

**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. 16-WSEE-021-TAR  
the 2015 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:

1. On July 14, 2015, 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 15, 2015, Staff filed its Report and Recommendation. Staff recommended that the Commission approve Westar's Application.

3. On September 23, 2014, the Citizens' Utility Ratepayer Board (CURB) filed its Reply to Staff's Report and Recommendation. CURB recommended that the Commission disallow a portion of the costs Westar included in its EER based on the argument that the budget for Westar's Energy Efficiency Demand Response (EEDR) program had "expired" and the argument that Westar should not be able to recover the costs of retaining a consultant to assist with discovery requests related to the WattSaver program through the EER.

4. On September 28, 2015, Staff filed a response to CURB's reply explaining why Westar's EER should be approved as requested.

5. With respect to the EEDR program, Staff disagreed with CURB that the “expiration” of the budget for the EEDR program had any impact on Westar’s ability to recover the costs associated with the EEDR. Staff explained that the EEDR tariff is still in effect, currently approved and on file with the Commission and stated that “[n]o evidence has been provided to indicate that a lapsed budget means the program should be halted or the tariff terminated.” *See* Staff Response, at ¶ 7. Staff went on to explain that “it would be unjust to require Westar to continue under the terms of its approved tariff but not receive expense recovery. The EEDR program was approved and the terms of the tariff have been deemed just and reasonable. Lack of a budget should not be considered fatal to cost recovery under an approved tariff.” *Id.* Staff went on to recognize that Westar has filed for budget approval in a current docket pending before the Commission. Finally, Staff recognized that the expenses included in Westar’s EER are within reasonable limits. *Id.* at ¶ 8.

6. With respect to the costs of the consultant assisting with discovery requests for the WattSaver program, Staff explained that the costs included in the EER were not pre-implementation costs as suggested by CURB but instead were costs incurred after implementation of the program and that can be “directly traced to the administration of the program.” Staff concluded that Westar’s recovery of these costs through the EER is reasonable and appropriate. *Id.* at ¶ 10.

7. Westar agrees with the arguments made by Staff in its Response. With respect to the EEDR, it is clear that Westar’s EEDR program has not expired. 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. The EEDR was approved by the Commission in Docket No. 10-WSEE-141-TAR

without any time limitation for the tariff and without any suggestion by the Commission that the program would expire after the initial five-year term. Then, in Docket No. 13-KG&E-451-CON, the Commission reapproved the EEDR and the change making it available to special contract customers as well as customers taking service under the high load factor tariff. Again, nothing in the Commission's order indicated that the program would expire at any specific point.

8. 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 not be an efficient use of the parties' and the Commission's resources and is not what was required by the Commission in its 441 Order.

9. As Staff explains, Westar has incurred expenses in relation to an approved program and those expenses were within the range found to be just and reasonable when the EEDR program was approved.

10. Westar has filed the results of the EM&V for the EEDR program, as well as new five-year budgets, in Docket No. 15-WSEE-532-MIS. If the Commission decides in that docket that, for some reason, the EEDR program should not be continued in the future, it would affect

the operation of that program and Westar's recovery of costs prospectively but not on a retroactive basis as suggested by CURB.

11. With respect to the costs incurred to perform EM&V for the WattSaver program, CURB's suggestion that these costs were "pre-implementation" costs that should be recovered through traditional ratemaking is incorrect. The WattSaver program was already in effect at the time the costs at issue were incurred. Westar's application in Docket No. 15-WSEE-181-TAR was to make changes to the already effective program on a prospective basis and Westar retained a consultant to assist with answering data requests in that docket. As Staff explained, this docket – and the related costs of a consultant – was directly related to the administration of the WattSaver program. As a result, it is appropriate for Westar to recover these costs through the EER.

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

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 **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 5<sup>th</sup> day of October, 2015.



Debbielee A. Papps  
Notary Public

My Appointment Expires: June 26, 2017

**CERTIFICATE OF SERVICE**

I hereby certify that on this 5<sup>th</sup> day of October, 2015, the foregoing Response was electronically filed with the Kansas Corporation Commission and an electronic copy was delivered to each party on the service list.

Cathryn Dinges  
Cathryn J. Dinges