

THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

Received  
on  
**OCT 09 2013**

by  
State Corporation Commission  
of Kansas

In the Matter of the Application of Westar )  
Energy, Inc. and Kansas Gas and Electric ) Docket No. 14-WSEE-148-TAR  
Company for Approval of Revisions to )  
Their General Terms and Conditions to )  
Implement an Optional Prepay Service Pilot )  
Program. )

**PETITION TO INTERVENE**

COMES NOW, the Citizens' Utility Ratepayer Board ("CURB") and petitions the Corporation Commission of the State of the Kansas ("Commission") for intervention in the above-captioned case pursuant to K.S.A. 66-1223 and K.S.A. 77-521(a). In support of its petition, CURB states and alleges as follows:

1. On October 1, 2013, Westar Energy, Inc. and Kansas Gas and Electric Company filed an application with the Kansas Corporation Commission for Approval of Revisions to Their General Terms and Conditions to Implement an Optional Prepay Service Pilot Program.

2. CURB is composed of five volunteer board members.<sup>1</sup>

3. CURB has specific statutory authority to "represent residential and small commercial ratepayers before the state corporation commission"<sup>2</sup> and to "function as an *official intervenor in cases* filed with the state corporation commission."<sup>3</sup> CURB's authority and role as the official intervenor in cases filed with the Commission has been recognized by the Kansas Supreme Court.<sup>4</sup>

<sup>1</sup> K.S.A. 66-1222(a).

<sup>2</sup> K.S.A. 66-1223(a).

<sup>3</sup> K.S.A. 66-1223(b).

<sup>4</sup> K.S.A. 66-1223(b). See, *Citizens' Utility Ratepayer Board v. Kansas Corporation Comm'n*, 24 Kan. App.2d 63, 68, rev. den. 262 Kan. 959 (1997) ("*CURB v. KCC*"). See also, *Farmland Industries, Inc. v. Kansas Corp. Comm'n*, 29 Kan.App.2d 1031, 1047-48, 37 P.3d 640 (2001) ("The bulk of current customers otherwise entitled to receive refunds are *statutorily represented* by CURB. See K.S.A. 66-1223(a)")

CURB also has specific statutory authority to seek judicial review of Commission orders and decisions on behalf of residential and small commercial ratepayers.<sup>5</sup>

4. CURB's express statutory authority referenced above reflects the intent of the Legislature that CURB should participate in cases filed with the Commission. This fulfills the requirement under K.S.A. 77-521(a)(2) because CURB "qualifies as an intervener under any provision of law."

5. Westar Energy, Inc. and Kansas Gas and Electric Company propose a pilot "pre-pay" service, which requires a revision of the general terms and conditions of service for customers who choose the service. These changes may impact which customers may receive service, when deposits may be required for service and how service may be limited within a Cold-Weather Rule protected period. Westar also proposes to charge additional fees to customers who choose this service. Therefore, the rates paid and the services received by the residential and small commercial ratepayers whose interests CURB represents may be substantially affected by any Commission order or activity in this proceeding.

6. The representation of CURB's interests in this proceeding by existing parties is inadequate. No other party to this proceeding is authorized to (a) represent residential and small commercial ratepayers before the Commission, (b) function as the statutory official intervenor in cases filed with the Commission, or (c) seek judicial review of Commission orders and decisions on behalf of residential and small commercial ratepayers. While Commission Staff may have authority to investigate, evaluate, testify and offer exhibits on behalf of the *general public* pursuant to a

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<sup>5</sup> K.S.A. 66-1223.

definition contained in a Commission regulation,<sup>6</sup> Staff does not represent residential and small commercial ratepayers and is expressly denied the right to appeal Commission orders.<sup>7</sup>

7. Accordingly, CURB has a substantial and vital interest in the outcome of this proceeding which cannot be adequately represented by any other party. Pursuant to K.S.A. 77-521(a)(2), CURB qualifies as an intervenor (a) under provision of law and (b) because the rights, duties, privileges, immunities, or other legal interests of residential and small commercial ratepayers may be substantially affected by this proceeding.<sup>8</sup>

8. CURB's requested intervention is in the interests of justice and will not impair the orderly and prompt conduct of the proceedings.<sup>9</sup>

9. CURB therefore requests that the Commission grant CURB's Petition to Intervene and participate fully in this docket, including but not limited to the right to conduct discovery, file pleadings and testimony, present oral argument, and fully participate in any scheduled hearings.

10. In addition to undersigned counsel, please include the following CURB representatives with all electronic notices, pleadings, and correspondence regarding this Application as follows:

Shonda Smith  
Office Manager  
Citizens' Utility Ratepayer Board  
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<sup>6</sup> Staff's authority to represent the general public is not specifically authorized by statute, but merely referenced in the definition section of Commission regulations. K.A.R. 82-1-204(q) ("Technical staff may conduct investigations and otherwise evaluate issues raised, and may testify and offer exhibits on behalf of the *general public*." (emphasis added).

<sup>7</sup> K.A.R. 82-1-204(i)(3).

<sup>8</sup> K.S.A. 77-521(a)(2).


<sup>9</sup> K.S.A. 77-521(a)(3).

**VERIFICATION**

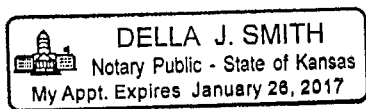
STATE OF KANSAS )  
 )            ss:  
COUNTY OF SHAWNEE )

I, David Springe, of lawful age, being first duly sworn upon his oath states:

That he is an attorney for the above named petitioner; that he has read the above and foregoing document, and, upon information and belief, states that the matters therein appearing are true and correct.

  
\_\_\_\_\_  
David Springe

SUBSCRIBED AND SWORN to before me this 9<sup>th</sup> day of October, 2013.



  
\_\_\_\_\_  
Notary Public

My Commission expires: 01-26-2017.

WHEREFORE, CURB respectfully requests the Commission grant its Petition for Intervention in this Docket.

Respectfully submitted,



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David Springe, Consumer Counsel #15619  
Niki Christopher #19311  
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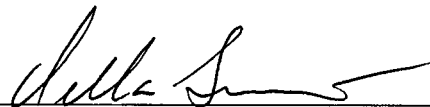
CERTIFICATE OF SERVICE

14-WSEE-148-TAR

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 9<sup>th</sup> day of October, 2013, to the following:

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Della Smith  
Administrative Specialist