevada Bureau of Consumer Protection
12/ N.M. State Corporation Comm.	44/ GCI
13/ City of Philadelphia	45/ Wisc. Citizens' Utility Rate Board
14/ Resorts International	46/ Vermont Department of Public Service
15/ Woodlake Condominium Association	47/ Oklahoma Corporation Commission
16/ Illinois Attorney General	48/ National Assn. of State Utility Consumer Advocates
17/ Mass Coalition of Municipalities	49/ Nova Scotia Utility and Review Board
18/ U.S. Department of Energy	50/ Florida Office of Public Counsel
19/ Arizona Electric Power Corp.	51/ Maryland Public Service Commission
20/ Kansas Corporation Commission	52/ MCI
21/ Public Service Comm. – Nevada	53/ Transmission Agency of Northern California
22/ SC Dept. of Consumer Affairs	54/ Florida Industrial Power Users Group
23/ Georgia Public Service Comm.	55/ Sierra Club
24/ Delaware Public Service Comm.	56/ Our Children's Earth Foundation
25/ Conn. Ofc. Of Consumer Counsel	57/ National Parks Conservation Association, Inc.
26/ Arizona Corp. Commission	58/ Missouri Office of the Public Counsel
27/ AT&T	59/ The Utility Reform Network
28/ AT&T/MCI	60/ Colorado Office of Consumer Counsel
29/ IN Office of Utility Consumer Counselor	61/ MD State Senator Paul G. Pinsky
30/ Unitel (AT&T – Canada)	62/ MD Speaker of the House Michael Busch
31/ Public Interest Advocacy Centre	63/ Washington Office of Public Counsel
32/ U.S. General Services Administration	



Docket: [08-WSEE-1041-RTS] 2008 Rate Case
Requestor: [William Dunkel & Assoc.] [William Dunkel]
Data Request: KCC-90 :: Current Depreciation Rates
Date: 0000-00-00

Question 1 (Prepared by John Spanos)
a. Please provide the current depreciation rates, projection life, curve shape, and future net salvage percent separately for each depreciable account shown on pages III-4 through III-7 of Exhibit JJS-1 attached to the Direct Testimony of John J. Spanos. b. Are the depreciation rates and parameters provided in response to part a the depreciation rates in compliance with the Kansas Court of Appeals decision referenced on page 10, lines 16-19 of the Direct Testimony of John J. Spanos. c. For the current depreciation rates for each steam production account show the net salvage percent used in those calculations and how those net salvage percents were calculated. For example, for the boiler plant account what was the assumed future net salvage for interim retirement and what was the assumed future net salvage for terminal retirement and how were those two percentages weighted together to arrive at the overall future net salvage percentage used in the calculations. d. Assume a steam production account where 20% of the investment will retire as an interim retirement and 80% of the investment will retire as a terminal retirement. Assume the data indicates around -35% as the future net salvage amount for the interim retirements. How would the overall future net salvage percentage be calculated in compliance with your understanding of the Kansas Court of Appeals decision? Would the calculation of the future net salvage percent be 20% * - 35% + 80% * 0% = -7%? If not please provide the correct weighting calculation for this hypothetical, if it is necessary to make other assumptions please provide the details of each additional assumption.

Response:
a) The attached spreadsheets set forth the current depreciation rate, probable retirement date, interim survivor curve and net salvage percent for each depreciable account shown on pages III-4 through III-7 of Exhibit JJS-1. These depreciation rates are used for financial reporting purposes as discussed in the testimony of Mr. Kongs. The depreciation rates used for regulatory purposes are also attached. The regulatory depreciation rates are from the testimony of Mr. Holloway, KCC staff, as approved by the KCC in Docket No. 05-WSEE-981-RTS. b) Yes, they are. c) All net salvage percents used in the calculations of the current depreciation rates relate to interim retirements only, as all final (terminal) net salvage was eliminated in the Kansas Court of Appeals decision. d) As stated in part c), the net salvage percent in the current depreciation rates only consider interim net salvage.

Attachment File Name	Attachment Note
KCC 90 Order.pdf	
KCC DR 90 A.xls	
KCC DR90 B.xls	
KCC-90 westar filing.pdf	

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

Before Commissioners: Thomas E. Wright, Chairman
Robert E. Krehbiel
Michael C. Moffet

In the Matter of the Applications of Westar Energy, Inc. and Kansas Gas and Electric Company for Approval to Make Certain Changes in Their Charges for Electric Service.	)))))	Docket No. 05-WSEE-981-RTS

ORDER (1) ADDRESSING DEPRECIATION ADJUSTMENT FOLLOWING REMAND; (2) DETERMINING TRANSMISSION REVENUE REQUIREMENT FOR PURPOSES OF CALCULATING REFUNDS AND PROSPECTIVE RATES; (3) RESOLVING ITC RELATED ISSUES; (4) DETERMINING INTEREST ON REFUNDS; AND (5) DETERMINING FORM OF REFUNDS

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:

I. Background

1. In this order, the Commission resolves issues raised following remand from the Court of Appeals in *Kansas Industrial Consumers Group, Inc. v. State Corporation Commission,* 36 Kan. App. 2d 83, 138 P.3d 338 (2006); *Unified School Dist. No. 259 v. State Corporation Commission,* No. 96,251, 2006 WL 1903044 (Kan. Ct. App. July 7, 2006); and *Citizen's Utility Ratepayer Bd. v. State Corporation Commission,* No. 96,264, 2006 WL 1903048 (Kan. Ct. App. July 7, 2006). In orders dated February 8, 2007, March 20, 2007, April 30, 2007, and May 9, 2007, the Commission determined the parameters of the remaining issues to be decided in this docket and set the procedure for resolving those issues. The analysis in those orders is incorporated herein by reference.

2. On May 10, 2007, the Commission conducted an evidentiary hearing on the matters addressed herein. Dana Bradbury appeared on behalf of the Commission Staff (Staff), Martin Bregman appeared on behalf of Westar Energy, Inc. and Kansas Gas and Electric Company (collectively, Westar), James Zakoura appeared on behalf of Kansas Industrial Consumers Group, Inc. (KIC), Sarah Loquist appeared on behalf of the Unified School District No. 259 (USD 259), and David Springe and Niki Christopher appeared on behalf of the Citizens' Utility Ratepayer Board (CURB).

3. Pursuant to the procedural schedule, Westar filed the prefiled direct testimony of Dick Rohlfs, Michael Stadler, and Dennis Reed on April 4, 2007, and the prefiled rebuttal testimony of Stadler and Reed on May 2, 2007. On April 18, 2007, Staff

filed the responsive testimony of Jeffrey McClanahan and Mark Doljac, and CURB filed the responsive testimony of Brian Kalcic and Andrea Crane. KIC and USD 259 have not filed testimony in the proceedings upon remand. Following the evidentiary hearing, Staff, Westar, KIC, USD 259, and CURB filed direct briefs on June 4, 2007, and reply briefs on June 18, 2007.

II. The Stipulation and Amended Stipulation

4. On May 8, 2007, Staff and Westar filed their Joint Motion for an Order Approving Stipulation and Agreement (Motion). In the attached Stipulation and Agreement (Stipulation), Staff and Westar agreed that the issues to be determined are as follows: "(a) the amount of any appropriate refund related to Westar's TDC and the recovery of Westar's retail-related transmission costs from the effective date of the rate order, (b) the prospective recovery of Westar's transmission costs in retail rates and (c) prospective treatment of the amortization of investment tax credits in rates." Stipulation, 2. In the Stipulation, Staff and Westar agreed to settle these issues. As to the refund, Staff and Westar agreed

> "that transmission cost-related refunds should be calculated based on the approach presented in the responsive testimony of Staff witness Mark Doljac filed in this matter on April 18, 2007. Under the approach sponsored by Mr. Doljac, the revenue requirements approved by the Commission in this matter would be reduced by $3,340,212 for Westar North and by $3,350,609 for Westar South. Transmission cost-related refunds would be calculated as the difference between the rates resulting from the inclusion of the retail transmission revenue requirement calculated by Mr. Doljac and the sum of the retail rates and the TDC rates billed to customers since February 27, 2006 plus interest." Stipulation, 2.

As to the prospective recovery of transmission related costs, Staff and Westar agreed

> "that prospectively Westar's retail revenue requirement should be adjusted by the amounts set forth in the preceding paragraph and that based on Mr. Doljac's Exhibit___MD-R2, Westar's retail transmission-related costs are $32,703,184 for Westar North and $29,615,844 for Westar South." Stipulation, 3.

As to the prospective annual ITC amortization, Staff and Westar agreed that it should

> "be based on (a) the remaining useful life as determined from the Commission-approved composite annual percentage depreciation rates without net salvage (b) applied to the unamortized book investment tax credit balances as of December 31, 2004, on a vintage year basis. The Parties agree that the appropriate calculations and results are presented in the responsive testimony of Westar witness Stadler filed with the Commission on May 2, 2007 and that the appropriate ITC amortization amounts are $1,036,291 for Westar North and $1,479,604 and Westar South." Stipulation, 3.

5. On June 27, 2007, Staff and Westar filed their Joint Motion for an Order Approving Amendment to Stipulation and Agreement. The proposed amended stipulation spawned the filing of additional pleadings in the form of a response by USD 259 on July 3, 2007, and a reply to that response by Westar on July 9, 2007, and Staff on July 13, 2007.

III. Final Depreciation Adjustment Implementing Court of Appeals Determination

6. On May 14, 2007, Westar filed its Response to the Commission's March 20, 2007 Order Providing Calculations of Depreciation Rates without Terminal Net Salvage. Attached to Westar's May 14, 2007 filing, Westar included a spreadsheet setting forth the details of the removal of terminal net salvage from depreciation calculations according to the methodology used by Staff witness Larry Holloway. There have been no responses to the May 14, 2007 filing by Westar. Westar states that Staff has reviewed the numbers in the attached spreadsheet and approved them. The

Commission, therefore, adopts the numbers contained therein as an accurate statement of the necessary depreciation adjustment following remand.

IV. Determination of Westar's Transmission Related Revenue Requirement

A. Calculation of Refunds Related to the TDC

7. The Court of Appeals said: "Under the final sentence of K.S.A. 2005 Supp. 66-1237(a), if a TDC is allowed, the total amount of the TDC plus revenue recovered from retail rates must equal 'the revenue recovered from the retail rates in effect *immediately prior to* the effective date of the initial transmission charge.'" 36 Kan. App. 2d at 103. This is what has been referred to throughout these proceedings relating to this issue as the "revenue neutrality" requirement.

8. The Commission observes that K.S.A. 2006 Supp. 66-1237 has been amended by the House Bill No. 2220, L. 2007, ch. 44. § 1. As quoted below, the Legislature added language shown in italicized type and removed language shown in strike-through type:

> "(a) Any electric utility subject to the regulation of the state corporation commission pursuant to K.S.A. 66-101, and amendments thereto, may seek to recover costs associated with transmission of electric power, in a manner consistent with the determination of ~~transmission related~~ *transmission-related* costs from an order of a regulatory authority having legal jurisdiction, through a separate transmission delivery charge included in customers' bills. The electric utility's initial transmission delivery charge resulting from this section ~~shall~~ *may* be determined by the commission *either* from transmission-related costs approved in the electric utility's most recent retail rate filing *or in an order establishing rates in response to a general retail rate application by an electric utility.*
>
> "*(b)* If an electric utility elects to recover its transmission-related costs through a transmission delivery charge, *such electric utility shall have*

the right to implement a transmission delivery charge through an application to the commission.

"(1) If an electric utility proposes to establish its initial transmission delivery charge other than in connection with an application to the commission that proposes a general retail rate change the commission shall, effective the same date as the effective date of the initial transmission delivery charge, ~~reduce~~ *unbundle* the electric utility's retail rates ~~to such a level~~ *in such a manner* that the sum of the revenue *to be* recovered from ~~such retail rates and~~ the initial transmission delivery charge ~~is equal to~~ *and the non-transmission-related retail rates will be consistent with* the revenue *that would be* recovered from the retail rates in effect immediately prior to the effective date of the initial transmission delivery charge.

"(2) If an electric utility proposes to establish its initial transmission delivery charge in connection with an application to the commission for a general retail rate change, the commission shall, in its order in such rate proceeding, determine the electric utility's transmission-related costs related to its service to Kansas retail customers and determine an initial transmission delivery charge sufficient to permit the electric utility to recover from its Kansas retail customers such utility's transmission-related costs incurred to provide service to such customers.

"~~(b)~~*(c)* All transmission-related costs incurred by an electric utility and resulting from ~~an~~ *any* order of a regulatory authority having legal jurisdiction over transmission matters, *including orders setting rates on a subject-to-refund basis,* shall be conclusively presumed prudent for purposes of the transmission delivery charge and an electric utility may change its transmission delivery charge whenever there is a change in transmission-related costs resulting from such an order. *The commission may also order such a change if the utility fails to do so.* An electric utility shall submit a report to the commission at least 30 business days before changing the utility's transmission delivery charge. If the commission subsequently determines that all or part of such charge did not result from an order described by this subsection, the commission may require changes in the transmission delivery charge and impose appropriate remedies, *including refunds*. ~~The retail rates in effect at the time an electric utility changes its transmission delivery charge shall not be subject to review or change as a result of a change in the transmission delivery charge.~~ L. 2007, ch. 44, § 1.

As discussed below, the Court of Appeals' interpretation of how "revenue neutrality" is to be effectuated under K.S.A. 2006 Supp. 66-1237 posed two problems, the first of which

relates to a revised FERC rate and the second of which relates to the changes in rates related to a comprehensive rate case determination. Both problems can cause the initial implementation of a TDC not to be revenue neutral under the court's interpretation. For the future, the Commission finds that the amendment above in §(b)(1) removes the problem related to a revised FERC rate and the amendment above in §(b)(2) removes the problem related to adjustments in a rate case; however, today's ruling must be guided by the statute in place before the amendments and the court's interpretation of it.

9. As stated above, there are two reasons the interpretation given by the Court of Appeals requiring a comparison to retail rates in effect immediately prior to the effective date of the TDC could be violated: (1) the FERC may have revised its wholesale transmission rate determinations; and (2) rates are changing due to the adjustments inherent in a comprehensive cost of service determination that is required in any rate case. Given the court's interpretation of the "revenue neutrality" requirement of the old statute, any TDC in these proceedings following remand will not result in rates that are precisely equal to "the revenue recovered from the retail rates in effect immediately prior to the effective date of the initial transmission charge." K.S.A. 2006 Supp. 66-1237(a). See 36 Kan. App. 2d at 103. For this reason, the Commission declines to impose a resolution requiring or allowing a TDC.

1. Stipulation

10. The stipulation avoids the pitfalls of a TDC by avoiding any such rate mechanism. Instead, the stipulation reached by Staff and Westar allows recovery of transmission costs in the same manner as other costs are treated in a rate case. That is,

determining transmission costs for the test year and including them in the cost of service, and allowing for their recovery through a line-item on the customers' bills. Stipulation, 2; Doljac, 1-2. See also, February 8, 2007 Order, 19-23; March 20, 2007 Order, 9-11. As to the transmission related refunds, Staff and Westar agreed that the refunds should be calculated according to the testimony of Mark Doljac, resulting in a revenue requirement reduction of $3,340,212 for Westar North and $3,350,609 for Westar South. Stipulation, 2. Staff and Westar agreed that the calculation of refunds should be as follows: "Transmission cost-related refunds would be calculated as the difference between the rates resulting from the inclusion of the retail transmission revenue requirement calculated by Mr. Doljac and the sum of the retail rates and the TDC rates billed to customers since February 27, 2006 plus interest." Stipulation, 2. Staff and Westar agreed that Westar's retail transmission related costs are $32,703,184 for Westar North and $29,615,844 for Westar South. Stipulation, 3.

2. Analysis and Conclusion

a. Staff and Westar

11. Consistently with its analysis of the prospective recovery of Westar's transmission related costs, Staff notes that Staff and Westar agree that "the transmission refund should be the revenue recovered under the rates established and authorized by the Commission in its December 28, 2005, rate order and reversed by the Court of Appeals minus the retail revenue that would have been recovered under the prospective rates, based on the above calculation." Staff Brief, 5. Staff and Westar agree witness Doljac presents the correct approach to this question. Staff Brief, 5.

12. In anticipating the arguments of parties opposed to Staff's and Westar's agreement, Staff discussed *Kansas Pipeline Partnership v. State Corp. Com'n of the State of Kansas*, 24 Kan. App. 2d 42, 941 P.2d 390 (1997) (*KPP*). Staff Brief, 5. In *KPP,* the Court of Appeals reviewed Commission orders following remand from a previous Court of Appeals review, *Williams Natural Gas Co. v. Kansas Corporation Comm'n,* 22 Kan. App. 2d 326, 916 P.2d 52 (1996), in which the Court of Appeals reversed a Commission order permitting recovery for market entry costs. 24 Kan. App. 2d at 44. The *KPP* court noted that in the *Williams* case, it had not found any record evidence to support recovery of market entry costs. 24 Kan. App. 2d at 45. Finding that it does not act as a finder of fact, the court in *Williams* remanded the case with instructions to take additional evidence if necessary as to market entry costs. 24 Kan. App. 2d at 45.

13. The *KPP* case illustrates the typical procedure following remand from the Court of Appeals. Just as the ruling in *Williams* case was not to punish the utility for the Commission's failure to base findings of fact on an adequate evidentiary basis, it was not the ruling of the Court of Appeals in this present case to punish the utility and force it to charge rates that cause it to under recover based on the 2004 test year. It is apparent that the *Williams* court contemplated that the Commission would hear additional evidence following remand. Similarly, the Court of Appeals in this case "reversed and remanded for further consideration by the Commission." 36 Kan. App. 2d at 113. Accordingly, the Commission invited the parties to present additional evidence in order to determine Westar's transmission costs for the test year (12 months ending December 31, 2004) and calculate refunds based on that determination. Order, dated February 8, 2007, 19-23.

14. Citing *Qwest Corporation v. Koppendrayer,* 436 F.3d 859 (8th Cir. 2006), Staff argues that the rationale for the prohibition against retroactive ratemaking is to promote predictability for rate payers - a rationale that does not make sense in this present case because notice that rates will change has been provided to rate payers throughout these proceedings. Staff Brief, 7. The Commission would add that Westar's original application called for an $84 million revenue requirement increase, that customers were informed of this request, that the Commission initially reduced that requested increase to a net increase of roughly $3 million, and that the final outcome in this case following the determinations in this remand proceeding will result in a substantial net rate decrease. See December 28, 2005 Order, 125. The Commission agrees with Staff in its citation to *Qwest.* See March 20, 2007 Order, 10; Staff Response, filed March 5, 2007, 10-12. The court in *Farmland Industries, Inc. v. State Corp. Com'n of State of Kan.,* 25 Kan. App. 2d 849, 860, 971 P.2d 1213 (1999), held that "[w]hen a case is remanded, the KCC has the power, subject to judicial review, to correct errors in the rate-making process without setting retroactive rates." Thus, the Commission can now determine what the transmission revenue requirement should have been, absent a TDC, and refund the difference. Further, the costs finally determined in FERC Docket No. ER05-925-000 coincide perfectly with the test year in this case. See Direct Testimony of Dennis L. Reed, filed April 4, 2007, 6 ("Because the test year in this matter was the 2004 calendar year, setting Westar's transmission-related revenue requirement based on 2004 Form 1 data will ensure that the transmission-related revenue requirement

will be synchronized with the balance of Westar's revenue requirement as determined by the Commission in this proceeding.").

15. Westar discussed the Court of Appeals' opinion, characterizing it as a ruling that the Commission's approval of the TDC was not consistent with the language of K.S.A. 2006 Supp. 66-1237, prior to the legislature's amendment. See L. 2007, ch. 44, § 1. Westar points out that the Court remanded the case for further consideration and did not issue any specific instructions. Westar Brief, 3. Westar succinctly identified the following principles, which appear substantially as follows:

> (1) On remand, the Commission's role is to set rates that "undo what is wrongfully done by virtue of its order." *United Gas Improvement Co. v. Federal Power Commission*, 382 U.S. 223, 229, 15 L. Ed. 2d 284, 86 S. Ct. 360 (1965).
>
> (2) As CURB acknowledged in its brief, Westar "is entitled to recover its prudently-incurred costs" to serve its Kansas retail customers. CURB Brief, 17.
>
> (3) The Commission is authorized to recognize in rates known and measurable changes to Westar's costs. *Gas Service Company v. KCC,* 8 Kan. App. 2d 545, 662 P.2d 264 (1983); *Potomac Electric Power Co. v. Public Service Commission,* 380 A.2d 126 (D.C. 1977); *Commonwealth v. Virginia Elec. & Power Co.,* 211 Va. 758, 771, 180 S.E.2d 675 (1971).
>
> (4) The ratemaking process is not complete until the Commission rules on remand. *Kansas Pipeline Partnership v. KCC,* 24 Kan. App. 2d 42, Syl. 5, 6 and 7, 941 P.2d 390 (1997).
>
> (5) Adjustments to rates on remand are not violations of the prohibition on retroactive ratemaking. *Natural Gas Clearinghouse v. FERC*, 965 F.2d 1066 (D.C. Cir. 1992).

The Commission agrees with these basic principles and authorities cited by Westar and concludes that these principles govern the Commission's actions following remand from the Court of Appeals.

b. KIC, USD 259, and CURB

16. In its brief, KIC begins with a history of the procedure in this case. KIC Brief, 1-9. Then, KIC contends that Doljac "did not provide testimony as to the lawful calculation of a TDC based on K.S.A. 66-117 and K.S.A. 2005 Supp. 66-1237" because his testimony relied on a FERC determination made subsequent to the 240-day deadline. KIC Brief, 9. The Commission finds that the 240 day deadline at K.S.A. 66-117 is inapplicable here. Moreover, Staff observes, and the Commission agrees, that the intervening parties cite no "authority for the proposition that any new evidence or facts, on remand, must have existed within the original 240 day deadline for the original final order on rate application." Staff Reply, 6. Nevertheless, since the FERC case and this case are using the same 2004 test year data for cost determinations, the only "new evidence" outside of the 240 day deadline at issue here is the fact of the "final determination" that FERC made in light of the 2004 test year evidence. K.S.A. 66-117 requires a commission order within 240 days of the application. The Commission complied with K.S.A. 66-117 by issuing its order on December 28, 2005. The case now finds itself in remand proceedings following judicial review. Under such circumstances, *Farmland* instructs that the Commission can act on remand. See *Farmland,* 25 Kan. App. 2d at 860. See also *Williams,* 22 Kan. App. 2d at 339 (remanding case with option of holding hearings and taking additional evidence on issue of market entry costs for purpose of determining whether it "should restore its earlier orders authorizing recovery of those costs"). Similarly, the Court of Appeals in this case remanded the case, generally, for further consideration. 36 Kan. App. 2d at 113.

17. KIC and USD 259 seem to complain that Westar has now amended its application. USD 259 Brief, 21. Westar has sought throughout these proceedings to recover its transmission related costs and the Commission herein is simply permitting that recovery in a manner consistent with the recovery of all other costs involved in this rate case. Because the Court of Appeals' statutory interpretation means that any TDC in these proceedings will not be revenue neutral (an issue that the Legislature's subsequent enactment of §(b)(2) of L. 2007, ch. 44 has addressed), the Commission is not permitting a TDC such that Westar's FERC formula rate can be flowed through to ratepayers. That process may happen, if it happens at all, when Westar files an application under the new language of L. 2007, ch. 44, § 1. Whether Westar makes such an application or not, the Commission believes its resolution of the issue in this and its other orders on remand is a lawful response to the court's direction.

18. KIC states that the transmission service charge (TSC) proposed in the Staff and Westar stipulation is really a TDC by another name. KIC Reply, 11. KIC glosses over the fact that the TDC rejected by the Court of Appeals would have flowed through future FERC approved cost changes through the use of a formulaic approach contemplated in the Kansas TDC statute. On the other hand, the TSC represents a static recovery of costs, which will necessarily under recover transmission related costs if they increase and over recover costs if they decrease. Staff describes the distinguishing factor from what the Stipulation provides and the original TDC: "The mechanism proposed in the present Stipulation does not automatically pass through FERC changes in costs."

Staff Reply Brief, 9. In other words, the Commission is using the November 2006 FERC determination as the best evidence of Westar's 2004 test year transmission related costs.

19. CURB cites *KPP* for the proposition that "the Commission must order that amounts collected under an illegal rate must be refunded to customers." CURB Brief, 4. USD 259 makes a similar argument. USD 259 Brief, 23-24. The Court of Appeals provided an interpretation of K.S.A. 2006 Supp. 66-1237 - it did not provide a ruling that the level of rates recovered in the TDC was unlawful. Staff accurately notes that the "Court of Appeals determined the TDC as originally adopted by the Commission did not comply with the existing statute, not that the TDC costs were inaccurate or lacked evidentiary support." Staff Reply Brief, 8. The Commission, therefore, responds herein by reversing the implementation of a TDC and by providing for a traditional recovery of Westar's 2004 test year transmission costs as those costs are reflected in the November 2006 FERC order.

20. CURB mistakenly attempts to characterize the approach of Staff and Westar as a retroactive application of L. 2007, ch. 44, § 1. CURB Brief, 5. The Commission is not authorizing the flow through of a formula rate pursuant to K.S.A. 2006 Supp. 66-1237. As explained above, CURB's argument ignores the most important feature of what the legislature tried to accomplish with the TDC statute, *i.e.* the accelerated flow through of transmission rates in a fashion that reduces regulatory lag with respect to recovery of transmission costs.

21. The Commission has broad authority to address these issues in a pragmatic way in order to reach a just and reasonable result. See *Midwest Gas Users Ass'n v. State*

Corp. Commission, 5 Kan. App. 2d 653, 661, 623 P.2d 924 (1981), wherein the court quoted extensively from *Permian Basin Area Rate Cases,* 390 U.S. 747, 20 L. Ed. 2d 312, 88 S. Ct. 1344 (1968). In *Permian*, the U. S. Supreme Court held as follows:

> "[R]ate-making agencies are not bound to the service of any single regulatory formula; they are permitted, unless their statutory authority otherwise plainly indicates, 'to make the pragmatic adjustments which may be called for by particular circumstances.' [Citation omitted.]" 390 U.S. at 776-77.

See also K.S.A. 66-101 ("The commission is given full power, authority and jurisdiction to supervise and control the electric public utilities, as defined in K.S.A. 66-101a, doing business in Kansas, and is empowered to do all things necessary and convenient for the exercise of such power, authority and jurisdiction."), and K.S.A. 66-101g ("As applied to regulation of electric public utilities, the provisions of this act and all grants of power, authority and jurisdiction herein made to the commission, shall be liberally construed, and all incidental powers necessary to carry into effect the provisions of this act are expressly granted to and conferred upon the commission.").

22. CURB, KIC and USD 259 argue that the Commission is bound to use the FERC transmission rates according to a 1998 FERC order. KIC Brief, 17; USD 259 Brief, 27-30; CURB Brief, 22-23. This would lead to an unjust result. Unlike the final FERC determinations in November 2006, which reflect costs from a 2004 test year, the prior FERC determination uses a 1994 test year and therefore does not reflect additional plant investment and incurred additional expenses since the 1994 test year: "Specifically, [Westar has] added almost $120 million to transmission plant and transmission O&M expenses, net of account 565, have increased more than 600% to $79.7 million since

1994, the test year used to develop the current ATRR." Oakes Testimony, Appendix A, filed May 2, 2005, 7, 21. Accordingly, the Commission finds that to adopt the approach advocated by KIC, USD 259, and CURB would result in under recovery and would not permit Westar to provide reasonably sufficient and efficient service. See *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591, 603, 88 L. Ed. 333, 64 S. Ct. 281 (1944) ("From the investor or company point of view it is important that there be enough revenue not only for operating expenses but also for the capital costs of the business.") While much has been made of assessments to SPP during 2004, these assessments do not reflect the test year 2004 costs. Costs from 2004, rather, were finally determined in FERC's November 2006 order, and it is for that reason that the Commission herein relies on the November 2006 FERC determination.

23. Under the Court of Appeals' interpretation of K.S.A. 2006 Supp. 66-1237, Westar cannot institute a TDC that appropriately recovers all transmission costs in a rate case. This is because of the Court's interpretation of revenue neutrality and its determination that a final FERC rate rather than the interim rate that became effective December 1, 2005 must be used. See Staff Reply Brief, 7.

24. The costs recovered by the agreement between Staff and Westar are based on data and costs from a test year ending December 31, 2004. In the direct testimony of Robert F. Oakes, Appendix A, 34, filed in this proceeding May 2, 2005, Oakes includes his testimony before FERC wherein he states that the "test period used for this [FERC] case is the twelve months ended December 31, 2004." Staff and Westar are asking the Commission to base refunds and future transmission cost recovery on data from the test

year that is being used in this case. In sum, the Commission herein no doubt relies on FERC's determination that was rendered outside the test year and after the time when rates originally went into effect; however, the costs upon which that determination is based coincide perfectly with the test year in this case. At this point in time, to rely on anything other than the November 2006 FERC order would misstate a proper recovery of costs as they existed in the year ending on December 31, 2004. In contrast, Westar and Staff argue for the treatment herein of Westar's transmission related costs following reversal from the Court of Appeals in a manner consistent with the treatment of all other costs in this rate case, and the Commission agrees this is appropriate and leads to a just and reasonable result.

25. Finally, all the parties to this docket agree that the final FERC rate is appropriate for purposes of setting prospective rates. See USD 259 Brief, 28 ("None of the parties dispute that the FERC final rate may be imposed on a going forward basis."). The purpose of a refund is to return to customers the difference between what they were charged and what they should have been charged. As all parties agree as to what customers should have been charged, the Commission is confident that the Staff and Westar stipulation correctly identifies the amount of the refund.

B. Prospective Recovery of Transmission Related Costs

26. Staff and Westar agree that Westar's prospective transmission related costs should be recovered according to the method presented by Doljac in his April 18, 2007 testimony. Staff Brief, 1-2. As noted above, the parties agree with this approach.

27. The Commission finds that the Stipulation between Staff and Westar should be adopted as it relates to the prospective recovery of transmission costs. Use of the February 2006 FERC rate will permit Westar to recover transmission related costs consistently with the other costs in this docket and will reflect the additional investment in transmission plant since the last FERC rate. Responsive Testimony Prepared by Mark F. Doljac, filed April 18, 2007, 1-17; exh. MD-R1 through MD-R4.

V. Resolution of Investment Tax Credit

A. Stipulation

28. Staff and Westar also address ITC amortization in the Stipulation. Staff and Westar agree that the prospective annual ITC amortization should be based on

> "(a) the remaining useful life as determined from the Commission-approved composite annual percentage depreciation rates without net salvage (b) applied to the unamortized book investment tax credit balances as of December 31,2004, on a vintage year basis. The Parties agree that the appropriate calculations and results are presented in the responsive testimony of Westar witness Stadler filed with the Commission on May 2, 2007 and that the appropriate ITC amortization amounts are $1,036,291 for Westar North and $1,479,604 and Westar South."

As explained in Westar's July 9, 2007 filing, the above numbers are total company numbers and converted to jurisdictional numbers result in $1,007,203 and $1,456,769 for Westar North and Westar South, respectively. The Amended Stipulation revises those numbers to $1,064,983 and $1,447,405 for Westar North and Westar South, respectively.

B. Analysis and Conclusion

29. USD 259 argues that this matter should be addressed in a separate proceeding due to the fact that the numbers have changed during the course of the

Commission's consideration of the issue. USD 259 Brief, 19-21. USD 259 states that it is impossible for Westar and Staff to agree that the numbers in Stadler's May 2, 2007 testimony are correct when the Amended Stipulation indicates that Westar and Staff agree the results in Stadler's testimony are wrong. USD 259 Response, 1. It argues the Amended Stipulation demonstrates the difficulty in addressing the ITC issues in this docket and goes on further to state that Westar and Staff have not provided any rationale on why the most recent numbers are more reliable than the earlier numbers. USD 259 Response, 2. Finally, USD 259 continues to maintain that the ITC issue should be addressed in a separate docket. USD 259 Response, 2.

30. Noting areas of presumed agreement, *i.e.* addressing the ITC issue on a prospective basis, using the December 31, 2004 balance to calculate the amortization amount, and choosing a method to calculate the ITC balance, Staff observes that the position of USD 259 is simply that "the results in Mr. Stadler's testimony are not exactly the same as contained in the Stipulation." Staff Reply, 2. Staff maintains that the difference between the May 8, 2007 and June 27, 2007 stipulation is de minimus, resulting in a difference slightly greater than one half cent per month in an average customer's bill. Staff Reply, 2. Further, Staff points out the benefits of settling the ITC issue in light of the alternative of potentially protracted litigation, with costs that could only exceed any potential benefits. Staff Reply, 2-3. The Commission agrees with this analysis of Staff.

31. As to the ITC, Westar identifies USD 259 as the only party objecting to the handling of the ITC in this docket; however, Westar observes that USD 259's objection is

not based on substance, but rather is based on a concern that the numbers may not be accurate and may not be based on substantial competent evidence. Westar Reply, 4-5. As to the errors, Westar points out that the only significant errors have to do with 2006 year end numbers, which do not form the basis for the adjustment; however, the 2004 numbers have not moved much. Westar Reply, 5; Tr. 146. As was pointed out by Staff witness McClanahan in a colloquy with Chairman Moline during the hearing on this issue, the difficulty in accurately pinning down numbers in complex calculations is an inherent part of the process required in a massive rate case. Tr. 148-49. Westar adds that the discovery of errors and the subsequent effort to correct them do not provide for a basis to reject the corrected numbers. Westar Reply, 5. Westar Reply, 1; Tr. 146-49. Westar points out that McClanahan testified that corrections have not caused much movement in the proposed amortization amounts. Westar Reply, 1. Westar explained that further auditing resulted in small changes; thus, making the June 27, 2007 amendment necessary. Westar Reply, 1. Importantly, Westar pointed out that USD 259 presents no substantive objection to the numbers:

> "Westar has no objection to providing the parties 'a fair opportunity to scrutinize the finalized adjustment and raise objections if they continue to find errors in the calculations' as suggested by CURB. CURB Brief on Remand, at 22. Since Westar raised the ITC issue, Westar has repeatedly made USD 259 aware of the opportunity to review the calculations. Unlike CURB, which has expended time and money to review the numbers, USD 259 has made no such effort. USD 259's attack on the ITC amortization adjustment has no basis in law, policy or fact and should be rejected." Westar Reply, 3.

32. No party has raised a substantive objection to the process by which the final numbers were reached by Staff and Westar. USD 259, for example, simply asks for

deferral of the issue because accounting scrutiny has resulted in adjusted numbers. The Commission notes that if deferral were the answer to a lack of perfection in all complex, difficult accounting calculations involved in a rate case such as this one, few cases could be brought to conclusion.

33. Finally, the Commission also reminds the parties of the rationale in the Commission's orders, dated March 20, 2007, and April 30, 2007, supporting our determination to address the ITC issue now rather than deferring it until later. The analysis is hereby incorporated by reference. USD 259 and CURB continue to disagree with that determination, even in the face of the fact that the difference between the original and amended stipulation amounts to $48,146. Westar July 9, 2007 Reply, 3. The Commission agrees that costs of any further litigation of this issue would outweigh any benefits.

34. The Commission has taken on the task of addressing the complex ITC issue in this docket. The only parties providing evidence on this issue have settled the issue. The only objections to the Amended Stipulation amount to a classic case of the perfect becoming the enemy of the good. The Commission finds that the amended stipulation resolves the matter in a just and reasonable manner.

VI. Interest

35. In ordering refunds, the Commission has the inherent power to award interest. *Sunflower Pipeline Co. v. Kansas Corporation Commission,* 5 Kan. App. 2d 715, 719, 624 P.2d 466 (1981).

36. As to the interest rate to be applied, Staff and Westar disagree. Staff advocates using the overall rate of return, 7.89%. Staff Brief, 8. Westar argues initially for the customer deposit rate of 4.9%. Tr., 63-64; Westar Reply, 6. Staff says that while the customer deposit rate might help make ratepayers whole, a refund should do more than that. "It should insure the utility does not receive undeserved benefits from the excess revenues" Staff Brief, 9. In the alternative, Staff recommends using the FERC interest rate, 18 C.F.R. § 35.19a (2006) which they define as "the quarterly average of the prime rate during the overcollection period." Staff Brief, 9. Westar indicates that a fair compromise would be an average of the Westar cost of money and the customer's cost of money, which it calculates to be 6.395%.

37. As to the suggestion that Westar's overall rate of return should be used for calculating interest, Westar maintains that such an approach would inappropriately treat customers as though they are investors in Westar. Westar Reply, 6. Additionally, Westar points out that its overall rate of return includes interest costs for long term debt with maturity dates far in excess of the period that customer security deposits are retained by Westar. Westar Reply, 6. CURB, KIC and USD 259 did not address the interest issue.

38. The Commission agrees that the purpose of the refund should put the parties back in the same position they would have been had the error not occurred. See Westar Reply, 6. Further, the Commission agrees that using an average of Westar's cost of money and its customers' cost of money will not only strike an appropriate compromise between the cost of money for the utility on the one hand and the ratepayers on the other, but would also implement a meaningful interest rate tied to the evidence of

this docket. See Westar Reply, 6. Accordingly, the Commission finds that the compromise solution suggested by Westar is appropriate. The interest to be imposed shall be 6.395%.

VII. Form of Refund

39. KIC requests that its members receive refunds in the form of checks. KIC Brief, 10. Without citation to any particular tariff language, KIC states that the "general terms and conditions of Westar provide that if there is a refund amount that is to be credited to the customer, the customer may request a refund check in lieu of a bill credit." KIC Brief, 10. The Commission is aware of Section 4.05.03 regarding billing adjustments for bills based on estimated usage or a meter reading by a customer. However, the Commission is unaware of any tariff language that is specifically applicable to the circumstances at issue here. Furthermore KIC's proposed procedure -- under which only its members would be issued refund checks -- would treat some customers differently from others. Westar argues that such a procedure would also increase costs. Rohlfs, Tr., 65. Finding no specific tariff language addressing the issue of refunds of the type at issue here, the Commission finds that all Westar customers should be treated similarly. Accordingly, KIC's request is denied.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. The above findings of fact and conclusions of law are made. The Amended Stipulation is approved.

B. Westar is ordered to have new tariffs and a plan for implementing refunds filed within 3 weeks of service of this order.

C. A party may file a petition for reconsideration of this order within 15 days of the service of this order. If this order is mailed, service is complete upon mailing and 3 days may be added to the above time frame.

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

BY THE COMMISSION IT IS SO ORDERED.

Wright, Chr.; Krehbiel, Comm.; Moffet, Comm.

Dated: JUL 3 1 2007

ORDER MAILED

JUL 3 1 2007

Executive Director

Susan K. Duffy
Executive Director

sre

WESTAR NORTH
SUMMARY OF ESTIMATED SURVIVOR CURVES, NET SALVAGE, ORIGINAL COST, BOOK RESERVE AND CALCULATED ANNUAL DEPRECIATION RATES AS OF DECEMBER 31, 2003

	ACCOUNT	SURVIVOR CURVE	NET SALVAGE PERCENT	ORIGINAL COST	BOOK RESERVE	FUTURE ACCRUALS	CALCULATED ANNUAL ACCRUAL AMOUNT	CALCULATED ANNUAL ACCRUAL RATE	COMPOSITE REMAINING LIFE
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)=(7)/(4)	(9)=(6)/(7)
	STEAM PRODUCTION PLANT								
311.00	STRUCTURES & IMPROVEMENTS								
	JEFFREY	75-R3 *	(10)	153,486,630.47	86,646,698	82,188,594	2,409,461	1.57	34.1
	TECUMSEH	75-R3 *	(10)	14,658,030.35	9,537,848	6,585,979	360,822	2.46	18.3
	LAWRENCE	75-R3 *	(10)	22,871,212.24	14,637,515	10,520,817	393,915	1.72	26.7
	HUTCHINSON	75-R3 *	(10)	5,547,666.56	4,467,553	1,634,883	115,881	2.09	14.1
	TOTAL STRUCTURES & IMPROVEMENTS			196,563,539.62	115,289,614	100,930,273	3,280,079	1.67	30.8
312.00	BOILER PLANT EQUIPMENT								
	JEFFREY	55-R1 *	(15)	291,979,243.05	145,190,719	190,585,412	6,394,313	2.19	29.8
	TECUMSEH	55-R1 *	(15)	48,157,901.09	25,568,106	29,813,482	1,727,576	3.59	17.3
	LAWRENCE	55-R1 *	(15)	92,419,174.73	49,676,673	56,605,379	2,289,920	2.48	24.7
	HUTCHINSON	55-R1 *	(15)	16,007,286.97	7,691,592	10,716,789	797,451	4.98	13.4
	TOTAL BOILER PLANT EQUIPMENT			448,563,605.84	228,127,090	287,721,062	11,209,260	2.50	25.7
312.10	POLLUTION CONTROL EQUIPMENT								
	JEFFREY	35-R2.5 *	(30)	140,733,721.32	66,653,373	116,300,464	7,230,862	5.14	16.1
	TECUMSEH	35-R2.5 *	(30)	8,635,761.92	3,381,243	7,845,249	596,976	6.91	13.1
	LAWRENCE	35-R2.5 *	(30)	11,339,226.03	2,781,834	11,959,159	621,828	5.48	19.2
	TOTAL POLLUTION CONTROL EQUIPMENT			160,708,709.27	72,816,450	136,104,872	8,449,666	5.26	16.1
312.20	BOILER PLANT EQUIPMENT - TRAIN CARS								
	JEFFREY	25-R2 *	0	294,464.00	71,672	222,792	10,609	3.60	21.0
	TECUMSEH	25-R2 *	0	5,183,981.40	1,060,221	4,123,760	253,961	4.90	16.2
	LAWRENCE	25-R2 *	0	12,246,741.55	2,482,142	9,764,600	462,217	3.77	21.1
	TOTAL BOILER PLANT EQUIPMENT - TRAIN CARS			17,725,186.95	3,614,035	14,111,152	726,787	4.10	19.4
314.00	TURBOGENERATOR UNITS								
	JEFFREY	30-S2 *	(10)	130,840,041.67	42,440,075	101,483,972	6,059,813	4.63	16.7
	TECUMSEH	30-S2 *	(10)	21,727,970.32	8,078,557	15,822,212	1,796,677	8.27	8.8
	LAWRENCE	30-S2 *	(10)	54,246,443.90	19,231,264	40,439,823	2,914,219	5.37	13.9
	HUTCHINSON	30-S2 *	(10)	11,874,764.46	8,078,100	4,984,142	931,621	7.85	5.3
	TOTAL TURBOGENERATOR UNITS			218,689,220.35	77,827,996	162,730,149	11,702,330	5.35	13.9
315.00	ACCESSORY ELECTRIC EQUIPMENT								
	JEFFREY	50-S1.5 *	(5)	49,071,728.36	22,182,304	29,343,011	1,049,772	2.14	28.0
	TECUMSEH	50-S1.5 *	(5)	11,194,778.94	3,592,524	8,161,994	466,226	4.16	17.5
	LAWRENCE	50-S1.5 *	(5)	15,574,869.72	3,002,385	13,351,227	541,963	3.48	24.6
	HUTCHINSON	50-S1.5 *	(5)	3,670,808.83	2,475,735	1,378,617	106,280	2.90	13.0
	TOTAL ACCESSORY ELECTRIC EQUIPMENT			79,512,185.85	31,252,948	52,234,849	2,164,241	2.72	24.1
316.00	MISCELLANEOUS POWER PLANT EQUIPMENT								
	JEFFREY	35-R2 *	(5)	10,655,696.43	4,733,931	6,454,551	245,107	2.30	26.3
	TECUMSEH	35-R2 *	(5)	3,320,277.16	1,161,861	2,324,431	140,959	4.25	16.5
	LAWRENCE	35-R2 *	(5)	4,493,201.83	133,549	4,584,311	203,478	4.53	22.5
	HUTCHINSON	35-R2 *	(5)	1,124,544.82	715,467	465,306	35,276	3.14	13.2
	TOTAL MISCELLANEOUS POWER PLANT EQUIPMENT			19,593,720.24	6,744,808	13,828,599	624,820	3.19	22.1
	TOTAL STEAM PRODUCTION PLANT			**1,141,356,168.12**	**535,672,941**	**767,660,956**	**38,157,183**	**3.34**	**20.1**

WESTAR NORTH
SUMMARY OF ESTIMATED SURVIVOR CURVES, NET SALVAGE, ORIGINAL COST, BOOK RESERVE AND CALCULATED ANNUAL DEPRECIATION RATES AS OF DECEMBER 31, 2003

	ACCOUNT	SURVIVOR CURVE	NET SALVAGE PERCENT	ORIGINAL COST	BOOK RESERVE	FUTURE ACCRUALS	CALCULATED ANNUAL ACCRUAL AMOUNT	CALCULATED ANNUAL ACCRUAL RATE	COMPOSITE REMAINING LIFE
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)=(7)/(4)	(9)=(6)/(7)
	WIND GENERATION PLANT								
341.00	STRUCTURES & IMPROVEMENTS								
	JEFFREY	SQUARE *	0	40,235.10	8,277	31,958	2,557	6.36	12.5
344.00	GENERATORS								
	JEFFREY	30-S3 *	0	1,202,157.28	258,684	943,473	75,720	6.30	12.5
345.00	ACCESSORY ELECTRIC EQUIPMENT								
	JEFFREY	40-S3 *	0	73,170.47	16,754	56,416	4,517	6.17	12.5
346.00	MISCELLANEOUS PLANT EQUIPMENT								
	JEFFREY	SQUARE *	0	17,933.54	3,876	14,058	1,125	6.27	12.5
	TOTAL WIND GENERATION PLANT			**1,333,496.39**	**287,591**	**1,045,905**	**83,919**	**6.29**	**12.5**
	TOTAL DEPRECIABLE PLANT			**1,142,689,664.51**	**535,960,532**	**768,706,861**	**38,241,102**		

* Curve shown is interim survivor curve. Each facility in the account is assigned an individual probable retirement year.

WESTAR SOUTH
SUMMARY OF ESTIMATED SURVIVOR CURVES, NET SALVAGE, ORIGINAL COST, BOOK RESERVE AND CALCULATED ANNUAL DEPRECIATION RATES AS OF DECEMBER 31, 2003

	ACCOUNT	SURVIVOR CURVE		NET SALVAGE PERCENT	ORIGINAL COST	BOOK RESERVE	FUTURE ACCRUALS	CALCULATED ANNUAL ACCRUAL AMOUNT	CALCULATED ANNUAL ACCRUAL RATE	COMPOSITE REMAINING LIFE
	(1)	(2)		(3)	(4)	(5)	(6)	(7)	(8)=(7)/(4)	(9)=(6)/(7)
	STEAM PRODUCTION PLANT									
311.00	STRUCTURES & IMPROVEMENTS									
	JEFFREY	75-R3	*	(10)	48,670,387.38	30,067,196	23,470,231	687,354	1.41	34.1
	RIPLEY	75-R3	*	(10)	2,111,828.27	1,701,857	621,157	141,080	6.68	4.4
	NEOSHO	75-R3	*	(10)	2,683,171.52	2,235,051	716,442	133,612	4.98	5.4
	MURRAY GILL	75-R3	*	(10)	5,224,995.24	4,750,776	996,721	87,955	1.68	11.3
	GORDAN EVANS	75-R3	*	(10)	4,074,654.47	3,368,757	1,113,367	65,121	1.60	17.1
	LACYGNE UNIT 1	75-R3	*	(10)	25,508,581.00	11,856,502	16,202,939	566,827	2.22	28.6
	LACYGNE UNIT 2	75-R3	*	(10)	1,691,460.00	496,253	1,364,354	110,254	6.52	12.4
	TOTAL STRUCTURES & IMPROVEMENTS				89,965,077.88	54,476,392	44,485,211	1,792,203	1.99	24.8
312.00	BOILER PLANT EQUIPMENT									
	JEFFREY	55-R1	*	(15)	92,602,293.17	42,617,029	63,875,608	2,142,205	2.31	29.8
	RIPLEY	55-R1	*	(15)	613,728.00	(252,338)	958,125	217,281	35.40	4.4
	NEOSHO	55-R1	*	(15)	5,302,976.40	3,895,846	2,202,576	415,488	7.83	5.3
	MURRAY GILL	55-R1	*	(15)	20,797,771.34	21,295,304	2,622,132	236,053	1.13	11.1
	GORDAN EVANS	55-R1	*	(15)	29,092,094.62	20,979,866	12,476,046	771,542	2.65	16.2
	LACYGNE UNIT 1	55-R1	*	(15)	86,057,779.00	48,606,898	50,359,550	1,916,724	2.23	26.3
	LACYGNE UNIT 2	55-R1	*	(15)	23,880,703.00	6,314,311	21,148,497	1,764,528	7.39	12.0
	TOTAL BOILER PLANT EQUIPMENT				258,347,345.53	143,456,916	153,642,534	7,463,821	2.89	20.6
312.10	POLLUTION CONTROL EQUIPMENT									
	JEFFREY	35-R2.5	*	(30)	43,513,437.11	27,917,968	28,649,501	1,791,202	4.12	16.0
	LACYGNE UNIT 1	35-R2.5	*	(30)	40,563,914.00	38,457,421	14,275,667	629,967	1.55	22.7
	TOTAL POLLUTION CONTROL EQUIPMENT				84,077,351.11	66,375,389	42,925,168	2,421,169	2.88	17.7
312.20	BOILER PLANT EQUIPMENT - TRAIN CARS									
	JEFFREY	25-R2	*	0	92,020.00	27,146	64,874	3,085	3.35	21.0
	LACYGNE UNIT 2	25-R2	*	0	1,286,715.99	1,589,116	(302,400)	0	-	-
	TOTAL BOILER PLANT EQUIPMENT - TRAIN CARS				1,378,735.99	1,616,262	(237,526)	3,085	0.22	-
314.00	TURBOGENERATOR UNITS									
	JEFFREY	30-S2	*	(10)	42,501,767.66	10,428,349	36,323,596	2,233,135	5.25	16.3
	NEOSHO	30-S2	*	(10)	4,376,391.25	3,092,151	1,721,882	570,175	13.03	3.0
	MURRAY GILL	30-S2	*	(10)	23,125,021.99	17,993,929	7,443,596	909,265	3.93	8.2
	GORDAN EVANS	30-S2	*	(10)	22,735,281.56	19,798,010	5,210,803	313,894	1.38	16.6
	LACYGNE UNIT 1	30-S2	*	(10)	23,324,011.00	13,380,542	12,275,873	1,207,896	5.18	10.2
	LACYGNE UNIT 2	30-S2	*	(10)	5,606,664.00	985,248	5,182,082	463,135	8.26	11.2
	TOTAL TURBOGENERATOR UNITS				121,669,137.46	65,678,229	68,157,832	5,697,500	4.68	12.0
315.00	ACCESSORY ELECTRIC EQUIPMENT									
	JEFFREY	50-S1.5	*	(5)	15,519,163.73	7,092,740	9,202,382	329,020	2.12	28.0
	WICHITA	50-S1.5	*	(5)	196,684.52	226,642	(20,124)	0	-	-
	RIPLEY	50-S1.5	*	(5)	658,792.00	491,194	200,540	50,076	7.60	4.0
	NEOSHO	50-S1.5	*	(5)	1,937,670.51	1,498,485	536,068	101,147	5.22	5.3
	MURRAY GILL	50-S1.5	*	(5)	5,919,303.94	4,880,932	1,334,340	118,345	2.00	11.3
	GORDAN EVANS	50-S1.5	*	(5)	5,770,813.11	4,354,652	1,704,700	98,697	1.71	17.3
	LACYGNE UNIT 1	50-S1.5	*	(5)	12,239,428.00	6,329,822	6,521,575	275,474	2.25	23.7
	LACYGNE UNIT 2	50-S1.5	*	(5)	2,133,732.00	959,453	1,280,965	105,377	4.94	12.2
	TOTAL ACCESSORY ELECTRIC EQUIPMENT				44,375,587.81	25,833,920	20,760,446	1,078,136	2.43	19.3

WESTAR SOUTH
SUMMARY OF ESTIMATED SURVIVOR CURVES, NET SALVAGE, ORIGINAL COST, BOOK RESERVE AND CALCULATED ANNUAL DEPRECIATION RATES AS OF DECEMBER 31, 2003

	ACCOUNT	SURVIVOR CURVE	NET SALVAGE PERCENT	ORIGINAL COST	BOOK RESERVE	FUTURE ACCRUALS	CALCULATED ANNUAL ACCRUAL AMOUNT	CALCULATED ANNUAL ACCRUAL RATE	COMPOSITE REMAINING LIFE
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)=(7)/(4)	(9)=(6)/(7)
316.00	MISCELLANEOUS POWER PLANT EQUIPMENT								
	JEFFREY	35-R2 *	(5)	3,634,656.09	949,203	2,867,189	116,427	3.20	24.6
	RIPLEY	35-R2 *	(5)	300,132.01	190,523	124,618	30,738	10.24	4.1
	NEOSHO	35-R2 *	(5)	482,388.67	222,581	283,929	59,587	12.35	4.8
	MURRAY GILL	35-R2 *	(5)	1,431,422.59	780,654	722,341	70,775	4.94	10.2
	GORDAN EVANS	35-R2 *	(5)	1,349,650.86	646,870	770,262	49,784	3.69	15.5
	LACYGNE UNIT 1	35-R2 *	(5)	4,210,990.00	1,377,131	3,044,411	127,016	3.02	24.0
	LACYGNE UNIT 2	35-R2 *	(5)	1,253,341.00	591,706	724,302	62,098	4.95	11.7
	TOTAL MISCELLANEOUS POWER PLANT EQUIPMENT			12,662,581.22	4,758,668	8,537,052	516,425	4.08	16.5
	TOTAL STEAM PRODUCTION PLANT			**612,475,817.00**	**362,195,776**	**338,270,717**	**18,972,339**	**3.10**	**17.8**
	WIND GENERATION PLANT								
341.00	STRUCTURES & IMPROVEMENTS								
	JEFFREY	SQUARE *	0	10,491.12	2,253	8,238	659	6.28	12.5
344.00	GENERATORS								
	JEFFREY	30-S3 *	0	376,493.89	75,593	300,901	24,325	6.46	12.4
345.00	ACCESSORY ELECTRIC EQUIPMENT								
	JEFFREY	40-S3 *	0	22,776.40	4,912	17,865	1,431	6.28	12.5
346.00	MISCELLANEOUS PLANT EQUIPMENT								
	JEFFREY	SQUARE *	0	5,544.56	1,181	4,364	349	6.29	12.5
	TOTAL WIND GENERATION PLANT			**415,305.97**	**83,939**	**331,368**	**26,764**	**6.44**	**12.4**
	TOTAL DEPRECIABLE PLANT			**612,891,122.97**	**362,279,715**	**338,602,085**	**18,999,103**		

* Curve shown is interim survivor curve. Each facility in the account is assigned an individual probable retirement year.

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of the Applications of Westar Energy, Inc. and Kansas Gas and Electric Company for Approval to Make Certain Changes in their Charges for Electric Service.	))))	Docket No. 05-WSEE-981-RTS

RESPONSE OF WESTAR ENERGY, INC. AND KANSAS GAS AND ELECTRIC COMPANY TO THE COMMISSION'S MARCH 20, 2007 PROVIDING CALCULATIONS OF DEPRECIATION RATES WITHOUT TERMINAL NET SALVAGE

COME NOW Westar Energy, Inc. and Kansas Gas and Electric Company (collectively referred to as "Westar") and file their Response to the Commission's March 20, 2007 Providing Calculations of Depreciation Rates Without Terminal Net Salvage. In support of its Response, Westar states:

1. On March 20, 2007, the Commission issued its Order Denying Reconsideration, Order Granting Clarification, and Order Opening Record for Limited Purpose (Order). In the Order, the Commission clarified that in calculating the effect of removing terminal net salvage from its depreciation calculation, Westar was to "use the Holloway adjustment in making calculations, after considering ADIT and ITC amortization adjustments, and file an appropriate pleading approved by Staff that implements the Holloway adjustment." Order, at ¶ 28.

2. Attached hereto as Exhibit 1 is a spreadsheet that sets forth the details of the calculations and the depreciation rates based on Mr. Holloway's method. Westar has provided the spreadsheet to Staff in advance of making this filing and is authorized to state that Staff agrees that the calculations properly reflect Mr. Holloway's adjustment.

Respectfully submitted,

WESTAR ENERGY, INC.
KANSAS GAS AND ELECTRIC COMPANY

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THEIR ATTORNEYS

Dated: May 14, 2007

VERIFICATION

STATE OF KANSAS)
) ss:
COUNTY OF SHAWNEE)

Martin J. Bregman, being duly sworn upon his oath deposes and says that he is one of the attorneys for Westar Energy, Inc. and Kansas Gas and Electric Company; that he is familiar with the foregoing **Response to the Commission's March 20, 2007 Providing Calculations of Depreciation Rates Without Terminal Net Salvage**; and that the statements therein are true and correct to the best of his knowledge and belief.
1.

Martin J. Bregman

SUBSCRIBED AND SWORN to before me this 14th day of May, 2007.

Sally Wilson
NOTARY PUBLIC~STATE OF KANSAS
MY APPT EXP: 6/19/2007

Sally Wilson
Notary Public

My Appointment Expires: 6/19/2007

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of May, 2007, the original and seven copies foregoing their **Response to the Commission's March 20, 2007 Providing Calculations of Depreciation Rates Without Terminal Net Salvage**, were hand delivered to:

Susan K. Duffy
Executive Director
KANSAS CORPORATION COMMISSION
1500 SW Arrowhead Road
Topeka, Kansas 66604

and that one copy was mailed, postage prepaid, addressed to:

Susan Cunningham, General Counsel
Kansas Corporation Commission
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Topeka, KS 66604

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Martin J. Bregman

Westar Energy, Inc.
Westar North Depreciation Rates Excluding Terminal Net Salvage for Steam Electric Plant

Exhibit 1
1 of 6

		A Plant Balance per Order	B Rates per Staff w/o TNS (1)	C C = A * B Depreciation Expense Per Staff	D Revised Rates per Westar w/o TNS (2)	E E = A * D Depreciation Expense per Westar	F F = D - B Difference in rates	G I = A * F Check
	STEAM PRODUCTION							
311	Structures & Improvements							
	Steam - JEC #1/Common	$ 85,251,975	1.95%	$ 1,662,414	1.95%	$ 1,662,414	0.00%	$ -
	Steam - JEC #2	$ 25,561,391	1.95%	$ 498,447	1.95%	$ 498,447	0.00%	$ -
	Steam - JEC #3	$ 42,989,788	1.95%	$ 838,301	1.95%	$ 838,301	0.00%	$ -
	Steam - TEC	$ 14,673,380	1.95%	$ 286,131	1.95%	$ 286,131	0.00%	$ -
	Steam - LEC	$ 23,276,257	0.70%	$ 162,934	0.70%	$ 162,934	0.00%	$ -
	Steam - HEC	$ 5,659,303	-1.60%	$ (90,549)	0.00%	$ -	1.60%	$ 90,549
	Total Structures & Improvements	$ 197,412,094		$ 3,357,677		$ 3,448,226		$ 90,549
312	Boiler Plant Equipment							
	Steam - JEC #1/Common	$ 114,662,797	2.50%	$ 2,866,570	2.50%	$ 2,866,570	0.00%	$ -
	Steam - JEC #2	$ 73,752,942	2.50%	$ 1,843,824	2.50%	$ 1,843,824	0.00%	$ -
	Steam - JEC #3	$ 110,467,263	2.50%	$ 2,761,682	2.50%	$ 2,761,682	0.00%	$ -
	Steam - TEC	$ 50,067,812	3.12%	$ 1,562,116	3.12%	$ 1,562,116	0.00%	$ -
	Steam - LEC	$ 96,426,580	1.85%	$ 1,783,892	1.85%	$ 1,783,892	0.00%	$ -
	Steam - HEC	$ 18,104,546	0.59%	$ 106,817	0.54%	$ 98,026	-0.05%	$ (8,791)
	Total Boiler Plant Equipment	$ 463,481,940		$ 10,924,899		$ 10,916,109		$ (8,791)
314	Turbogenerator Units							
	Steam - JEC #1/Common	$ 45,725,395	4.99%	$ 2,281,697	4.99%	$ 2,281,697	0.00%	$ -
	Steam - JEC #2	$ 37,882,428	4.99%	$ 1,890,333	4.99%	$ 1,890,333	0.00%	$ -
	Steam - JEC #3	$ 44,863,537	4.99%	$ 2,238,690	4.99%	$ 2,238,690	0.00%	$ -
	Steam - JEC #4	$ 8,238,666	4.99%	$ 411,109	4.99%	$ 411,109	0.00%	$ -
	Steam - TEC	$ 22,464,240	8.40%	$ 1,886,996	8.40%	$ 1,886,996	0.00%	$ -
	Steam - LEC	$ 54,751,470	5.47%	$ 2,994,905	5.47%	$ 2,994,905	0.00%	$ -
	Steam - HEC	$ 12,093,755	8.07%	$ 975,966	7.41%	$ 895,648	-0.66%	$ (80,318)
	Total Turbogenerator Units	$ 226,019,492		$ 12,679,698		$ 12,599,380		$ (80,318)
315	Accessory Electric Equipment							
	Steam - JEC #1/Common	$ 19,805,448	2.04%	$ 404,031	2.04%	$ 404,031	0.00%	$ -
	Steam - JEC #2	$ 12,097,420	2.04%	$ 246,787	2.04%	$ 246,787	0.00%	$ -
	Steam - JEC #3	$ 17,387,931	2.04%	$ 354,714	2.04%	$ 354,714	0.00%	$ -
	Steam - TEC	$ 11,693,546	3.55%	$ 415,121	3.55%	$ 415,121	0.00%	$ -
	Steam - LEC	$ 16,581,963	2.57%	$ 426,156	2.57%	$ 426,156	0.00%	$ -
	Steam - HEC	$ 3,688,301	0.00%	$ -	0.00%	$ -	0.00%	$ -
	Accessory Electric Equipment	$ 81,254,610		$ 1,846,810		$ 1,846,810		$ -
316	Miscellaneous Power Plant Equipment							
	Steam - JEC #1/Common/Correction	$ 9,205,317	2.41%	$ 221,848	2.41%	$ 221,848	0.00%	$ -
	Steam - JEC #2	$ 1,096,393	2.41%	$ 26,423	2.41%	$ 26,423	0.00%	$ -
	Steam - JEC #3	$ 494,895	2.41%	$ 11,927	2.41%	$ 11,927	0.00%	$ -
	Steam - TEC	$ 3,529,506	4.08%	$ 144,004	4.08%	$ 144,004	0.00%	$ -
	Steam - LEC	$ 4,695,551	3.98%	$ 186,883	3.98%	$ 186,883	0.00%	$ -
	Steam - HEC	$ 1,496,182	1.17%	$ 17,505	1.07%	$ 16,065	-0.10%	$ (1,441)
	Total Miscellaneous Power Plant Equi	$ 20,517,844		$ 608,590		$ 607,150		$ (1,441)
	Total Steam Production	$ 988,685,980		$ 29,417,675		$ 29,417,675		$ 0

Westar Energy, Inc.
Westar North Depreciation Rates Excluding Terminal Net Salvage for Steam Electric Plant

		A Plant Balance per Order	B Rates per Staff w/o TNS (1)	C C = A * B Depreciation Expense Per Staff	D Revised Rates per Westar w/o TNS (2)	E E = A * D Depreciation Expense per Westar	F F = D - B Difference in rates	G I = A * F Check
312.1	Boiler Plant Equipment - AQC							
	Steam - JEC #1/Common	$ 40,414,758	5.77%	$ 2,331,932	5.77%	$ 2,331,932	0.00%	$ -
	Steam - JEC #2	$ 45,791,736	5.77%	$ 2,642,183	5.77%	$ 2,642,183	0.00%	$ -
	Steam - JEC #3	$ 54,624,942	5.77%	$ 3,151,859	5.77%	$ 3,151,859	0.00%	$ -
	Steam - TEC	$ 8,863,087	7.68%	$ 680,685	7.68%	$ 680,685	0.00%	$ -
	Steam - LEC	$ 11,299,885	6.04%	$ 682,513	6.04%	$ 682,513	0.00%	$ -
	Total Boiler Plant Equipment - AQC	$ 160,994,408		$ 9,489,172		$ 9,489,172		$ -
312.2	Boiler Plant Equipment - Rail Cars							
	Jeffrey	$ 294,464	0.00%	$ -	3.60% (3)	$ 10,601	3.60%	$ 10,601
	Tecumseh	$ 5,183,981	0.00%	$ -	4.90% (3)	$ 254,015	4.90%	$ 254,015
	Lawrence	$ 12,246,742	0.00%	$ -	3.77% (3)	$ 461,702	3.77%	$ 461,702
	Total Boiler Plant Equipment - rail cars	$ 17,725,187		$ -		$ 726,318		$ 726,318
	OTHER PRODUCTION							
341	Structures & Improvements							
	Gas - TEC	$ 41,856	0.11%	$ 46	0.11%	$ 46	0.00%	$ -
	Gas - HEC	$ 65,860	0.00%	$ -	0.00%	$ -	0.00%	$ -
	Gas - AEC	$ 556,460	0.00%	$ -	0.00%	$ -	0.00%	$ -
	Wind - JEC	$ 40,235	6.36%	$ 2,559	6.36%	$ 2,559	0.00%	$ -
	Gas - Evans #D1, D2, D3, and DC	$ 11,348,399	2.50%	$ 283,710	2.50%	$ 283,710	0.00%	$ -
	Total Structures & Improvements	$ 12,052,811		$ 286,315		$ 286,315		$ -
342	Fuel Holders, Producers & Accessories							
	Gas - TEC	$ 144,399	0.00%	$ -	0.00%	$ -	0.00%	$ -
	Gas - HEC	$ 696,810	1.16%	$ 8,083	1.16%	$ 8,083	0.00%	$ -
	Gas - AEC	$ 129,627	0.00%	$ -	0.00%	$ -	0.00%	$ -
	Gas - Evans #D1, D2, D3, and DC	$ 4,774,694	2.50%	$ 119,367	2.50%	$ 119,367	0.00%	$ -
	Total Fuel Holders, Producers & Acce	$ 5,745,529		$ 127,450		$ 127,450		$ -
344	Generators							
	Gas - TEC	$ 4,652,992	0.00%	$ -	0.00%	$ -	0.00%	$ -
	Gas - HEC	$ 26,303,126	0.00%	$ -	0.00%	$ -	0.00%	$ -
	Gas - AEC	$ 7,089,996	0.00%	$ -	0.00%	$ -	0.00%	$ -
	Wind - JEC	$ 1,202,157	6.30%	$ 75,736	6.30%	$ 75,736	0.00%	$ -
	Gas - Evans #D1, D2, D3, and DC	$ 84,593,522	3.04%	$ 2,571,643	3.04%	$ 2,571,643	0.00%	$ -
	Total Generators	$ 123,841,794		$ 2,647,379		$ 2,647,379		$ -
345	Accessory Electric Equipment							
	Gas - TEC	$ 214,507	0.52%	$ 1,115	0.52%	$ 1,115	0.00%	$ -
	Gas - HEC	$ 1,217,665	2.91%	$ 35,434	2.91%	$ 35,434	0.00%	$ -
	Gas - AEC	$ 609,729	0.16%	$ 976	0.16%	$ 976	0.00%	$ -
	Wind - JEC	$ 72,887	6.17%	$ 4,497	6.17%	$ 4,497	0.00%	$ -
	Gas - Evans #D1, D2, D3, and DC	$ 22,566,262	2.76%	$ 622,829	2.76%	$ 622,829	0.00%	$ -
	Total Accessory Electric Equipment	$ 24,681,051		$ 664,851		$ 664,851		$ -
346	Miscellaneous Power Plant Equipment							
	Gas - TEC	$ 807,751	0.00%	$ -	0.00%	$ -	0.00%	$ -
	Gas - HEC	$ 80,361	0.00%	$ -	0.00%	$ -	0.00%	$ -
	Gas - AEC	$ 93,719	0.61%	$ 572	0.61%	$ 572	0.00%	$ -
	Wind - JEC	$ 17,934	6.27%	$ 1,124	6.27%	$ 1,124	0.00%	$ -
	Gas - Evans #D1, D2, D3, and DC	$ 145,050	2.44%	$ 3,539	2.44%	$ 3,539	0.00%	$ -
	Total Miscellaneous Power Plant Equi	$ 1,144,815		$ 5,235		$ 5,235		$ -
								$ -
	Total Other Production	$ 167,466,000		$ 3,731,231		$ 3,731,231		$ -

Westar Energy, Inc.
Westar North Depreciation Rates Excluding Terminal Net Salvage for Steam Electric Plant

Exhibit 1
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		A Plant Balance per Order	B Rates per Staff w/o TNS (1)	C C = A * B Depreciation Expense Per Staff	D Revised Rates per Westar w/o TNS (2)	E E = A * D Depreciation Expense per Westar	F F = D - B Difference in rates	G I = A * F Check
	TRANSMISSION EXPENSE							
352	Structures &: Improvements	$ 9,067,554	1.49%	$ 135,107	1.49%	$ 135,107	0.00%	$ -
353	Station Equipment	$ 133,310,875	1.79%	$ 2,386,265	1.79%	$ 2,386,265	0.00%	$ -
354	Towers & Fixtures	$ 2,911,905	2.26%	$ 65,809	2.26%	$ 65,809	0.00%	$ -
355	Poles & Fixtures	$ 104,077,473	2.16%	$ 2,248,073	2.16%	$ 2,248,073	0.00%	$ -
356	Overhead Conductors & Devices	$ 75,668,882	2.28%	$ 1,725,251	2.28%	$ 1,725,251	0.00%	$ -
357	Underground Conduit	$ 930,167	1.56%	$ 14,511	1.56%	$ 14,511	0.00%	$ -
358	Underground Conductors	$ 1,602,686	2.23%	$ 35,740	2.23%	$ 35,740	0.00%	$ -
	Total Transmission Plant	$ 327,569,541		$ 6,610,755		$ 6,610,755		$ -
	DISTRIBUTION EXPENSE							
361	Structures &: Improvements	$ 7,790,968	2.02%	$ 157,378	2.02%	$ 157,378	0.00%	$ -
362	Station Equipment	$ 96,110,337	2.08%	$ 1,999,095	2.08%	$ 1,999,095	0.00%	$ -
364	Poles Towers & Fixtures	$ 167,486,207	3.23%	$ 5,409,804	3.23%	$ 5,409,804	0.00%	$ -
365	Overhead Conductors & Devices	$ 97,794,165	3.33%	$ 3,256,546	3.33%	$ 3,256,546	0.00%	$ -
366	Underground Conduit	$ 21,033,789	2.09%	$ 439,606	2.09%	$ 439,606	0.00%	$ -
367	Underground Conductor	$ 51,058,606	2.72%	$ 1,388,794	2.72%	$ 1,388,794	0.00%	$ -
368	Line Transformers	$ 151,279,003	2.09%	$ 3,161,731	2.09%	$ 3,161,731	0.00%	$ -
369	Services	$ 49,047,181	1.43%	$ 701,375	1.43%	$ 701,375	0.00%	$ -
370	Meters	$ 42,539,167	2.13%	$ 906,084	2.13%	$ 906,084	0.00%	$ -
371	Installation on Customer Premises	$ 3,146,831	2.03%	$ 63,881	2.03%	$ 63,881	0.00%	$ -
372	Leased Property on Customer Premises	$ 11,311,474	4.86%	$ 549,738	4.86%	$ 549,738	0.00%	$ -
373	Street Lighting & Signal Systems	$ 23,593,170	4.31%	$ 1,016,866	4.31%	$ 1,016,866	0.00%	$ -
	Total Distribution Plant	$ 722,190,896		$ 19,050,897		$ 19,050,897		$ -
	GENERAL PLANT							
390.1	Structures	$ 40,497,412	3.52%	$ 1,425,509	3.52%	$ 1,425,509	0.00%	$ -
390.2	Leasehold Improvements	$ 7,626,266	3.52%	$ 268,445	3.52%	$ 268,445	0.00%	$ -
391	Office furniture and equipment	$ 9,144,213	5.54%	$ 506,589	5.54%	$ 506,589	0.00%	$ -
391.1	Computers & Other Electronic Equip.	$ 43,986,307	9.51%	$ 4,183,098	9.51%	$ 4,183,098	0.00%	$ -
392	Transportation equipment	$ 3,427,200	10.38%	$ 355,743	10.38%	$ 355,743	0.00%	$ -
393	Stores equipment	$ 2,424,366	5.95%	$ 144,250	5.95%	$ 144,250	0.00%	$ -
394	Tools, shop and garage equip	$ 7,155,336	4.08%	$ 291,938	4.08%	$ 291,938	0.00%	$ -
395	Laboratory equipment	$ 2,857,083	8.55%	$ 244,281	8.55%	$ 244,281	0.00%	$ -
396	Power operated equipment	$ 2,481,799	1.09%	$ 27,052	1.09%	$ 27,052	0.00%	$ -
397	Communication equipment	$ 42,561,233	4.80%	$ 2,042,939	4.80%	$ 2,042,939	0.00%	$ -
398	Miscellaneous equipment	$ 269,084	3.52%	$ 9,472	3.52%	$ 9,472	0.00%	$ -
	Total general plant	$ 162,430,300		$ 9,499,315		$ 9,499,315		$ -
	TOTAL PLANT IN SERVICE	$ 2,547,062,313		$ 77,799,044		$ 78,525,362		$ 726,318

(1) Source: Exhibit _LWH-2, pages 1-7 and Exhibit _LWH-3, pages 1-6, September 9, 2005
(2) Westar revised Mr. Holloway's depreciation rates to eliminate negative depreciation rates. The modification does not alter the total revenue requirement impact.
(3) Depreciation expense for 312.2, Railcars, is charged to fuel expense. Thus, it has no impact on Mr. Holloway's depreciation adjustment.

Westar Energy, Inc.
Westar South Depreciation Rates Excluding Terminal Net Salvage for Steam Electric Plant

Exhibit 1
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		A Plant Balance per Order	B Rates per Staff w/o TNS (1)	C C = A * B Depreciation Expense Per Staff	D Revised Rates per Westar w/o TNS (2)	E E = A * D Depreciation Expense per Westar	F F = D - B Difference in rates	G I = A * F Check
	STEAM PRODUCTION							
311	Structures & Improvements							
	LaCygne Units 1 & Common	$ 25,918,266	1.07%	$ 277,325	0.79%	$ 205,664	-0.28%	$ (71,662)
	LaCygne Unit 2	$ 1,667,539	6.52%	$ 108,724	4.84%	$ 80,629	-1.68%	$ (28,094)
	JEC Unit 1	$ 10,161,553	1.79%	$ 181,892	1.33%	$ 134,890	-0.46%	$ (47,001)
	JEC Unit 2	$ 8,230,965	1.79%	$ 147,334	1.33%	$ 109,263	-0.46%	$ (38,072)
	JEC Unit 3	$ 13,540,303	1.79%	$ 242,371	1.33%	$ 179,742	-0.46%	$ (62,629)
	JEC Common	$ 16,826,650	1.79%	$ 301,197	1.33%	$ 223,367	-0.46%	$ (77,830)
	MG Common, 1, 2, 3 & 4	$ 5,200,120	-3.99%	$ (207,485)	0.00%	$ -	3.99%	$ 207,485
	GE Common, 1 & 2	$ 4,134,141	-12.37%	$ (511,393)	0.00%	$ -	12.37%	$ 511,393
	NEC	$ 2,683,172	2.97%	$ 79,690	2.20%	$ 59,098	-0.77%	$ (20,592)
	Ripley	$ 2,111,828	3.27%	$ 69,057	2.43%	$ 51,212	-0.84%	$ (17,844)
	Total Structures & Improvements	$ 90,474,535		$ 688,712		$ 1,043,865		$ 355,153
312	Boiler Plant Equipment							
	LaCygne Units 1 & Common	$ 86,234,431	1.18%	$ 1,017,566	0.88%	$ 754,624	-0.30%	$ (262,942)
	LaCygne Unit 2	$ 23,458,345	7.39%	$ 1,733,572	5.48%	$ 1,285,612	-1.91%	$ (447,960)
	JEC Unit 1	$ 26,414,033	2.63%	$ 694,689	1.95%	$ 515,179	-0.68%	$ (179,510)
	JEC Unit 2	$ 23,230,549	2.63%	$ 610,963	1.95%	$ 453,089	-0.68%	$ (157,875)
	JEC Unit 3	$ 35,233,140	2.63%	$ 926,632	1.95%	$ 687,187	-0.68%	$ (239,444)
	JEC Common	$ 11,483,979	2.63%	$ 302,029	1.95%	$ 223,984	-0.68%	$ (78,045)
	MG Common, 1, 2, 3 & 4	$ 20,997,745	-3.91%	$ (821,012)	0.00%	$ -	3.91%	$ 821,012
	GE Common, 1 & 2	$ 37,738,809	-3.11%	$ (1,173,677)	0.00%	$ -	3.11%	$ 1,173,677
	NEC	$ 5,381,974	1.98%	$ 106,563	1.47%	$ 79,027	-0.51%	$ (27,536)
	Ripley	$ 613,728	-51.03%	$ (313,185)	0.00%	$ -	51.03%	$ 313,185
	Total Boiler Plant Equipment	$ 270,786,734		$ 3,084,139		$ 3,998,702		$ 914,562
314	Turbogenerator Units							
	LaCygne Units 1 & Common	$ 23,468,947	3.90%	$ 915,289	2.89%	$ 678,776	-1.01%	$ (236,513)
	LaCygne Unit 2	$ 5,605,082	8.26%	$ 462,980	6.13%	$ 343,344	-2.13%	$ (119,635)
	JEC Unit 1	$ 12,957,335	5.62%	$ 728,202	4.17%	$ 540,033	-1.45%	$ (188,170)
	JEC Unit 2	$ 11,781,577	5.62%	$ 662,125	4.17%	$ 491,030	-1.45%	$ (171,095)
	JEC Unit 3 & 4	$ 18,251,492	5.62%	$ 1,025,734	4.17%	$ 760,681	-1.45%	$ (265,053)
	JEC Common	$ 380,189	5.62%	$ 21,367	4.17%	$ 15,845	-1.45%	$ (5,521)
	MG Common, 1, 2, 3 & 4	$ 22,090,889	4.73%	$ 1,044,899	3.51%	$ 774,894	-1.22%	$ (270,005)
	GE Common, 1 & 2	$ 23,778,891	-0.81%	$ (192,609)	0.00%	$ -	0.81%	$ 192,609
	NEC	$ 4,376,391	13.01%	$ 569,368	9.65%	$ 422,242	-3.36%	$ (147,126)
	Total Turbogenerator Units	$ 122,690,793		$ 5,237,355		$ 4,026,845		$ (1,210,509)
315	Accessory Electric Equipment							
	LaCygne Units 1, 2 & Common	$ 12,125,403	0.82%	$ 99,428	0.61%	$ 73,736	-0.21%	$ (25,693)
	LaCygne Unit 2	$ 2,255,727	4.94%	$ 111,433	3.66%	$ 82,638	-1.28%	$ (28,795)
	JEC Unit 1	$ 5,197,562	2.03%	$ 105,511	1.51%	$ 78,246	-0.52%	$ (27,264)
	JEC Unit 2	$ 3,890,430	2.03%	$ 78,976	1.51%	$ 58,568	-0.52%	$ (20,408)
	JEC Unit 3	$ 5,524,708	2.03%	$ 112,152	1.51%	$ 83,171	-0.52%	$ (28,980)
	JEC Common	$ 1,146,761	2.03%	$ 23,279	1.51%	$ 17,264	-0.52%	$ (6,015)
	MG Common, 1, 2, 3 & 4	$ 5,725,086	-0.31%	$ (17,748)	0.00%	$ -	0.31%	$ 17,748
	GE Common, 1 & 2	$ 6,097,071	-2.57%	$ (156,695)	0.00%	$ -	2.57%	$ 156,695
	NEC	$ 1,937,670	2.80%	$ 54,255	2.08%	$ 40,235	-0.72%	$ (14,020)
	Ripley	$ 658,792	-2.06%	$ (13,571)	0.00%	$ -	2.06%	$ 13,571
	Wichita SC	$ 196,685	0.00%	$ -	0.00%	$ -	0.00%	$ -
	Total Accessory Electric Equipment	$ 44,755,894		$ 397,019		$ 433,859		$ 36,839

Westar Energy, Inc.
Westar South Depreciation Rates Excluding Terminal Net Salvage for Steam Electric Plant

Exhibit 1
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		A Plant Balance per Order	B Rates per Staff w/o TNS (1)	C C = A * B Depreciation Expense Per Staff	D Revised Rates per Westar w/o TNS (2)	E E = A * D Depreciation Expense per Westar	F F = D - B Difference in rates	G I = A * F Check
316	Miscellaneous Power Plant Equipment							
	LaCygne Units 1, 2 & Common	$ 4,418,283	2.23%	$ 98,528	1.65%	$ 73,068	-0.58%	$ (25,460)
	LaCygne Unit 2	$ 1,085,135	4.95%	$ 53,714	3.67%	$ 39,834	-1.28%	$ (13,880)
	JEC Unit 1	$ 614,868	3.33%	$ 20,475	2.47%	$ 15,184	-0.86%	$ (5,291)
	JEC Unit 2	$ 708,181	3.33%	$ 23,582	2.47%	$ 17,489	-0.86%	$ (6,094)
	JEC Unit 3	$ 157,157	3.33%	$ 5,233	2.47%	$ 3,881	-0.86%	$ (1,352)
	JEC Common	$ 2,176,090	3.33%	$ 72,464	2.47%	$ 53,739	-0.86%	$ (18,725)
	MG Common, 1, 2, 3 & 4	$ 1,480,265	3.11%	$ 46,036	2.31%	$ 34,140	-0.80%	$ (11,896)
	GE Common, 1 & 2	$ 1,398,554	-0.48%	$ (6,713)	0.00%	$ -	0.48%	$ 6,713
	NEC	$ 542,085	11.13%	$ 60,334	8.25%	$ 44,744	-2.88%	$ (15,590)
	Ripley	$ 256,269	6.75%	$ 17,298	5.01%	$ 12,828	-1.74%	$ (4,470)
	Total Miscellaneous Power Plant Equipm	$ 12,836,886		$ 390,952		$ 294,907		$ (96,045)
	Total Steam Production	$ 541,544,843		$ 9,798,178		$ 9,798,178		$ (0)
312.1	Boiler Plant Equipment - AQC							
	LaCygne Units 1, 2 & Common	$ 36,614,188	2.26%	$ 827,481	2.26%	$ 827,481	0.00%	$ -
	JEC Unit 1	$ 12,270,561	4.76%	$ 584,079	4.76%	$ 584,079	0.00%	$ -
	JEC Unit 2	$ 13,414,309	4.76%	$ 638,521	4.76%	$ 638,521	0.00%	$ -
	JEC Unit 3	$ 17,288,344	4.76%	$ 822,925	4.76%	$ 822,925	0.00%	$ -
	JEC Common	$ 570,447	4.76%	$ 27,153	4.76%	$ 27,153	0.00%	$ -
	NEC	$ -	0.00%	$ -	0.00%	$ -	0.00%	$ -
	Total Boiler Plant - AQC	$ 80,157,849		$ 2,900,159		$ 2,900,159		$ -
312.2	Boiler Plant - JEC Railcars							
	Jeffrey	$ 92,020	0.00%	$ -	3.35% (3)	$ 3,083	3.35%	$ 3,083
	LaCygne Unit 2	$ 1,286,716	0.00%	$ -	0.00%	$ -	0.00%	$ -
	Total Boiler Plant - JEC Railcars	$ 1,378,736		$ -		$ 3,083		$ 3,083
	NUCLEAR PRODUCTION							
321	Structures & Improvements	$ 398,620,239	1.62%	$ 6,457,648	1.62%	$ 6,457,648	0.00%	$ -
322	Reactor Plant Equipment	$ 626,830,069	1.97%	$ 12,348,552	1.97%	$ 12,348,552	0.00%	$ -
323	Turbogenerator Units	$ 166,506,155	2.37%	$ 3,946,196	2.37%	$ 3,946,196	0.00%	$ -
324	Accessory Electric Equipment	$ 130,902,171	2.09%	$ 2,735,855	2.09%	$ 2,735,855	0.00%	$ -
325	Miscellaneous Power Plant Equipment	$ 66,697,652	3.06%	$ 2,040,948	3.06%	$ 2,040,948	0.00%	$ -
	Total Nuclear Production	$ 1,389,556,287		$ 27,529,200		$ 27,529,200		$ -
	OTHER PRODUCTION							
341	Structures & Improvements	$ 10,491	6.28%	$ 659	6.28%	$ 659	0.00%	$ -
344	Generators			$ -		$ -	0.00%	$ -
	Wind - JEC	$ 376,494	6.46%	$ 24,322	6.46%	$ 24,322	0.00%	$ -
	Gas - Evans - Turbines	$ 1,549,285	2.81%	$ 43,535	2.81%	$ 43,535	0.00%	$ -
345	Accessory Electric Equipment			$ -		$ -	0.00%	$ -
	Wind - JEC	$ 22,688	6.28%	$ 1,425	6.28%	$ 1,425	0.00%	$ -
346	Miscellaneous Power Plant Equipment	$ 5,545	6.29%	$ 349	6.29%	$ 349	0.00%	$ -
	Total Other Production	$ 1,964,502		$ 70,289		$ 70,289		$ -

Westar Energy, Inc.
Westar South Depreciation Rates Excluding Terminal Net Salvage for Steam Electric Plant

Exhibit 1
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		A Plant Balance per Order	B Rates per Staff w/o TNS (1)	C C = A * B Depreciation Expense Per Staff	D Revised Rates per Westar w/o TNS (2)	E E = A * D Depreciation Expense per Westar	F F = D - B Difference in rates	G I = A * F Check
	TRANSMISSION EXPENSE							
352	Structures &: Improvements	$ 4,566,564	1.49%	$ 68,042	1.49%	$ 68,042	0.00%	$ -
353	Station Equipment	$ 116,490,556	1.79%	$ 2,085,181	1.79%	$ 2,085,181	0.00%	$ -
354	Towers & Fixtures	$ 6,904,492	2.26%	$ 156,042	2.26%	$ 156,042	0.00%	$ -
355	Poles & Fixtures	$ 91,645,119	2.16%	$ 1,979,535	2.16%	$ 1,979,535	0.00%	$ -
356	Overhead Conductors & Devices	$ 61,406,301	2.28%	$ 1,400,064	2.28%	$ 1,400,064	0.00%	$ -
357	Underground Conduit	$ 419,469	1.56%	$ 6,544	1.56%	$ 6,544	0.00%	$ -
358	Underground Conductors	$ 490,540	2.23%	$ 10,939	2.23%	$ 10,939	0.00%	$ -
359	Roads & Trails	$ 19,910	1.34%	$ 267	1.34%	$ 267	0.00%	$ -
	Total Transmission Plant	$ 281,942,951		$ 5,706,612		$ 5,706,612		$ -
	DISTRIBUTION EXPENSE							
361	Structures &: Improvements	$ 4,496,097	2.02%	$ 90,821	2.02%	$ 90,821	0.00%	$ -
362	Station Equipment	$ 56,373,416	2.08%	$ 1,172,567	2.08%	$ 1,172,567	0.00%	$ -
364	Poles Towers & Fixtures	$ 106,119,161	3.23%	$ 3,427,649	3.23%	$ 3,427,649	0.00%	$ -
365	Overhead Conductors & Devices	$ 83,394,370	3.33%	$ 2,777,033	3.33%	$ 2,777,033	0.00%	$ -
366	Underground Conduit	$ 37,648,467	2.09%	$ 786,853	2.09%	$ 786,853	0.00%	$ -
367	Underground Conductor	$ 71,512,784	2.72%	$ 1,945,148	2.72%	$ 1,945,148	0.00%	$ -
368	Line Transformers	$ 141,177,451	2.09%	$ 2,950,609	2.09%	$ 2,950,609	0.00%	$ -
369	Services	$ 66,041,217	1.43%	$ 944,389	1.43%	$ 944,389	0.00%	$ -
370	Meters	$ 41,099,054	2.13%	$ 875,410	2.13%	$ 875,410	0.00%	$ -
371	Installation on Customer Premises	$ 1,776,650	2.03%	$ 36,066	2.03%	$ 36,066	0.00%	$ -
372	Leased Property on Customer Premises	$ 6,709,567	4.86%	$ 326,085	4.86%	$ 326,085	0.00%	$ -
373	Street Lighting & Signal Systems	$ 25,316,752	4.31%	$ 1,091,152	4.31%	$ 1,091,152	0.00%	$ -
	Total Distribution Plant	$ 641,664,987		$ 16,423,781		$ 16,423,781		$ -
	GENERAL PLANT							
390.1	Structures	$ 14,641,628	4.48%	$ 655,945	4.48%	$ 655,945	0.00%	$ -
390.2	Leasehold Improvements	$ 189,552	4.48%	$ 8,492	4.48%	$ 8,492	0.00%	$ -
391	Office furniture and equipment	$ 5,466,108	6.35%	$ 347,098	6.35%	$ 347,098	0.00%	$ -
391.1	Computer & Other Electronic Equip	$ 11,653,164	17.37%	$ 2,024,155	17.37%	$ 2,024,155	0.00%	$ -
392	Transportation equipment	$ 2,114,164	0.00%	$ -	0.00%	$ -	0.00%	$ -
393	Stores equipment	$ 1,087,945	5.46%	$ 59,402	5.46%	$ 59,402	0.00%	$ -
394	Tools, shop and garage equip	$ 4,051,951	5.79%	$ 234,608	5.79%	$ 234,608	0.00%	$ -
395	Laboratory equipment	$ 2,601,468	6.86%	$ 178,461	6.86%	$ 178,461	0.00%	$ -
396	Power operated equipment	$ 1,260,972	1.53%	$ 19,293	1.53%	$ 19,293	0.00%	$ -
397	Communication equipment	$ 42,584,745	7.75%	$ 3,300,318	7.75%	$ 3,300,318	0.00%	$ -
398	Other Intangible Equipment	$ 182,207	1.33%	$ 2,423	1.33%	$ 2,423	0.00%	$ -
	Total general plant	$ 85,833,904		$ 6,830,194		$ 6,830,194		$ -
	TOTAL PLANT IN SERVICE	$ 3,024,044,059		$ 69,258,412		$ 69,261,495		$ 3,083

(1) Source: Exhibit _LWH-2, pages 1-7 and Exhibit _LWH-3, pages 1-6, September 9, 2005
(2) Westar revised Mr. Holloway's depreciation rates to eliminate negative depreciation rates. The modification does not alter the total revenue requirement impact.
(3) Depreciation expense for 312.2, Railcars, is charged to fuel expense. Thus, it has no impact on Mr. Holloway's depreciation adjustment.

CURB
2008 Rate Case
08-WSEE-1041-RTS
08/22/2008

Data Request: CURB-206::Current Depreciation Rates
Please provide the calculation of the current depreciation rates (for all accounts) in electronic format (Excel) with all formulae intact. Show all parameters used (i.e., ASL, curve, remaining life, net salvage ratio), and provide a source for those parameters. Please explain any differences in the parameters or rates from those that were ordered when the rates were adopted.

Response:
The current depreciation rates used for regulatory purposes were those of Mr. Holloway with an adjustment to the actual rates proposed by Westar to eliminate negative depreciation rates. These proposed revised depreciation rates were approved by the Commission in its order of July 31, 2007. Therefore, Westar is not in the possession of the individual parameters requested in this discovery question.

Prepared by or Under Supervision of: Rohlfs, Dick F.

Verification of Response
I have read the foregoing Data Request and Answer(s) thereto and find answer(s) to be true, accurate, full and complete and contain no material misrepresentations or omissions to the best of my knowledge and belief; and I will disclose to any matter subsequently discovered which affects the accuracy or completeness of the answer(s) to this Data Request.

Signed by: _____

Dated: _____

CURB
2008 Rate Case
08-WSEE-1041-RTS
08/22/2008

Data Request: CURB-208: Current Depreciation Rates
Please provide the current depreciation rates, split into three separate components: capital recovery, gross salvage and cost of removal.

Response:
None of Westar's depreciation rates include amounts for terminal net salvage. However, the rates do recover interim net salvage.

Westar is not able to provide the separate components requested with regard to the current depreciation rates except for depreciation rates for nuclear production, other production and general plant. Those data are provided in the attached spreadsheet. Westar does not have that information for the depreciation rates for the balance of its plant other than steam generation because the current depreciation rates for such plant were recommended by Larry Holloway of the KCC Staff. To the extent such information may be available, it would be in Mr. Holloway's work papers.

Westar does not have the requested information for the depreciation rates for steam generation because the rates are not the result of a study. Rather, the rates were the result of a compromise that was approved by the Commission to set depreciation rates for steam generation after the Court of Appeals ruled that such rates could not recover terminal net salvage. On remand of the prior rate case from the Court's ruling, Mr. Holloway had proposed rates to recover Westar's steam generation investment with no consideration of terminal net salvage. Some of the rates proposed by Mr. Holloway were negative. The rates approved by the Commission eliminate negative depreciation rates and recover Westar's steam generation investment with no consideration of terminal net salvage. However, such rates were not accepted as reasonable by Westar management, are not supported by a study and consequently cannot be separated into capital recovery, gross salvage and cost of removal.

Prepared by or Under Supervision of: Rohlfs, Dick F.

Verification of Response
I have read the foregoing Data Request and Answer(s) thereto and find answer(s) to be true, accurate, full and complete and contain no material misrepresentations or omissions to the best of my knowledge and belief; and I will disclose to any matter subsequently discovered which affects the accuracy or completeness of the answer(s) to this Data Request.

Signed by: _____

Dated: _____

CURB
2008 Rate Case
08-WSEE-1041-RTS
08/22/2008

Data Request: CURB-139: Depreciation Study
Please explain why the depreciation study prepared by John Spanos of Gannett Fleming steam and wind production plant only. Why did Westar not submit a complete study addressing all plant functions?

Response:
Please see the response to KCC 260.

Prepared by or Under Supervision of: Rohlfs, Dick F.

Verification of Response
I have read the foregoing Data Request and Answer(s) thereto and find answer(s) to be true, accurate, full and complete and contain no material misrepresentations or omissions to the best of my knowledge and belief; and I will disclose to any matter subsequently discovered which affects the accuracy or completeness of the answer(s) to this Data Request.

Signed by: _____

Dated: _____

Docket: [08-WSEE-1041-RTS] 2008 Rate Case
Requestor: [KCC] [Karen Hull]
Data Request: KCC-260 :: Depreciation
Date: 0000-00-00

Question 1 (Prepared by Dick Rohlfs)
The Depreciation Study attached to Mr. Spanos' Direct Testimony ("Depreciation Study, Calculated Annual Depreciation Accruals Related to Electric Plant as of December 31, 2007" (Depreciation Study)) does not include the Distribution, Transmission, or General Plant accounts. Please explain why the Distribution, Transmission, and General Plant accounts are not included in this Depreciation Study.

Response:
Westar only requested a depreciation study for steam generation facilities and the new wind generation. These items were included in the study because the steam depreciation rates were affected by the Court of Appeals decision to remand back the KCC the rate order with directions to remove Terminal Net Salvage. The result of the depreciation rates following the remand caused steam depreciation rates to be illogical - Mr. Holloway proposed rates without terminal net salvage included negative depreciation rates that were then adjusted to be zero depreciation rates for rate making purposes by Westar. The transmission, distribution, general plant and other accounts were reasonable and without controversy by any party to the proceeding. Therefore Westar elected to retain an expert to produce a depreciation study for the Steam generation assets with the addition of an initial rate for Westar's investment in wind facilities only. In addition, in two previous rate reviews before the Commission the Commission Staff recommended that Westar perform depreciation reviews periodically - approximately every 5 years. The purpose is to keep depreciation rates reasonably consistent with current information. The Commission accepted Staff's recommendation - see Docket No. 05-QWSEE-981-RTS at page 45. Five years following the 2005 rate review would put the nest full depreciation study to be filed in the 2010 time frame.

No Digital Attachments Found.

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of the Applications of Westar Energy, Inc. and Kansas Gas and Electric Company for Approval to Make Certain Changes in their Charges for Electric Service.	)))))	Docket No. 08-WSEE-1041-RTS

OBJECTION TO CITIZENS' UTILITY RATEPAYERS BOARD DATA REQUEST NOS. 160, 188, 202, 207, 228 AND 229

COME NOW Westar Energy, Inc. (Westar North) and Kansas Gas and Electric Company (Westar South) (collectively, "Westar") and object to Data Request Nos. 160, 188, 202, 207, 228 and 229 issued by the Citizens' Utility Ratepayer Board (CURB) on August 11, 2008. In support of its objection, Westar states the following:

1. CURB issued a series of data requests to Westar on August 6, 2008, regarding depreciation. Of these, Westar objects to these data request nos. 160, 188, 202, 207, 228 and 229.[1] Westar is in the process of preparing answers to the remaining data requests issued by CURB as a part of this series.

Data request 160:

2. CURB data request 160 reads as follows:

> For each plant account (including all production, transmission, distribution and general plant), and for each year since the inception of the account up to and including 2007, please provide the following standard depreciation study data as identified at pages 30-33 of the August 1996 NARUC Public Utility Depreciation Practices Manual ("NARUC Manual"). At a minimum, the data provided should be the same data set used to conduct the life analyses included in the Depreciation Study. Please provide the data in electronic format (Excel or .txt). Provide aged vintage data if available. Use the codes

[1] Counsel for Westar contacted CURB counsel on August 15, 2008 to advise her of Westar's objections and to discuss and, if possible, attempt to resolve these issues without the necessity of filing these objections. CURB counsel indicated that she preferred that Westar file the objections so that she could see them in writing before responding.

identified for each type of data, unless the Company regularly uses other codes. In those circumstances, identify and explain the Company's coding system.

Code	Data Type
9	Addition
0	Ordinary Retirement
1	Reimbursement
2	Sale
3	Transfer – In
4	Transfer – Out
5	Acquisition
6	Adjustment
7	Final retirement of life span property (see NARUC Manual, Chapter X)
8	Balance at Study Date
	Initial Balance of Installation

3. Except to the extent data request 160 relates to steam generating plant and wind turbines for which Westar has submitted a depreciation study,[2] Westar objects to these data request on the grounds that they seek information that is not "within the knowledge of the parties," is not "clearly relevant" to the case presented by Westar, is unduly burdensome, would require Westar to perform a study for CURB and is inconsistent with the Commission's Order on Rate Applications in Docket No. 05-WSEE-981-RTS.

4. Westar last submitted a depreciation study when it filed its last rate case on May 2, 2005. Under the Commission's Order on Rate Applications, Westar is not required to submit another depreciation study until 2010. Docket No. 05-WSEE-981-RTS, ¶ 105 (December 28, 2005). In that order, the Commission stated that a "5 year depreciation update will keep depreciation

[2] The requested data has been incorporated into the depreciation study submitted for the steam generating facilities and reports included in Depreciation Study attached to Mr. Spanos' testimony. To the extent additional data is needed for the steam generating facilities is needed Westar will provide that data. The recommendation for the wind facilities is an initial depreciation rate for facilities that will become operational near the end of 2007.

adjustments reasonably consistent with current information, and again orders Westar to prepare and file an updated depreciation study from the time of its last study." *Id.*

5. In the current docket, Westar chose to submit a depreciation study limited to steam generating plant and its new wind facilities. The wind facilities will be placed into service in 2008 and have not previously been the subject of a depreciation study. Therefore, Westar is performing and presenting a study to establish reasonable initial depreciation for such facilities. The steam generating plant depreciation rates were inaccurate as a result of the Kansas Court of Appeals' decision to reverse the Commission's decision in the 2005 rate case regarding terminal net salvage. This reversal resulted in depreciation rates of zero for some of Westar's steam plant and these rates needed to be corrected.

6. These data requests essentially ask Westar to perform a depreciation study for distribution, transmission and general plant, in addition to the study Westar has performed for steam generating plant and the wind facilities. The Commission's Discovery Order in this docket permits discovery only on matters that are "clearly relevant" and regarding facts that are "within the knowledge of the parties." However, this data request seeks information wholly irrelevant to the case presented by Westar and information that is not within Westar's knowledge. Westar would be required to retain an outside expert to perform a study and develop certain information in order to respond to this data request.

7. Additionally, conducting such a study would be expensive and would take a significant amount of time. Gathering the information needed for the study would take between one and two months and it would take additional time for Westar to have the study completed.

8. Finally, as discussed above, requiring Westar to conduct this study would be inconsistent with the Commission's Order in Docket No. 05-WSEE-981-RTS.

Data requests 188 and 202.

9. CURB data request 188 reads as follows:

> Provide all alternative calculations of the net present value of future net salvage estimates that Mr. Spanos has contemplated, written about, or addressed in presentations over his career. Explain the pros and cons of each alternative approach.

10. CURB data request 202 reads as follows:

> Provide all alternatives to the use of the life-span method that Mr. Spanos has contemplated, written about or addressed in presentations over his career. Explain the pros and cons of each alternative approach.

11. Data requests 188 and 202 are overly broad and burdensome, not "clearly relevant" to the subject of this proceeding and constitute prohibited cross-examination of the witness through data requests. Not only would answering the data requests require Mr. Spanos to review everything that he has written "or addressed" over his career as a depreciation analyst – a career that spans over 20 years, *see* Spanos direct testimony, at 2-7, it would require him to review and report on any alternative he has ever "contemplated" – i.e., considered or thought about. The unreasonableness of this request is patent on its face.

12. To the extent that CURB seeks information concerning Mr. Spanos' past testimony that it can review for purposes of developing cross-examination, Westar would have no objection to providing such materials for a reasonable period of time and Mr. Spanos has listed a number of cases in which he has participated and provided testimony. However, the data request submitted by CURB goes far beyond what is reasonable both in time and scope.

Data request no. 207.

13. CURB data request 207 reads as follows:

> Identify and explain all changes between the current study and the most recent prior study.

14. Westar objects to data request 207 on the ground that it is vague and indefinite. The question requests Westar to identify and explain "all changes" between the current depreciation study and the most recent prior study but does not specify changes to or in what. Rather, the question would make Westar guess at what kinds of changes CURB is interested in. The data request is objectionable unless clarified by CURB.

Data requests no. 228 and 229

15. CURB data request 228 reads as follows:

> With respect to the Regulatory Liability relating to cost of removal obligations which Westar reclassified out of accumulated depreciation:
>
> y. Do you agree that this constitutes a regulatory liability for regulatory purposes in Kansas? If not, please explain why not.
>
> z. Do you agree that this amount is a refundable obligation to ratepayers until it is spent on its intended purpose (cost of removal)? If not, why not?
>
> aa. Please explain the repayment provisions associated with this regulatory liability.
>
> bb. Please explain when you expect to spend this money for cost of removal.
>
> cc. Please explain what you have done with this money as you have collected it. If you say that you have spent it on plant additions, please prove it.

dd. Identify and explain all other similar examples of Westar's advance collections of estimated future costs for which it does not have a legal obligation.

ee. Does Westar agree that the KSCC will never know whether or not Westar will actually spend all of this money for cost of removal until and if Westar goes out of business? If not, why not?

ff. Does Westar believe that amounts recoded in accumulated depreciation represent capital recovery? If not, why not?

gg. Whose capital is reflected in accumulated depreciation – shareholders' or ratepayers'?

16. CURB data request 229 reads as follows:

Does Westar promise to remove each asset for which it is collecting cost of removal and does it promise to spend all of the money it is collecting for cost of removal, on cost of removal? If the answer is yes, explain why Westar does not have legal AROs under the principal of promissory estoppel. Please explain.

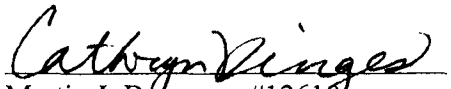
17. Westar objects to data requests 228 and 229 because the questions presented in these data requests essentially constitute cross-examination of Westar's witness who would be providing responses. The Commission's Discovery Order in this docket states that "[c]ross-examination through the use of data requests is not appropriate." Discovery Order, Docket No. 08-WSEE-1041-RTS (July 15, 2008). It is clearly the intention of CURB, through data requests 228 and 229, to conduct a cross-examination. These questions are improper and more appropriately reserved for cross-examination at the evidentiary hearing.

WHEREFORE, Westar respectfully requests that the Commission enter an order wherein Westar's objections are sustained, that Westar not be required to respond to the CURB data requests

160, 188, 202, 207, 228 and 229 and for all other relief which the Commission deems just and proper.

Respectfully submitted,

WESTAR ENERGY, INC.
KANSAS GAS AND ELECTRIC COMPANY



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VERIFICATION

STATE OF KANSAS)
) ss:
COUNTY OF SHAWNEE)

Cathryn J. Dinges, being duly sworn upon her oath deposes and says that she is one of the attorneys for Westar Energy, Inc. and Kansas Gas and Electric Company; that she is familiar with the foregoing **Objection**; and that the statements therein are true and correct to the best of her knowledge and belief.

Cathryn J. Dinges

SUBSCRIBED AND SWORN to before me this 18th day of August, 2008.

Sally Wilson
NOTARY PUBLIC~STATE OF KANSAS
EXP: 6/19/2011

Notary Public

My Appointment Expires: 6/19/2011

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of August, 2008, the original and eight copies foregoing **Objection** were delivered to:

Susan K. Duffy
Executive Director
KANSAS CORPORATION COMMISSION
1500 SW Arrowhead
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and that one copy was delivered to:

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Cathryn J. Dinges

The

PROCESS

OF

RATEMAKING

Volume I

By

Leonard Saul Goodman

Public Utilities Reports, Inc.
Vienna, Virginia
1-800-368-5001

1998

doing business are higher than they in fact are. The amounts paid to the reinsurer reflect only the sharing of the costs and profits for the same risk for which the policyholder has once been charged. Unless the policyholder receives a benefit from reinsurance, the costs of reinsurance represent a double-charge for the risk of loss and the profit allowance.

An application of the above principle may be found in a recent homeowners case in Georgia,[1] where the insurer included substantial cost of reinsurance in its rates but at the same time used a premium-to-surplus ratio in excess of the 3:1 benchmark proposed in this work.[2] The Georgia insurer used an above average premium-to-surplus ratio of 3.177:1 (made available by the reinsurance) to convert an after-tax underwriting profit as a percent of surplus of 11.5 percent[3] into a profit as a percent of premiums of 3.6 percent (or 11.5% ÷ 3.177 = 3.6%).

Substituted rail for motor common carrier service. Long before the I.C.C. first adopted general regulations pertaining to substituted rail for motor service, a/k/a "piggyback service," the railroads handled motor trailers of freight at tariff rates published for entire loaded trailers moving as a freight commodity. In 1964 the I.C.C. formally provided that motor carriers might continue to substitute rail for motor service (so-called "Plan I" piggyback service) so long as shippers were notified that substitution might occur and were given the option of declining to allow substitution.[4] In the alternative, motor carriers and railroads would enter into formal through route, joint rate arrangements ("Plan V" piggyback).

When a motor carrier substituted rail service for its own over-the-road service, it charged the shipper the same motor carrier rate.[5] The I.C.C. saw no reason why the motor carrier should be barred under Plan I from using the rail rates published in open tariffs maintained by railroads when the rail carrier held out the same services to the public generally.[6] As for Plan V, the I.C.C. held it would not attempt to control the level of compensation to be received by the railroads under division agreements with trucking companies, since they were "by nature, private contracts negotiated by individual carriers."[7]

RETROACTIVE RATEMAKING. "Retroactive ratemaking" refers to an improper recovery of costs that were properly recoverable only in a past period or periods. In the absence of express statutory direction, it is unlawful for an agency to alter

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[1] Cotton States Mutual Ins.Co., Homeowners Program, dated May 22, 1996, filed May 23, 1996, Exh. 6, p. 3, Ga.Dept.Ins., Atlanta, Ga.

[2] For discussion of the proposed benchmark, *see* p. 681.

[3] The insurer derived the after-tax underwriting profit by subtracting the net of tax investment yield from a projected return on surplus of 15 percent. The insurer used a pre-tax investment yield of 5.4 percent and a tax rate of 34.9 percent. Thus, the after-tax profit equaled 15% – 5.4% × (1– 34.9%), or 5.4 percent.

[4] Substituted Service—Charges and Practices of For-Hire Carriers and Freight Forwarders, 322 ICC 301 (1964), aff'd *sub nom.* Am.Trucking Assns. v. Atchison, T.& S.F.R.Co., 387 U.S. 397 (1967), adopting 49 CFR Part 500. Later the I.C.C. totally exempted this service from its regulation in Improvement of TOFC/COFC Regulation, 364 ICC 731 (1981), adopting 49 CFR Part 1090.

[5] *See* 322 ICC at 310; and Substituted Freight Svc., 232 ICC 683, 687 (1939).

[6] 322 ICC at 335.

[7] *Id.* at 328.

the past legal consequences of past actions,[1] such as by awarding damages for past illegal conduct. An agency may, and indeed must in an appropriate case, affect the future legal consequences of past transactions. Such "secondary retroactivity" is an "entirely lawful consequence of much agency rulemaking and does not by itself render a rule invalid."[2]

The Indiana commission usefully summarized the three basic functions served by the rule against retroactive ratemaking:[3]

a) protecting the public by ensuring that current customers pay for their own service and not for past deficits;
b) preventing utilities from using future rates to protect the financial investment of their stockholders, *i.e.*, providing a guaranty, rather than opportunity, for a fair rate of return; and
c) requiring utilities to bear losses and enjoy gains that depend on their own managerial efficiency.

It is retroactive, and hence unlawful, ratemaking for a state agency engaged in a prior approval proceeding on application for a rate increase to approve the increase with an effective date prior to the issuance of its final order; the agency cannot, for example, make the approved increase effective as of the date of an earlier order in the proceeding.[4]

Retroactivity is particularly inconsistent with group ratemaking and could produce a "cost-plus" system of regulation. A uniform group rate for a class of companies requires each company to compete and control costs. If an agency had authority to make rates retroactive to any point in time, each company would have an "incentive to seek relief from the uniform rate, not to live within it."[5]

State insurance law is particularly insistent that rates shall not recover past, out-of-state losses. A Connecticut statute provides that no personal risk insurance rate shall be "designed to recover underwriting or operating losses incurred out-of-state," implying that past losses incurred within Connecticut in some circumstances may be recovered in a new rate filing.[6] A New York statute adopted in 1990 similarly provides that any rate affecting an effort on the part of an insurer to recoup losses incurred in another state, which requires a general reduction in rates, is "deemed unfairly discriminatory."[7]

Retroactive discounting is disapproved by insurance commissioners primarily to prevent rates from falling below approved minimum rates. The New York superintendent, for example, disapproved a proposed rebate of a group life or health insurance

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[1] Bowen v. Georgetown Univ.Hosp., 488 U.S. 204 (1988); American Min.Congress v. U.S. Environmental Protection Agency, 965 F.2d 759, 769 (9th Cir. 1992).

[2] National Medical Enterprises, Inc. v. Sullivan, 957 F.2d 664, 671 (9th Cir. 1992).

[3] Re Northern Indiana Pub.Svc.Co., 157 PUR4th 206, 228 (Ind.URC, 1994).

[4] Re Western Ky.Gas Co., 123 PUR4th 68, 71-72 (Ky.PSC, 1991).

[5] T.W.A. v. C.A.B., 336 U.S. 601, 606-07 (1949).

[6] Conn.Stats., C.G.S.A. §38a-686(c).

[7] 27 N.Y. Ins.Code, §2303 (1994 Pocket Part).

Westar Energy

Summary of Disallowed Depreciation Related Adjustments

Westar North

	MFR		Amount	
Depreciation /Amortization Expense				
Depreciation Study	Section 9, Adj. 28	$	9,741,300	1/
Difference in Depreciation Rates	Section 9, Adj. 33		327,769	1/
Regulatory Assets (increase to rate base)				
Differences in Depreciation Rates	Section 6, Adj. 3	$	7,064,467	2/

Westar South

	MFR		Amount	
Depreciation /Amortization Expense				
Depreciation Study	Section 9, Adj. 28	$	10,181,082	1/
Difference in Depreciation Rates	Section 9, Adj. 33		425,239	1/
Regulatory Assets (increase to rate base)				
Difference in Depreciation	Section 6, Adj. 2	$	65,906,728	2/
Difference in Depreciation Rates	Section 6, Adj. 3		12,593,875	2/

1/ Majoros recommends disallowance.
2/ Majoros recommends reclassification to accumulated depreciation.

CERTIFICATE OF SERVICE

08-WSEE-1041-RTS

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing document was placed in the United States mail, postage prepaid, or hand-delivered this 29th day of September, 2008, to the following:

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Shonda Smith

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* Denotes those receiving the Confidential version