

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

In the Matter of Westar Energy, Inc. and)
Kansas Gas and Electric Company Seeking)
Commission Approval for Tariff Revisions to) Docket No. 15-WSEE-021-TAR
the Energy Efficiency Rider)

**WESTAR ENERGY, INC. AND KANSAS GAS AND ELECTRIC COMPANY'S
RESPONSE TO CURB'S REPLY TO STAFF'S REPORT AND RECOMMENDATION**

COMES NOW Westar Energy, Inc. and Kansas Gas and Electric Company (collectively "Westar") and submits the following Response to CURB's Reply to Staff's Report and Recommendation:

I. Introduction

1. On July 15, 2014, Westar filed an application with the Commission asking for approval of its recovery of certain costs through the Energy Efficiency Cost Recovery Rider (EER).
2. On September 18, 2014, Staff filed its Report and Recommendation. Staff recommended that the Commission approve Westar's Application.
3. On September 29, 2014, the Citizens' Utility Ratepayer Board (CURB) filed its Reply to Staff's Report and Recommendation. Although CURB recommended disallowance of a small portion of the costs Westar included in the Application (approximately \$28,000), CURB recommended that the Commission "approve the EER rates as calculated by Westar in its application" and true-up any differences in the next EER update. CURB Reply, at p. 2. Given the small size of the adjustment proposed by CURB, Westar is not objecting to the proposed adjustment at this time. Westar agrees that it will true-up the adjustment of approximately \$28,000 when it files its next EER update.

4. While recognizing that these topics are outside the scope of this proceeding, CURB also discussed its views regarding the need for Westar to file updated budgets for certain energy efficiency programs with the Commission, the need for a final evaluation of the SimpleSavings program before its conclusion, and the need for the Commission to require additional evaluation, measurement and verification (EM&V) for Westar's energy efficiency programs.

II. The Commission should not consider CURB's arguments regarding budgets and EM&V in this docket.

5. CURB's discussion of Commission-approved budgets and EM&V is outside of the scope of this docket. As Staff explained in its Report and Recommendation, utilities make separate, formal tariff applications when implementing new energy efficiency programs so that the programs can be reviewed "in light of Commission policy directives." Staff R&R, at pp. 2. Because all of the energy efficiency programs that Westar is requesting cost recovery for have already been approved by the Commission, the review in this EER docket is limited to "examinations of expenditures consistency – both in scope and amount – to that previously granted approval by the Commission." Staff R&R, at p. 3.

6. The expenses included in the EER through this Application are all related to energy efficiency programs already approved by the Commission:

- Energy Efficiency Education Program, Docket No. 09-WSEE-986-ACT
- Building Operator Certification (BOC) Program, Docket No. 09-WSEE-738-MIS
- WattSaver Air Conditioner Cycling (WattSaver) Program, Docket No. 09-WSEE-636-TAR
- Energy Efficiency Demand Response (EEDR) Program, Docket No. 10-WSEE-141-TAR

- SimpleSavings Program Rider, Docket No. 10-WSEE-775-TAR

7. As a result, CURB's comments regarding Commission-approved budgets, evaluation of the SimpleSavings program, and EM&V are outside the scope of this proceeding and should not be considered by the Commission.

III. CURB's arguments regarding program budgets, the SimpleSavings program, and EM&V are without merit.

8. Even if the Commission were inclined to consider CURB's comments on these issues in this docket, there is no basis for CURB's suggestions that Westar needs to refile its energy efficiency programs with new budgets for approval, that Westar should be responsible for evaluating the SimpleSavings program, or that the Commission needs to require additional EM&V.

A. Westar's energy efficiency programs have not expired.

9. CURB's suggestion that an approved energy efficiency program "expires" after five years just because the Commission requires a five-year budget to be submitted with the initial filing for approval of the program is unfounded. With the exception of the BOC program none of the Commission-approved tariffs or Commission orders approving the programs includes any time limitation for the programs.

10. In the BOC program tariff, it explicitly states that the program will be in place for five years. Westar recognizes this limitation and will take steps to determine whether or not to move forward with the BOC in the future. However, the fact that this language is included in the BOC program tariff and not in the tariffs for any of the other programs indicates that no time limitation was intended for those programs. If the Commission or parties had intended to put a

limitation on any of the other programs, they would have expressly stated so in the tariffs or in the orders approving the program, as they did for the BOC program.

11. In Appendix A of its Final Order in Docket No. 08-GIMX-441-GIV, the Commission simply lists a five-year budget as one of the items a utility company must submit when filing an application for approval of an energy efficiency program. *See* Final Order, *In the Matter of a General Investigation regarding Cost Recovery and Incentives for Energy Efficiency Programs*, Docket No. 08-GIMX-441-GIV, Appendix A (Nov. 14, 2008) (441 Order). Nowhere in its Final Order does the Commission state that it will only approve energy efficiency programs for five year periods or that it will require utilities to resubmit programs for approval every five years. Of course, Staff, CURB, or any other interested party always has the right to challenge a program being operated by a KCC-jurisdictional utility if they believe it is no longer a reasonable program. However, requiring utilities to come back with a full-blown application and docketed proceeding every five years would be a waste of all parties' and the Commission's resources and is absolutely not what was required by the Commission in its 441 Order. CURB's attempt to imply otherwise from the 441 order fails.

B. EM&V for the SimpleSavings program may not be useful and there is no requirement for Westar to conduct such an evaluation.

12. CURB's argument that the Commission should require an EM&V for the SimpleSavings program at the conclusion of the program on January 31, 2015, and the implication that Westar should be responsible for this evaluation is inconsistent with the language in the Commission's order approving the program.

13. The SimpleSavings program was dependent on funding from the State of Kansas and that funding was pulled from the program in mid-2011. Since that time, there has been no new activity with the SimpleSavings program. Only approximately 350 customers utilized the

program while it was in effect. Westar is not convinced that, given the limited application of the program, EM&V would provide useful information or would be worth the expense that would be incurred to conduct it.

14. Even if the Commission thought it could be useful, there is no basis for the suggestion that Westar should be responsible for conducting EM&V. In its Application filed for the SimpleSavings program, Westar clearly stated: “Westar will rely on the State Energy Office to perform EM&V as it deems necessary.” Application, Appendix A, *In the Matter of the Application of Westar Energy, Inc. and Kansas Gas and Electric Company for an Order Authorizing them to participate in Efficiency Kansas, Approve the SimpleSavings Program Rider, and Related Cost Recovery*, Docket No. 10-WSEE-775-TAR (SimpleSavings Docket).

15. In the Order approving Westar’s SimpleSavings program, the Commission made it clear that Commission Staff is responsible for any EM&V for the SimpleSavings program:

The Commission directs its Staff to open an investigation and file a report at the beginning of the fourth year of the pilot program to allow the Commission to examine data associated with Westar's SimpleSavings program. Staff’s report should include, at a minimum, participation in the program, results of the EM&V, amount loaned through the program, repayment issues, energy and demand savings, lost revenues recovered by Westar, and any other items Staff finds of use to the Commission.

Order Approving Partnership between Efficiency Kansas and Westar’s SimpleSavings Program, SimpleSavings Docket, at ¶ 37 (Jan. 31, 2011).

16. If the Commission believes EM&V is necessary for the SimpleSavings program, that EM&V should be conducted by Commission Staff and not by Westar.

C. CURB’s suggestions regarding EM&V conducted by Westar for energy efficiency programs are erroneous.

17. CURB’s suggestion that Westar has not performed any EM&V on any of its energy efficiency programs is incorrect and inconsistent with the information that was provided to CURB

through the discovery process. Attached as Exhibit A are responses to several data requests issued by CURB in this docket. In these responses, Westar explained:

- A. No EM&V was required for Westar's BOC or other energy efficiency education programs. In its Order Adopting Energy Efficiency Program EM&V RFP and Procedures in Docket No. 10-GIMX-013-GIV, the Commission stated: "The Commission determined that the educational programs will not be subject to impact evaluations, but shall initially undergo process evaluations used to determine whether the program is being implemented in an efficient manner." See Draft RFP, at p. 22, attached to Order Adopting Energy Efficiency Program EM&V RFP and Procedures, Docket No. 10-GIMX-013-GIV (Nov. 4, 2010). Westar conducted initial process evaluations as required as the results of those evaluations have been provided to CURB in response to data requests.
- B. For the WattSaver program, EM&V was conducted in 2010, 2011, 2012. Reports regarding those evaluations were provided to CURB in response to data requests. An EM&V study was not conducted for 2013 because there is no Commission requirement that EM&V must be conducted on an annual basis.
- C. For the EEDR program, no formal EM&V has been conducted but Westar has evaluated and verified the program when it has called on the customer taking service under the EEDR for a reduction in usage and that customer has responded appropriately.
- D. As stated above, Commission Staff – not Westar – was required to conduct any necessary EM&V for the SimpleSavings program.

18. Westar has clearly complied with its obligations to conduct EM&V in accordance with the guidance that has been provided by the Commission. If the Commission chooses to adjust or develop its rules regarding EM&V further in the future, Westar will adjust its methods for performing EM&V as necessary to comply with the new rules.

WHEREFORE, for the reasons set forth herein, Westar respectfully requests the Commission issue an order approving its application for approval of its EER.

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of October, 2014, the foregoing Response was electrically filed with the Kansas Corporation Commission and an electronic copy was delivered to each party on the service list.


Cathryn J. Dinges

Respectfully submitted,
WESTAR ENERGY, INC.
KANSAS GAS AND ELECTRIC COMPANY

Cathryn Dinges

Cathryn J. Dinges, #20848
Senior Corporate Counsel
818 South Kansas Avenue
Topeka, Kansas 66612
Telephone: (785) 575-1986
Fax: (785) 575-8136

VERIFICATION

STATE OF KANSAS)
)
COUNTY OF SHAWNEE) ss:

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 **Response**; and that the statements therein are true and correct to the best of her knowledge and belief.

Cathryn Dinges

Cathryn J. Dinges

SUBSCRIBED AND SWORN to before me this 7th day of October, 2014.

Debbielee A. Papps

Notary Public

My Appointment Expires:

