

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

Before Commissioners:      Thomas E. Wright, Chair  
                                 Michael C. Moffet  
                                 Joseph F. Harkins

In the Matter of Westar Energy, Inc. and      )  
Kansas Gas and Electric Company (KEG)      )  
d/b/a Westar Energy Seeking Commission      )      Docket No. 09-WSEE-737-TAR  
Approval to Revise its Environmental Cost      )  
Recovery (ECRR) Tariff.                              )

**ORDER GRANTING INTERVENTION  
TO CITIZENS' UTILITY RATEPAYER BOARD**

NOW, the above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined its files and records, and being duly advised in the premises, the Commission finds as follows:

**I. BACKGROUND**

1.      On March 17, 2009, Westar Energy, Inc. and Kansas Gas and Electric Company (collectively referred to herein as "Westar") filed a request seeking Commission approval of a revision to its Environmental Cost Recovery Rider (ECRR). According to Westar, the tariff incorporates the cost of environmental projects incurred during the year ending December 31, 2008. Supplementing its request, Westar included its cost support for the pricing on the ECRR tariffs and the allocation of overall revenue to various classes. Also included with the request are a redlined copy, two originals, and seven copies of Westar's revised tariffs. Westar intends to implement the tariff revisions with cycle 1 billing for the month of June 2009. Westar further indicates that the June cycle 1 meter read date is May 31, 2009.

2. On March 24, 2009, Citizens' Utility Ratepayer Board (CURB) filed a Petition to Intervene seeking a Commission order granting CURB leave to intervene as a party in this matter.

3. In support of its Petition to Intervene, CURB states the following:

a) CURB is composed of five volunteer consumer advocate members and is statutorily authorized to represent the interests of Kansas residential and small commercial ratepayers in utility proceedings;

b) CURB's Consumer Counsel has been given the discretion to intervene and represent the interests of Kansas residential and small commercial ratepayers in any utility proceeding before the Commission under K.S.A. 66-1223 *et seq.*;

c) CURB is requesting permission to intervene in this docket to represent the interests of the residential and small commercial ratepayers of Kansas;

d) CURB states that the rates paid and the service received by those customers whom CURB represents will or may be affected by any Commission order or activity in this proceeding;

e) The representation of CURB's interests in this proceeding by existing parties is or may be inadequate.

f) The residential and small commercial ratepayers whose interests CURB represents will or may be bound by any Commission order or activity in this proceeding and will or may be adversely affected thereby.

## **II. DISCUSSION**

4. The general criteria governing intervention is set by statute and in the Commission's rules and regulations, specifically K.S.A. 77-521 and K.A.R. 82-1-225.

These authorities provide the Commission considerable discretion regarding intervention, essentially allowing the Commission to grant intervention if it is determined that the request was made in the interest of justice and will not delay the orderly and prompt conduct of the proceeding. Further, K.S.A. 77-521 and K.A.R. 82-1-225 provide that: a) the intervener's participation may be limited to designated issues in which the intervener has a particular interest; b) the intervener's use of discovery, cross-examination and other procedures may be limited so as to promote the orderly and prompt conduct of the proceedings; and c) two or more interveners may be required to combine their presentations of evidence and argument, cross-examination, discovery and other participation in the proceedings.

5. The Commission finds that Citizens' Utility Ratepayer Board, the agency statutorily authorized to represent the interests of residential and small commercial ratepayers in Kansas, properly filed its petition to intervene and states facts demonstrating that its legal interests may be substantially affected by this proceeding. Therefore, the Commission grants full intervention to CURB. CURB is reminded that the Commission may, at any time, limit their participation in this proceeding, including the use of discovery, cross-examination and other procedures so as to promote the orderly and prompt conduct of this proceeding. The Commission further finds that CURB's request for issuance of a Protective Order allowing CURB and its consultant access to information contained in Empire's filing is reasonable, in the public interest and should be granted.

**IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:**

(A) The petition to intervene filed by Citizens' Utility Ratepayer Board is hereby granted pursuant to K.S.A. 77-521 and K.A.R. 82-1-225 as set forth in this Order.

(B) The Commission retains jurisdiction of the subject matter and the parties for the purpose of entering such further order or orders as it may deem necessary.

(C) Any party may file a petition for reconsideration of this Order within fifteen (15) days from the date of service of this Order. If service is by mail, service is complete upon mailing, and three (3) days shall be added to the above time frame.

**BY THE COMMISSION IT IS SO ORDERED.**

Wright, Chmn.; Moffet, Comm.; Harkins, Comm.

Dated: APR 01 2009

**ORDERED MAILED**

APR 02 2009

 EXECUTIVE  
DIRECTOR

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Susan K. Duffy  
Executive Director

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