

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

Before Commissioners: Shari Feist Albrecht, Chair
 Jay Scott Emler
 Dwight D. Keen

In the Matter of the Application of Westar)
Energy, Inc. and Kansas Gas and Electric) Docket No. 18-WSEE-190-TAR
Company for Approval of the Direct)
Renewable Participation Service Tariff)

**ORDER REQUIRING TARIFF REVISIONS FOR FINAL APPROVAL AND
ADDITIONAL CONDITIONS**

NOW, the above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed its files and records and being duly advised in the premises, the Commission makes the following findings:

Westar’s Application and Proposed Tariff Terms

1. On November 6, 2017, Westar Energy, Inc. (Westar Energy) and Kansas Gas and Electric Company (KGE) (collectively referred to as “Westar”) filed an Application for approval of a new Direct Renewable Participation Service (DRPS) Tariff.¹ The stated purpose of the DRPS Tariff is to foster economic development in Kansas by attracting and retaining businesses that value access to clean energy for their operations.² The DRPS Tariff accomplishes this goal by allowing larger commercial and industrial customers to purchase wind capacity from a new, local wind generation source through Westar.³

2. According to Westar’s Application, the DRPS Tariff will be available to customers with average monthly peak demands exceeding 500 kW.⁴ Customers subscribing to the DRPS

¹Application, Docket No. 18-WSEE-190-TAR (Nov. 6, 2017).

²Id. at 1.

³Id.

⁴Id. at 2.

Tariff will need to execute agreements to purchase specific amounts of wind capacity for a specified term.⁵ The capacity will come from new wind generation resources that are either owned by Westar or secured by Westar through purchased power agreements (PPAs).⁶ Under the proposed terms of the DRPS Tariff, Westar will work with potential customers to determine an appropriate amount of renewable energy to place under contract.⁷ DRPS will be available on a first-come, first-served basis until Westar's allocation of renewable generation capacity and its associated green attributes have been assigned.⁸

3. The price for energy sold under the DRPS Tariff will be fixed for the term of Westar's agreement with the customer.⁹ The price will be equal to the sum of (1) the actual PPA price for the new wind generation source(s) procured by Westar, or the levelized average cost of the new wind generation source(s) owned by Westar, (2) a payment for the cost to move the power to the customer based on estimated transmission related costs over the term of the agreement, and (3) an additional payment, applicable, to cover the cost of balancing wind generation with the customer's load.¹⁰ Any wind energy purchased under the DRPS Tariff will replace the charge under Westar's Retail Energy Cost Adjustment (RECA) Tariff.¹¹

4. Westar asserts that the DRPS program will not be subsidized by non-participants.¹² Instead, non-participants will benefit because the dedicated energy from the new generation resource(s) will often remove the necessity of dispatching a higher cost generation source, and any

⁵Id. at 3.

⁶Id.

⁷Application, Direct Renewable Participation Service Tariff, p. 1 (Nov. 6, 2017) (Proposed DRPS Tariff).

⁸Id.

⁹Application at 3.

¹⁰Id.

¹¹Id.

¹²Id.

unsubscribed output from new wind generation resource(s) will flow through the RECA at a cost lower than the current average RECA.¹³

5. Westar also submitted pre-filed direct testimony from Chad Luce, which was attached to the Application.¹⁴ Mr. Luce explained that Westar currently has three renewable energy tariffs under its suite of schedules.¹⁵ One such tariff, the Wind Generation Service (WGS) Tariff, is very similar to the now proposed DRPS Tariff.¹⁶ However, the WGS price for wind generation is based upon the weighted average price for all existing wind PPAs under contract with Westar at the time of the wind generation agreement with the customer rather than a price tied to a new specific resource as proposed under the DRPS Tariff.¹⁷ Because Westar was an early adopter of wind resources, it purchased the same at a time when prices were much higher, causing its weighted average PPA price to be above current market levels.¹⁸ Therefore, no customers have enrolled in the WGS Tariff because of the high price.¹⁹

Jurisdiction and Authority

6. The Commission holds full power, authority and jurisdiction to supervise and control Westar as an electric public utility pursuant to K.S.A. 66-101. The Commission holds jurisdiction over Westar's rates and terms of service under K.S.A. 66-101b. All tariff revisions requested by Westar pertaining to jurisdictional service must be approved by the Commission pursuant to K.S.A. 66-117.²⁰

¹³Id.

¹⁴Application, Pre-Filed Direct Testimony of Chad Luce (Nov. 6, 2017) (Luce Direct).

¹⁵See Luce Direct, p. 2.

¹⁶See Id. at 3.

¹⁷See Id.

¹⁸See Id.

¹⁹See Id.

²⁰Tariffs are those terms and conditions which govern the relationship between the utility and its customers. Sw. Bell Tel. Co. v. State Corp. Comm'n of State of Kan., 233 Kan. 375, 377, 664 P.2d 798, 800 (1983).

7. According to K.S.A. 66-101b, any rates charged by Westar must be just and reasonable. The rates may not be unreasonably discriminatory or unduly preferential.

Staff and Intervenor Positions

8. On June 7, 2018, the Commission's technical staff (Staff) filed a Report and Recommendation (R&R) in this matter addressing Westar's Application.²¹

9. Staff indicated that since the filing of its Application, Westar has signed a fixed cost PPA with the Soldier Creek Wind Farm that will be the basis of the DRPS Tariff's energy price for customers up to the available 200 MW capacity of the farm.²² Thus, for purposes of Staff's review of Westar's Application, Westar provided its analysis of the DRPS Tariff with respect to a fixed cost PPA with Soldier Creek Wind Farm, and Staff's review was limited to the viability of the DRPS Tariff solely with respect to the Soldier Creek Wind Farm.²³

9. The price for DRPS customers under the Soldier Creek Wind Farm PPA is 1.8¢ per kWh, which compares favorably to the forecasted RECA cost of about 2¢ per kWh for the next 5 years.²⁴ In addition, the DRPS Tariff price of 1.8¢ per kWh is considerably less than the current WGS Tariff price of 3.657¢ per kWh.

10. With respect to the DRPS Tariff and the Soldier Creek Wind Farm PPA, Staff conducted an analysis of the benefits to both participants and non-participants.²⁵

11. Staff explained that participants under this scenario receive two main benefits: expected lower RECA costs and the public perception of being more environmentally friendly.²⁶

²¹Notice of Filing of Staff's Report and Recommendation (June 7, 2018) (Staff's R&R). Note that certain information was designated as confidential. Such confidential designation has now been lifted by the company.

²²Id. at 2.

²³Id.

²⁴Id.

²⁵See Id. at 8-12.

²⁶Id. at 8.

12. Non-participants also benefit in the form of lower RECA costs when customers sign on to the DRPS Tariff and the Soldier Creek Wind Farm PPA. When subscribers substitute wind farm energy for the RECA, they increase the per kWh value of the generation portfolio that Westar sells into the Southwestern Power Pool Integrated Marketplace (SPP Marketplace).²⁷ The revenue produced by the generation portfolio reduces the RECA charge for all customers that have to pay the RECA. Stated simply - non-participants pay a lower RECA charge when participants substitute wind farm energy for the RECA.²⁸ The reasoning behind this conclusion is explained in detail in Staff's R&R.²⁹

13. In addition, non-participants receive lower RECA costs from unsubscribed Soldier Creek Wind Farm PPA energy.³⁰ If no one participates in the DRPS Tariff and Soldier Creek Wind Farm PPA, the 1.8¢ energy price will simply reduce the RECA.³¹

14. Finally, Staff explains the relationship between participant and non-participant benefits under the program and notes that although non-participants would simply be better off by paying the Soldier Creek Wind Farm PPA price, non-participants are not subsidizing the participants because there is no cost-shifting from the participants to the non-participants.³² Additionally, non-participants potentially benefit because large corporations will have less incentive to seek competitively priced renewable energy outside of the Westar system.³³ If large corporations were to do so, it would reduce their load on Westar's system and reduce their payment

²⁷See Id. at 9.

²⁸See Id. at 10.

²⁹See Id. at 9-11.

³⁰Id. at 11.

³¹See Id.

³²See Id. at 11-12.

³³Id. at 12.

of fixed costs of Westar's system.³⁴ This would cause other customers to have to make up for the lost revenue that went toward those fixed costs.³⁵

15. As a result of its analysis, Staff recommended approval of the DRPS Tariff. However, because Staff's review was limited to evaluating the Soldier Creek Wind Farm project, Staff only recommended approval for that specific project and recommended that the Commission require Westar to seek Commission approval for any additional PPAs or wind farms to be built by Westar for future usage under the DRPS Tariff.³⁶

16. To accomplish this goal, Staff recommended that the Commission require Westar to re-write the DRPS Tariff so that it identifies the Soldier Creek Wind Farm and the specific rate that will be charged participants in lieu of the RECA.

17. Furthermore, as the WGS Tariff currently has no customers, and the DRPS Tariff makes the same obsolete, Staff recommended elimination of the WGS Tariff.

18. The Citizens' Utility Ratepayer Board (CURB) and Wal-mart Stores, Inc. (Walmart) have been granted intervention in this matter, but neither provided a response to Staff's R&R.

19. The Commission finds Staff's findings and recommendations to be reasonable and hereby adopts the same.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. The DRPS Tariff, in its current form, is denied. However, Westar shall file, within thirty (30) days, a revised DRPS Tariff in this docket specifically identifying the Soldier Creek Wind Farm, its available capacity, and the 1.8¢ price that will be charged to participants.

³⁴Id.

³⁵Id.

³⁶Id. at 13.

After filing, Staff will review the same and submit another Report and Recommendation indicating its approval or dis-approval of the proposed language. Westar is encouraged to work with Staff to develop the appropriate language. Subsequently, the Commission will issue a follow-up order either granting or denying the new tariff language.

B. Upon approval of the revised DRPS Tariff language, Westar's WGS Tariff shall be deemed cancelled.

C. Westar shall only administer any approved DRPS Tariff with respect to the Soldier Creek Wind Farm PPA, and shall submit a new application seeking pre-approval for any additional resources and pricing that Westar wishes to utilize under the DRPS Tariff.

D. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).

E. The Commission retains jurisdiction over the subject matter and parties for the purpose of issuing such further order, or orders, as it may deem necessary.

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 06/26/2018 _____



Lynn M. Retz
Secretary to the Commission

MRN

CERTIFICATE OF SERVICE

18-WSEE-190-TAR

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of
06/26/2018
electronic service on _____.

THOMAS J. CONNORS, ATTORNEY AT LAW
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3116
tj.connors@curb.kansas.gov

TODD E. LOVE, ATTORNEY
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3116
t.love@curb.kansas.gov

MICHAEL NEELEY, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3167
m.neeley@kcc.ks.gov

SHONDA RABB
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3116
s.rabb@curb.kansas.gov

DAVID L. WOODSMALL
WOODSMALL LAW OFFICE
308 E HIGH ST STE 204
JEFFERSON CITY, MO 65101
Fax: 573-635-7523
david.woodsmall@woodsmallllaw.com

CATHRYN J DINGES, CORPORATE COUNSEL
KANSAS GAS & ELECTRIC CO.
D/B/A WESTAR ENERGY
818 S KANSAS AVE
PO BOX 889
TOPEKA, KS 66601-0889
Fax: 785-575-8136
cathy.dinges@westarenergy.com

JEFFREY L. MARTIN, VICE PRESIDENT, REGULATORY
AFFAIRS
WESTAR ENERGY, INC.
818 S KANSAS AVE
PO BOX 889
TOPEKA, KS 66601-0889
jeff.martin@westarenergy.com

DAVID W. NICKEL, CONSUMER COUNSEL
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3116
d.nickel@curb.kansas.gov

DELLA SMITH
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3116
d.smith@curb.kansas.gov

/s/ DeeAnn Shupe

CERTIFICATE OF SERVICE

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DeeAnn Shupe