

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

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.)

MEMORANDUM AND RECOMMENDATION OF THE COMMISSION STAFF

COMES Now the Staff of the State Corporation Commission of the State of Kansas, by and through Justin Grady, Laura Bowman, and Al Maxwell, Senior Regulatory Auditor, Senior Auditor, and Managing Utilities Rate Analyst, respectively, and submits its Memorandum and recommendation in this matter.

STATE CORPORATION COMMISSION

APR 23 2009

 Docket Room

MEMORANDUM

To: Chair Wright
Commissioner Moffet
Commissioner Harkins

From: Laura Bowman *LB*
Justin Grady *JG*
Al Maxwell *AM*

Date: April 20, 2009

DATE SUBMITTED TO LEGAL: 4/20/09

DATE SUBMITTED TO COMMISSIONERS: 4/22/09

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

BACKGROUND

In its rate application in Docket No. 05-WSEE-981-RTS, Westar Energy (Westar North) and Kansas Gas and Electric Company (Westar South) proposed to implement an Environmental Cost Recovery Rider (ECRR) to recover annual expenditures directly related to environmental costs at Westar's generating facilities. The Commission allowed the filing of the ECRR, subject to Staff's modifications as outlined in pgs 23-28 of the Direct Testimony of Staff witness Donald Low, in its Orders on Rate Applications and Reconsideration. Westar has since filed three revisions to its ECRR tariff, in Dockets No. 06-WSEE-1088-TAR, 07-WSEE-978-TAR, and 08-WSEE-849-TAR. The Commission approved each filing after minor Staff modifications.

On January 21, 2009 an order approving stipulation and agreement (S&A) in Docket No. 08-WSEE-1041-RTS was issued. Page 14, paragraph 32 of the S&A states “rates included in the ECRR for Westar North and Westar South will be rolled into their respective base rates at the effective date of tariffs resulting from this proceeding. The ECRR will be zero-based at that time, except the true-up balance will roll to the ECRR filing.” On February 3, 2009, Westar’s ECRR tariff rates were rolled into base rates, and the ECRR became zero-based.

On March 17, 2009, Westar filed a revision to its ECRR tariffs to include costs associated with its investments in pollution control equipment for the year ending December 31, 2008. Westar’s filing seeks to recover revenue requirements associated with the following environmental projects:

1. Rebuild of Gas Desulfurization (FGD) units at Jeffrey Energy Center
2. Installation of Mercury Continuous Emission Monitor at Jeffrey Energy Center No. 1
3. Installation of Low NOx Burner at Jeffery Energy Center Nos. 1, 2, and 3
4. Installation of Mercury Continuous Emission Monitor at Jeffrey Energy Center Nos. 2 and 3
5. Installation of Mercury Continuous Emission Monitor at Lawrence Energy Center Nos. 3, 4, and 5
6. Installation of Low NOx Burner at Tecumseh Energy Center No. 7 and 8
7. ESP Rebuild / Upgrade at Tecumseh Energy Center No. 7
8. Installation of Mercury Continuous Monitor at Tecumseh Energy Center No. 7 and 8
9. Installation of scrubber, FGD, and baghouse and mercury monitors at LaCygne

10. Replacement of Continuous Emission Monitors at Gordan Evans
11. JEC #3 ESP Rebuild
12. JEC #2 ESP Rebuild
13. JEC #1 ESP Rebuild
14. Replacement of opacity monitors at Murray Gill Energy Center
15. Replacement of Continuous Emission Monitors at Hutchinson Energy Center.

Westar's filing seeks a surcharge amount of \$25,802,236 for Westar North and \$7,923,510 for Westar South. The surcharge will be included on the monthly bills of the rate schedule classes shown on the ECRR tariff schedule. Following Commission approval, Westar will begin billing the revised rates on June 1, 2009.

ANALYSIS

Staff finds that the projects included in Westar's filing are appropriate for inclusion in the ECRR tariff. These projects have all been included in past ECRR filings or have met the Commission's requirement of notification to Staff 6-months prior to commencement. Staff conducted an audit of the application that consisted of:

- Reviewing the Project Work Orders and selecting a random sample of invoices for all capital expenditures claimed for each project,
- Ensuring that prior year surcharge revenue collections were trued-up with anticipated surcharge revenue collections,
- Ensuring that the revenue requirement for the ECRR was calculated accurately and correctly,

- Ensuring that the surcharge amount approved in Docket No. 08-WSEE-849-TAR were appropriately transferred to base rates and that the ECRR became zero-based
- Ensuring that no double-counting occurred with projects that were recovered in prior ECRR surcharges and transferred to base rates.

During Staff's review of Westar's ECRR filing, Staff discovered a few minor computational errors within the application. These errors consisted of omitting an invoice for JEC # 3 ESP Rebuild, inappropriately reflecting accumulated depreciation for 2008, and the proper treatment of special contract-related ECRR revenues in the true-up calculation. Additionally, Staff discovered and corrected two cell reference errors that were incorrectly stated in Westar's previous ECRR filing, Docket No. 08-WSEE-849-TAR.

Staff also discovered that Westar's filing included costs that are recovered through Westar's Purchase Power Agreement (PPA) with MKEC. These are capital expenditures (Plant in Service amounts only, not CWIP) that are related to Westar's ownership of the 8% portion of Jeffery Energy Center that is devoted to the MKEC PPA. Because these capital expenditures are recovered directly from MKEC through this PPA, it is inappropriate to collect them through the ECRR.

These issues were shared with Westar, which provided an updated set of workpapers reflecting Staff's changes. Staff's revised ECRR surcharge amounts are \$25,063,238 for Westar North and \$7,389,942 for Westar South. The workpapers showing Staff's revised surcharge amounts are attached as Attachment A.

Staff finds that the true-up mechanism used by Westar in its revised filing is in accordance with the methodology established by Staff and Westar in the 2008 ECRR surcharge

filing. Continuing this true-up methodology, Westar's 2010 ECRR surcharge filing should compare the sum of the following three components¹ to the actual ECRR revenue collected for the calendar year 2009:

1. 8.88% of the adjusted 2008 ECRR surcharge for Westar North²
2. 8.654% of the adjusted 2008 ECRR surcharge for Westar South²
3. The appropriate percentage of the 2009 surcharge (developed using a ratio of budgeted usage from June 1 through December 31)

A workpaper showing the computation of Westar's true-up mechanism is attached as Attachment B.

RATE DESIGN

On each of the North and South systems, the surcharge is allocated to each class using the test-year 4 coincident peak demand of each class (as established in Docket No. 08-WSEE-1041-RTS). The 2009 budgeted kWh billing statistics of each class are used to calculate the surcharge rate for the majority of the classes. For higher load factor customers, 2009 budgeted kW or kVA billing statistics are used to calculate the class surcharge rates. The surcharge rates by class are shown on Attachment C attached to Staff's memorandum.

RECCOMENDATION

Staff recommends that the Commission approve the collection of Westar's ECRR surcharge amounts, as revised by Staff. Staff recommends that Westar North be allowed to

¹ Each should be exclusive of amounts allocated to special contract customers.

² These percentages represent the ratio of budgeted January 2009 usage to budgeted calendar year 2009 usage, rather than January through May 2009 usage. This is due to the surcharge becoming zero-based on February 3, 2009. The June through December portions of the 2008 ECRR surcharge were included in this year's ECRR true-up.

collect \$25,063,238 and Westar South be allowed to collect \$7,389,942—per the rates and charges described in the Rate Design section above with the following conditions:

1. Westar shall file revised ECRR tariffs reflecting the new rates and charges prior to billing the new ECRR rates on June 1, 2009.
2. Staff will insure that the true-up of actual ECRR revenue collected versus intended ECRR surcharge amounts will be reflected in future years' ECRR surcharge filings in accordance with the methodology described above.

Summary

	Westar North	Westar South	Total Westar North and South
Addition to Plant in Service as of December 2007	\$ 5,907,952	\$ 41,007,733	\$ 46,915,685
Addition to CWIP as of December 2007	\$ 145,768,876	\$ 43,487,904	\$ 189,256,780
Total Plant in Service and CWIP as of December 2007	\$ 151,676,828	\$ 84,495,637	\$ 236,172,465
Rebuild of Gas Desulfurization (FGD) units at Jeffrey Energy Center	\$ 51,999,570	\$ 16,120,017	\$ 68,119,587
Installation of Mercury Continuous Emission Monitor @ JEC no 1	\$ 22,957	\$ 7,100	\$ 30,058
Installation of Low NOx Bumer at Jeffrey Energy Center #3	\$ 14,575	\$ 4,556	\$ 19,132
Installation of Mercury Continuous Emission Monitor @ JEC nos 2 and 3	\$ 101,012	\$ 19,605	\$ 120,617
Installation of Mercury Continuous Emission Monitor @ LEC nos 3, 4 and 5	\$ 496,807	\$ -	\$ 496,807
Installation of Low NOx Bumer at Tecumseh Energy Center #7	\$ 2,228,692	\$ -	\$ 2,228,692
ESP Rebuild / Upgrade at TEC # 7	\$ 4,505,790	\$ -	\$ 4,505,790
Installation of Mercury CEM at Tecumseh Energy Center # 8	\$ 50,361	\$ -	\$ 50,361
Installation of scrubber, FGD and baghouse and mercury monitors at LaCygne	\$ -	\$ 1,518,237	\$ 1,518,237
Replacement of Continuous Emission Monitors at Gordon Evans	\$ -	\$ 25,586	\$ 25,586
Addition to Plant in Service in 2008	\$ 59,419,765	\$ 17,695,102	\$ 77,114,867
Rebuild of Gas Desulfurization (FGD) units at Jeffrey Energy Center	\$ 68,135,004	\$ 18,851,583	\$ 86,986,586
JEC #3 ESP rebuild	\$ 27,322,031	\$ 7,585,456	\$ 34,907,487
JEC #2 ESP rebuild	\$ 13,830,484	\$ 3,791,808	\$ 17,622,292
JEC #1 ESP rebuild	\$ (2,292,816)	\$ (620,475)	\$ (2,913,290)
Installation of Low NOx Bumer at Jeffrey Energy Center # 2	\$ 3,412,483	\$ 947,913	\$ 4,360,396
Installation of Low NOx Bumer at Jeffrey Energy Center #1	\$ 9,947,385	\$ 2,761,217	\$ 12,708,602
Installation of Mercury Continuous Emission Monitor @ LEC nos 3, 4 and 5	\$ 3,689,668	\$ -	\$ 3,689,668
Installation of Low NOx Bumer at Tecumseh Energy Center #7	\$ 273	\$ -	\$ 273
Installation of Mercury CEM at Tecumseh Energy Center #7	\$ 73,726	\$ -	\$ 73,726
Installation of Low NOx Bumer at Tecumseh Energy Center # 8	\$ 66,605	\$ -	\$ 66,605
Installation of scrubber, FGD and baghouse and mercury monitors at LaCygne	\$ -	\$ 3,666,941	\$ 3,666,941
Replacement of opacity monitors at Murray Gill Energy Center	\$ -	\$ 76,597	\$ 76,597
Replacement of Continuous Emission Monitors at Hutchinson Energy Center	\$ -	\$ 43,839	\$ 43,839
Addition to CWIP in 2 008	\$ 124,184,842	\$ 37,104,879	\$ 161,289,721
Total Additions to Plant in Service and CWIP in 2008	\$ 183,604,607	\$ 54,799,981	\$ 238,404,589
Total Environmental Projects Plant in Service and CWIP as of Dec 2008	\$ 335,281,435	\$ 139,295,618	\$ 474,577,054
Less: Transferred to Base Rates in Docket No. 05-WSEE-981-RTS	\$ 150,229,507	\$ 84,495,637	\$ 234,725,145
Total Additions to Plant in Service and CWIP in 2008	\$ 185,051,928	\$ 54,799,981	\$ 239,851,909
Accumulated Depreciation 2008	\$ (2,026,592)	\$ (842,484)	\$ (2,869,076)
Reversal of Accumulated Depreciation in 2007 filing	\$ (1,942,536)	\$ (2,257,740)	\$ (4,200,276)
Correction to Unders tatement of CWIP in 2007 filing	\$ 3,301,115	\$ 1,031,598	\$ 4,332,713
Deferred income tax (liability) asset	\$ (1,382,439)	\$ (332,919)	\$ (1,715,358)
Net addition to rate base in 2008	\$ 183,001,476	\$ 52,398,437	\$ 235,399,913
Pre tax rate of return - 08-WSEE-1041-RTS	12.002%	12.002%	
Return on additions to rate base	\$ 21,963,837	\$ 6,288,860	\$ 28,252,698
Depreciation on 2008 additions to plant in service			
Rebuild of Gas Desulfurization (FGD) units at Jeffrey Energy Center	\$ 1,471,588	\$ 767,313	\$ 2,238,901
Installation of Mercury Continuous Emission Monitor @ JEC no 1	\$ 650	\$ 338	\$ 988
Installation of Low NOx Bumer at Jeffrey Energy Center #3	\$ 412	\$ 217	\$ 629
Installation of Mercury Continuous Emission Monitor @ JEC nos 2 and 3	\$ 2,859	\$ 933	\$ 3,792
Installation of Mercury Continuous Emission Monitor @ LEC nos 3, 4 and 5	\$ 30,007	\$ -	\$ 30,007
Installation of Low NOx Bumer at Tecumseh Energy Center #7	\$ 171,164	\$ -	\$ 171,164
ESP Rebuild / Upgrade at TEC # 7	\$ 346,045	\$ -	\$ 346,045
Installation of Mercury CEM at Tecumseh Energy Center # 8	\$ 3,868	\$ -	\$ 3,868
Installation of scrubber, FGD and baghouse and mercury monitors at LaCygne	\$ -	\$ 72,268	\$ 72,268
Replacement of Continuous Emission Monitors at Gordon Evans	\$ -	\$ 1,415	\$ 1,415
Depreciation Expense on Assets Placed in Service in 2008	\$ 2,026,592	\$ 842,484	\$ 2,869,076
Cummulative Under (Over) billings from ECRR	\$ 1,072,809	\$ 258,598	\$ 1,331,407
Total Recovery under ECRR	\$ 25,063,238	\$ 7,389,942	\$ 32,453,180

Revenue True Up

	North	South
07-WSEE-978-TAR	\$ 2,112,479.00	\$ 3,075,741.00
	38.60%	38.25%
Anticipated Recovery	\$ 815,416.89	\$ 1,176,470.93
Special Contract \$263,281 * 38.25%		\$ (100,705.00)
Actual Recovery	\$ 795,572.85	\$ 1,072,732.77
Under/(Over) Recovery	\$ 19,844.04	\$ 3,033.16
08-WSEE-849-TAR	\$ 16,866,711.00	\$ 10,332,018.00
	62.01%	62.07%
Anticipated Recovery	\$ 10,459,047.49	\$ 6,413,083.57
Attributable to Special Contract Customers		\$ (497,852.00) ⁽¹⁾
Total Anticipated Recovery	\$ 10,459,047.49	\$ 5,915,231.57
Actual Recovery	\$ 9,406,082.64	\$ 5,659,666.94
Under/(Over) Recovery	\$ 1,052,964.85	\$ 255,564.63
Total ECRR Revenue	\$ 10,201,655.49	\$ 6,732,399.71
Cummulative Under (Over) billings from ECRR	\$ 1,072,808.90	\$ 258,597.80
Actual ECRR Revenue 2008	North	South
January	\$ 182,851.31	\$ 249,180.90
February	\$ 172,470.32	\$ 222,332.55
March	\$ 158,383.36	\$ 214,334.31
April	\$ 143,789.57	\$ 193,124.46
May	\$ 138,078.29	\$ 193,760.55
June	\$ 789,628.80	\$ 512,157.32
July	\$ 1,644,883.43	\$ 984,599.62
August	\$ 1,715,841.51	\$ 1,021,008.92
September	\$ 1,476,830.52	\$ 883,284.04
October	\$ 1,219,703.62	\$ 750,449.23
November	\$ 1,158,099.92	\$ 691,455.37
December	\$ 1,401,094.84	\$ 816,712.44
Total ECRR Revenue 2008	\$ 10,201,655.49	\$ 6,732,399.71

(1) Equals 62.07% of the 2008 Special Contract Revenue that does not receive ECRR. =.6207*\$ 802,081.

Attachment C

Westar Energy, Inc.
 Environmental Cost Recovery Rider
 Support of application - June 2009 implementation

Development of Rates

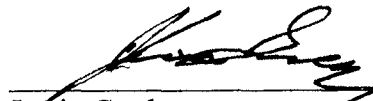
	Westar North				Westar South			
	Units	Budgeted Units	Amount	Rate	Units	Budgeted Units	Amount	Rate
Residential	kWh	3,423,174,126	\$ 11,206,951.62	0.003274	kWh	3,205,059,349	\$ 3,119,420.16	0.000973
Small General Service	KWh	2,008,636,479	\$ 5,064,329.80	0.002521	KWh	1,678,174,545	\$ 1,342,933.21	0.000800
Medium General Service	kW	7,394,790	\$ 6,095,003.50	0.824229	kW	2,776,276	\$ 679,667.75	0.244813
Schools (PS & PSTE & EIS)	kWh	238,351,206	\$ 460,912.94	0.001934	kWh	334,828,911	\$ 200,082.68	0.000598
Churches (RITODS)	kW	1,704,437	\$ 4,135.43	0.002426	kWh	27,144,489	\$ 8,705.35	0.000321
High Load Factor	kWh	2,164,031	\$ 1,829,362.45	0.845349	kW	6,195,515	\$ 1,605,668.92	0.259166
Large Tire Manufacture with HLF	KVa	298,680	\$ 261,928.07	0.876952				
Interruptible Contract Service	kWh	71,470,563	\$ 124,800.98	0.001746				
Lights	kWh	109,567,947	\$ 10,451.37	0.000095	kWh	56,690,884	\$ 317.77	0.000006
DSM	kWh	2,126,581	\$ 5,361.70	0.002521	kWh	35,739,167	\$ 28,632.64	0.000801
Special Contract A					kWh	336,100,000	\$ 174,321.44	0.000519
Special Contract (other)					kWh	443,821,290	\$ 230,192.11	0.000519
Total for recovery under ECRR		5,864,888,840	\$ 25,063,238			6,126,530,426	\$ 7,389,942	
		5,864,888,840	\$ 25,063,238			6,126,530,426	\$ 7,389,942	

In the North Restricted Peak Service, Dedicated Off-peak Rider and Restricted Peak Service are same as Small General Service

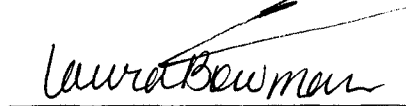
VERIFICATION
09-WSEE-737-TAR

STATE OF KANSAS)
) ss.
COUNTY OF SHAWNEE)

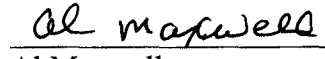
Justin Grady, Laura Bowman, and Al Maxwell, being duly sworn upon their oaths depose and state that they are Senior Regulatory Auditor, Senior Auditor, and Managing Utilities Rate Analyst, respectively, for the Kansas Corporation Commission, that they jointly prepared the foregoing Memorandum and are familiar with the content thereof and that the statements contained therein are true and correct to the best of their knowledge and belief.



Justin Grady



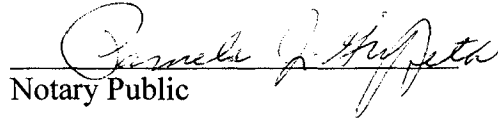
Laura Bowman



Al Maxwell

Subscribed and sworn to before me this 21st day of April, 2009.





Notary Public

My Appointment expires: August 17, 2011

CERTIFICATE OF SERVICE

09-WSEE-737-TAR

I hereby certify that a true and correct copy of the foregoing Memorandum of the Commission Staff was placed in the United States Mail, postage prepaid, on this 23rd day of April, 2009, properly addressed to:

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