

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

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

In the Matter of the Petition of Westar)
Energy, Inc. and Kansas Gas and Electric)
Company (collectively "Westar") for) Docket No. 08-WSEE-309-PRE
Determination of the Ratemaking Principles)
and Treatment that Will Apply to the)
Recovery in Rates of the Cost to be Incurred)
by Westar for Certain Electric Generation)
Facilities and Power Purchase Agreements)
under K.S.A. 2006 Supp. 66-1239)

**ORDER GRANTING INTERVENTION TO CITIZENS' UTILITY RATEPAYER BOARD
("CURB") AND ADOPTING PROCEDURAL SCHEDULE**

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed the files and being fully advised of all matters of record, the Commission finds and concludes as follows:

1. On October 1, 2007, Westar filed its Petition pursuant to K.S.A. 2006 Supp. 66-1239 for the purpose of seeking a predetermination of ratemaking principles and treatment with regard to certain electric generation and power purchase agreements.
2. On October 2, 2007, CURB filed its Petition to Intervene.
3. The Commission has jurisdiction in this matter pursuant to K.S.A. 2006 Supp. 66-1239 and in general pursuant to K.S.A. 66-101 and K.S.A. 2006 Supp. 66-104. This Order will address CURB's Petition to Intervene and establish a date for a prehearing scheduling conference.

FINDINGS AND CONCLUSIONS

A. Petitions to Intervene

4. The Commission has broad discretion to grant a petition for intervention if it is in the interests of justice, if the intervention will not impair the orderly and prompt conduct of the

proceedings, and if the party has stated facts demonstrating its legal rights, duties, privileges, immunities or other legal interests may be substantially affected by the proceeding. K.S.A. 77-521(a); K.A.R. 82-1-225. At any time during a proceeding, the Commission may impose limitations on an intervenor's participation. This can include limiting an intervenor's participation to designated issues in which the intervenor has a particular interest and its use of discovery and other procedures. The Commission also may require two or more intervenors to combine their presentation of evidence and argument, cross-examination, discovery, and other participation in the proceedings. K.S.A. 77-521(c)(1) – (3).

5. In support of its Petition, CURB states that its 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. CURB seeks to intervene to represent those interests in this docket and states the rates paid and service received by those customers will or may be affected by any Commission order or activity in this proceeding, that representation of CURB's interests in this proceeding by existing parties may be inadequate, and that the 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.

6. The Commission finds CURB has met the requirements for intervention and grants CURB's Petition for Intervention, subject to any further order that the Commission might issue.

B. Procedural Schedule

7. The Commission determines that a presiding officer will be needed to conduct a prehearing conference and to address any discovery issues or other procedural matters that may arise in this proceeding. For that reason, the Commission designates Charles R. Reimer, Advisory Counsel, or other staff member as may be appointed by the Commission, 1500 SW Arrowhead Road, Topeka, KS 66604-4027, telephone 785-271-3361, to be presiding officer in this proceeding. K.S.A. 2006 Supp. 77-514 & 77-551.

8. The Commission concludes that a prehearing scheduling conference will be needed. K.S.A. 2006 Supp. 66-1239 provides for a 180 day timeframe for Commission action in

this matter (March 29, 2007). This Prehearing Scheduling Conference should be expedited due to Westar's request in its Petition for Commission action by December 31, 2007. The presiding officer has been advised by CURB, Staff, and Westar that they will waive the usual 10 day notice time requirement provided at K.S.A. 2006 Supp. 77-518(a) for this conference. Therefore, a Prehearing Scheduling Conference is scheduled for **Tuesday, October 9, 2007, beginning at 1:30 p.m., in the Third Floor Hearing Room of the Commission's offices, 1500 SW Arrowhead Road, Topeka, KS 66604-4027.** Issues to be addressed at this conference include any pending motions, discovery, dates for submission of testimony, date(s) for a public hearing, dates for an evidentiary hearing, briefing, the timeframe for Commission action and issuance of a final order, and any other matters that may promote the orderly and prompt conduct of this proceeding. K.S.A. 77-517; K.A.R. 82-1-222. As noted above, the presiding officer will be Charles R. Reimer, 1500 SW Arrowhead Road, Topeka, KS 66604-4027, at telephone number 785-271-3361.

9. Any party who fails to attend or participate in the prehearing conference, hearing or in any other stage of this proceeding may be held in default under the Kansas Administrative Procedure Act. K.S.A. 77-516(c)(8); K.S.A. 77-520. At the prehearing conference, this proceeding without further notice may be converted into a conference hearing or a summary proceeding for disposition of the matter as provided by the Kansas Administrative Procedure Act. K.S.A. 77-516(c)(7).

10. The attorneys designated to appear for the agency in this proceeding are Dana Bradbury, telephone number 785-271-3196, 1500 Arrowhead Road, Topeka, KS 66604-4027, and Matt Spurgin, same address, telephone number 785-271-3279. K.S.A. 2006 Supp. 77-518(c)(2); K.S.A. 77-516(c)(2).

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

(A) The Commission hereby grants intervention to CURB, as set forth above.

(B) A Prehearing Scheduling Conference will be conducted on October 9, 2007, beginning at 1:30 p.m., in the Third Floor Hearing Room at the Commission's offices, 1500 SW Arrowhead Road, Topeka, KS 66604, as described above.

(C) This is a procedural order and constitutes non-final agency action. K.S.A. 77-607(b)(2). Parties have fifteen days, plus three days if service of this Order is by mail, from the date of service of this Order in which to petition the Commission for reconsideration. K.S.A. 66-118b; K.S.A. 2006 Supp. 77-529(a)(1). Counsel will be provided electronic access to a courtesy copy of this order via email.

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

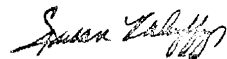
BY THE COMMISSION IT IS SO ORDERED.

Wright, Chr; Moffet, Com.; Harkins, Com

Dated: OCT 03 2007

ORDER MAILED

OCT 03 2007

 Executive
Director

Susan K. Duffy
Executive Director

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