Kansas Gas Service
A Division of ONE Gas

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August 12, 2019

VIA ELECTRONIC TRANSMISSION & FEDERAL EXPRESS

Ms. Lynn Retz
Secretary to Commission
Kansas Corporation Commission
1500 S.W. Arrowhead Road
Topeka, KS 66604

Re: In the Matter of the Complaint of Kansas Gas Service, a Division of ONE Gas, Inc., Against Westar Energy, Inc., Regarding Westar's Practice of Offering Payments to Developers in Exchange for the Developers Designing All Electric Subdivisions.

Docket Number 19-WSEE-061-COM

Dear Ms. Retz:

Enclosed please find the *Rebuttal Testimony for Janet Buchanan* for filing in the above-referenced matter. Please feel free to contact me with any questions or concerns regarding this filing.

Sincerely,

Judy Jenkins Hitchye
Judy Jenkins Hitchye

JH/sef
Encl.

cc: Attorneys of Record
Michael Duenes

BEFORE THE STATE CORPORATION COMMISSION

OF THE STATE OF KANSAS

IN THE MATTER OF THE COMPLAINT OF KANSAS GAS SERVICE, A DIVISION OF ONE GAS, INC., AGAINST WESTAR ENERGY, INC., REGARDING WESTAR'S PRACTICE OF OFFERING PAYMENTS TO DEVELOPERS IN EXCHANGE FOR DEVELOPERS DESIGNING ALL ELECTRIC SUBDIVISIONS	**))))))**	**Docket No. 19-WSEE-061-COM**

REBUTTAL AND RESPONSIVE TESTIMONY

OF

JANET L. BUCHANAN

ON BEHALF OF KANSAS GAS SERVICE,

A DIVISION OF ONE GAS, INC.

REBUTTAL AND RESPONSIVE TESTIMONY

OF

JANET L. BUCHANAN

ON BEHALF OF KANSAS GAS SERVICE,

A DIVISION OF ONE GAS, INC.

I. INTRODUCTION

Q. Please state your name and business address.

A. My name is Janet L. Buchanan, and my business address is 7421 W. 129th St., Overland Park, KS 66313.

Q. By whom are you in employed and in what capacity?

A. I am Director of Rates and Regulatory Reporting for Kansas Gas Service ("KGS" or the "Company"), which is a division of ONE Gas, Inc., ("One Gas").

Q. Did you file direct testimony in this docket?

A. Yes, I did.

Q. Was this responsive and rebuttal testimony prepared by you or under your direct supervision?

A. Yes, it was.

Q. What is the purpose of your testimony?

A. The purpose of my testimony is to respond to the testimony set out by witnesses for Kansas Corporation Commission Staff ("Staff") and to rebut certain arguments put forth by Westar Energy, Inc., ("Westar"). In Section II, I respond to the testimony of Staff witnesses Dr. Robert Glass, Mr. Leo Haynos and

Mr. Justin Prentiss. Ms. Lyn Leet, who is also providing testimony on behalf of KGS, will also address the testimony of Mr. Prentiss. In Section III through Section VII, I will discuss arguments put forth by Westar witness Mr. Larry Wilkus.

II. RESPONSE TO TESTIMONY OF STAFF

Q. Please identify the recommendations concerning the Total Electric Subdivision Heat Pump Program ("Program") made by Dr. Robert Glass.

A. Dr. Glass concludes that the Program is not in the public interest and should be discontinued. He finds that through the Program, Westar has used its dominance in the home heating market to limit competition from providers of natural gas and is therefore engaging in predatory behavior. Dr. Glass finds that Westar's predatory practice:

> . . . directly harms its competitor, KGS and KGS's ratepayers and indirectly harms home buyers.
>
> The [Program] can unnecessarily raise the rates of either Westar's or KGS's ratepayers, or both sets of ratepayers' rates depending on the specific circumstances.[1]

He states that the analysis conducted by Staff demonstrates that the Program ". . . is unjust, unreasonable, unduly preferential and the practice itself is predatory and contrary to the public interest."[2]

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[1] Direct Testimony of Dr. Robert Glass, Docket No. 19-WSEE-061-COM, page 7, lines 2-6.
[2] Ibid, page 14, lines 7-8.

Q. Do you agree with the conclusions reached by Dr. Glass?

A. Yes. The analysis conducted by Dr. Glass leads him to conclude that Westar's Program is in violation of K.S.A. 66-101e, as it unjust, unreasonable and unduly preferential. This position is consistent with the Complaint filed by KGS. Dr. Glass concludes that the Commission should order Westar to end the program under K.S.A. 66-101f. His recommendation is also consistent with the recommendation of KGS.

Q. Is there any other portion of Dr. Glass' testimony you would like to discuss?

A. Yes. Beginning on page 6 of his testimony, Dr. Glass discusses Westar's use of its "asymmetrical dominance"[3] in the market for residential heating and engages in predatory behavior, through the Program, to "essentially foreclose the natural gas option."[4] This is consistent with the position put forth by KGS. The predatory Program excludes KGS from a potential market and forces homeowners to use a higher cost option for heating their homes. It directly harms KGS and its customers as well as harming the homeowners by limiting their options for service.

Q. Please identify the recommendations concerning Westar's Program made by Mr. Leo Haynos.

A. Mr. Haynos draws several conclusions concerning Westar's Program. He finds:

a. The Program will increase Westar's winter load if it incents additional space heating;

[3] Ibid, page 6, line13.
[4] Ibid, page 7, lines 1-2.

b. The cost for the Program is included in Westar's base rates and as such, the Commission has approved recovery of Program expenses. However, Westar did not seek specific approval of the Program nor has the Commission approved the Program;

c. The Program is a practice related to the service of Westar and is required to be reviewed and approved by the Commission under K.S.A. 66-117, prior to implementation;

d. The letter of intent used for the Program is a contract. However, the terms of the contract are not enforced which, in essence, makes the Program an incentive payment to build all-electric homes.[5]

Additionally, with respect to the Program, Mr. Haynos recommends that Westar be required to maintain records of expenses for the Program which will allow Staff to evaluate the recovery of the costs in future rate cases.[6]

Q. Do you agree with the conclusions of Mr. Haynos?

A. With the exception of Mr. Haynos' understanding of whether the Program conditions are enforced, I agree with his conclusions. In particular, I point out that Mr. Haynos is of the opinion that Westar was obligated to seek approval of the Program as was also suggested by KGS in its Complaint. I will discuss this opinion in Section V of this testimony.

Q. Concerning enforcement of the Program conditions, Mr. Haynos suggests (beginning on page six of his testimony) that Westar will pay the developer for each all-electric home utilizing a heat pump regardless of whether some homes in the subdivision may have installed natural gas appliances. Do you agree?

A. No. I disagree with Mr. Haynos' conclusion based on the testimony of Mr. Wilkus, witness for Westar. Mr. Wilkus testifies that:

[5] Direct Testimony of Mr. Leo Haynos, Docket No. 19-WSEE-061-COM, page 14, line 20 – page 15, line 14.
[6] Ibid, page 16, lines 1-4.

> If the developer decides not to install a full heat system within the subdivision at any time during the five-year period, which is permissible, the agreement terminates[,] and no future payments are made to the developer.[7]

I interpret Mr. Wilkus' testimony to state that once a single home is built within the subdivision that contains one natural gas appliance, the developer will receive no additional incentive payments for the installation of a heat pump in other homes within the subdivision. In practice, it appears the developer could still qualify and receive an incentive payment under one of the other Westar programs mentioned by Mr. Haynos. Mr. Haynos also concludes that KGS's response to Staff Data request 13 is further evidence that Westar does not enforce the requirements of its Program. While KGS' response does indicate that some subdivisions do have homes with natural gas service, it is not clear from the response whether Westar continued to pay incentives to developers through the Program for all electric homes once the subdivision was no longer all-electric.

Q. Does Mr. Haynos discuss the scope of the Program?

A. Yes, he does. On page five of his testimony, Mr. Haynos states that 75 developers have received ***$1.9 million in incentives*** since the program began in 2009.[8] Mr. Haynos' testimony on this point is consistent with the data provided in my direct testimony. Mr. Haynos also suggests that the incentive offered through the Program could be coupled with incentives provided through a

[7] Direct Testimony of Larry Wilkus, Docket No, 19-WSEE-061-COM, page 5, lines 5-8.
[8] Direct Testimony of Mr. Leo Haynos, Docket No. 19-WSEE-061-COM, page 5, lines 5-6.

program Westar offers to mechanical contractors which would increase incentive payments by $300 per unit installed.[9] He concludes that under both programs, a maximum of $1,800 in incentives could be paid for each all-electric home.[10]

Q. In your response to the previous question, you mention Mr. Haynos' discussion of a program offering incentives to mechanical contractors. Does Mr. Haynos discuss any other incentive programs offered by Westar?

A. Yes, he does. In addition to the incentive program for mechanical contractors, Mr. Haynos identifies another Westar program which offers incentives to home builders for installation of heat pumps. This builder program does not require that a subdivision be all-electric and cannot be used in conjunction with the Program. According to Mr. Haynos, both the mechanical contractor program and builder programs began in 2011.[11] Mr. Haynos testifies that through these two programs, Westar has paid nearly ***$4.1 million in incentives***.[12] These programs are not included within KGS's Complaint and Dr. Glass has not evaluated the impact of the programs. Mr. Haynos recommends that Westar cease these programs since they have been neither evaluated by Staff nor approved by the Commission. He recommends that Westar file a tariff

[9] Ibid, page 6, lines 15-18.
[10] Ibid.
[11] Ibid, page 4, line 16 though page 5, line 3.
[12] Ibid.

application with the Commission seeking approval of the programs if Westar wishes to continue offering the incentives.[13]

Q. Please identify the conclusions of Mr. Justin Prentiss concerning Westar's Program.

A. Mr. Prentiss draws several conclusions from his analysis of the Program. He concludes that under the Program, the individual customer will pay more for heat when fueled by electricity than if fueled by natural gas. He notes that, absent the Program, if a home had a natural gas furnace and if electric heat would lead to lower bills, then customers would have the option to change out the heating equipment. However, under the Program, customers do not have the option to switch electric equipment to natural gas equipment in response to price signals.[14] Mr. Prentiss concludes that the Program locks customers into higher heating costs unless the customer is able to sell his or her home and move to a location offering natural gas as an option.[15]

Q. Do you agree with the conclusions of Mr. Prentiss?

A. Yes, I do.

Q. Do you have any further observations concerning the testimony of Mr. Prentiss?

A. No, I do not. However, the testimony of Ms. Lyn Leet contains a more detailed discussion of Mr. Prentiss' testimony.

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[13] Ibid, page 15, lines 20-22.

[14] Direct Testimony of Justin Prentiss, Docket No. 19-WSEE-061-COM, page 12, lines 16-23.

[15] Ibid, page 13, lines 9-11.

III. <u>DISCUSSION OF DOCKET NO. 09-GIMX-160-GIV</u>

Q. On page 18 of his testimony, Mr. Larry Wilkus begins his discussion of Docket No. 09-GIMX-160-GIV ("160 Docket"), which KGS has indicated provides important guidance for this proceeding. How do you respond to Mr. Wilkus' discussion of the purpose of the 160 Docket?

A. Mr. Wilkus points out that the 160 Docket was opened to address fuel switching associated with energy efficiency dockets. While it is true that the docket was opened for that purpose, it is also true that the appropriateness of incentives for programs similar to Westar's Program, which is the subject of this Complaint, was also raised in the docket and addressed by the Commission.

Q. Does Mr. Wilkus acknowledge that programs similar to the Program are addressed in the 160 Docket?

A. Yes, on page 22, line 3 through page 23, line 18 of his testimony, Mr. Wilkus acknowledges that the 160 Docket discusses programs similar to Westar's Program. Staff's Report and Recommendation filed on September 28, 2010, discussed comparable programs offered by Westar and Kansas City Power and Light ("KCPL") and provided background on the topic. In this report, Staff indicated that the programs were not tariffed and that it was unclear whether the costs associated with the programs were included in base rates. Staff went on to suggest that the Commission would need additional information to determine if the programs should be permitted and, if so, whether the cost of the programs should be borne by shareholders.[16] Approximately one year later, Staff filed another Report and Recommendation. In response to the Report and Recommendation, KGS expressed concern that Staff did not address the non-tariff programs. In its Reply to KGS, Staff stated that, "[n]othing should prevent utilities from promoting their fuels through non-tariff, ***stakeholder funded ventures*** but it is important that these are not being subsidized by ratepayers and that they are not easily confused with tariff programs."[17] (Emphasis added).

Q. Does Mr. Wilkus acknowledge that the Commission addressed programs similar to Westar's Program in its *Order to Close Docket*?

A. Yes, on page 22 of his testimony, Mr. Wilkus does include a quote from the Commission's *Order to Close Docket* (an order which the Commission has designated as precedential) which reiterates Staff's position on these non-tariff programs. The Commission's order states ". . . nothing should prevent utilities from promoting their fuels through non-tariff, ***stakeholder funded ventures*** but it is important that these are not being subsidized by ratepayers and that they are not easily confused with tariff programs."[18] (Emphasis added).

Q. What does the Commission's Order require for non-tariff programs promoting fuel use?

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[16] Second Staff Report and Recommendation, Docket No. 09-GIMX-160-GIV, September 28, 2010, pages 18, 20 and 24.
[17] Staff Reply to Response of Kansas Gas Service to Staff Report and Recommendation, Docket No. 09-GIMX-160-GIV, October 3, 2011, page 2, paragraph 5.
[18] Order to Close Docket, Docket No. 09-GIMX-160-GIV, paragraph 13, pages 5 and 6.

A. The Commission requires that three conditions be met for non-tariff fuel promoting programs. If the programs are not included within a utility's tariff, then the program must:

1. Be stakeholder (shareholder) funded;
2. Not be subsidized by ratepayers; and
3. Not be easily confused with tariff programs.

Q. Does Mr. Wilkus address these three criteria?

A. No, instead, Mr. Wilkus focuses on only a portion of the language in the Commission's *Order to Close Docket*. He addresses the requirement that programs should not be subsidized by ratepayers and the requirement that programs be distinguishable from tariffed programs. Not addressed in his testimony is the requirement that these programs be funded (or paid for) by stakeholders or shareholders.

Q. Do you know whether Westar's Program is stakeholder or shareholder funded?

A. Yes, Westar indicated in paragraph 8 of its *Answer to Complaint* that the cost of the Program is currently included in base rates and has been included in base rates in the past.[19] Additionally, Westar witness Ms. Rebecca Fowler indicates that the rebate payments and other costs associated with the Program are included in base rates.[20] Thus, it is clear that customers, rather than Westar's shareholders, are funding this Program. It is my opinion that the inclusion of the Program incentive payments and associated administrative costs in Westar's base rates is in direct contradiction to the language of the Commission's *Order to*

[19] Westar Answer, page 2, paragraph 8.
[20] Direct Testimony of Ms. Rebecca Fowler, Docket No. 19-WSEE-061-COM, page 7, lines 5-7.

Close Docket in the 160 Docket. Mr. Wilkus' contention that the Commission ". . . did not find that the costs of the programs could not be included in rates"[21] is at odds with the Commission's order which requires non-tariff programs to be shareholder funded.

Q. Do you agree with Mr. Wilkus' assertion on pages 22 and 23 that ratepayers are not subsidizing the Program?

A. No, I do not agree. It is my opinion that a subsidy is paid/provided by the Company's natural gas customers and this subsidy is not reflected within Westar's analysis. Because the incentives offered by Westar prohibit the installation of natural gas facilities, there are fewer natural gas customers or customers with a natural gas option than there would have otherwise been. Thus, the Company's natural gas base rates are higher than they would have been had the Program not been implemented. Dr. Glass estimates that the net benefit per customer of an additional residential customer for KGS is $2,719.32.[22] This net benefit would have led to lower base rates for KGS customers.

Q. Does Staff provide an estimate of the net benefits of the Program?

A. Yes. Dr. Glass estimates the net benefit of the Program for Westar to be $5,524.32 per customer.[23] As Dr. Glass further indicated, his estimated net benefit per customer associated with the Program would be even lower if it is

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[21] Direct Testimony of Mr. Larry Wilkus, Docket No. 19-WSEE-061-COM, page 22 line 20.

[22] Direct Testimony of Dr. Robert Glass, Docket No. 19-WSEE-061-COM, Appendix, Table A-3, page 4.

[23] Id.

assumed that higher efficiency heat pumps were installed and if free riders were eliminated from his calculation. Staff's position challenges Westar's assertion that ratepayers are not subsidizing the program.

Q. Do you agree with Mr. Wilkus' assertion that Westar's Program is easily distinguishable from tariffed programs?

A. No, I do not agree. To support Westar's claim that Staff was generally aware of the Program, Mr. Wilkus cites prior testimony discussing energy efficiency programs (which would be tariffed) and points to comments and pleadings filed in the 160 Docket. Specifically, Mr. Wilkus cites the testimony of Mr. James Ludwig, a Westar witness, filed in two separate proceedings. As discussed in my direct testimony, Mr. Ludwig's referenced testimony does not readily distinguish Westar's Program from his discussion of Westar's tariffed energy efficiency programs or those energy efficiency programs it planned to propose to the Commission. Attached to Mr. Wilkus' testimony is Exhibit LW-1 which is an excerpt from the testimony of Mr. Ludwig filed in Docket No. 08-WSEE-1041-RTS ("1041 Docket"). On page 4 of the exhibit, Mr. Wilkus has included arrows pointing to two programs listed in a chart. Presumably, these arrows indicate the Program and perhaps another non-tariffed program that Westar offers. Absent from this chart and from Mr. Ludwig's testimony in the 1041 Docket is any indication of whether the programs are tariff programs or non-tariff programs. Also absent are details concerning the programs. From the context of Mr. Ludwig's testimony, one might reasonably conclude that all programs would be tariffed. Nothing in Mr. Ludwig's discussion distinguishes Westar's Program from its energy efficiency or other tariffed programs.

Additionally, Westar cited Mr. Ludwig's testimony filed in a predetermination proceeding as an indication that Staff was aware of the Program. Again, Mr. Ludwig's testimony does not distinguish Westar's Program from other referenced energy efficiency programs which were or would be tariffed. The Program is not readily distinguishable from a tariffed program as very few details are provided in Mr. Ludwig's testimony.

Q. **Do you believe the testimony cited by Westar provides a clear and detailed discussion of the Program?**

A. No. To be clear, I am not suggesting that Westar was intentionally attempting to obfuscate the existence of the Program. However, I am suggesting that the Program is not easy to distinguish from those other programs for which Westar believed it was necessary to develop a tariff and to seek approval. The discussions cited by Westar simply do not provide enough detail to make a distinction. Instead, the testimony cited by Westar is primarily related to energy efficiency and such programs would need to be offered through approved tariffs. Thus, combining the discussion of the Program with the energy efficiency programs (both then existing or to be proposed in the future) and the lack of detailed discussion of programs (including the fact that the Program would be established to build off-peak load) leads to confusion about its purpose and whether it would be a tariffed program. The end result is that the Program is not easily distinguishable from tariffed programs and this is contrary to the mandate included in the Commission's order issued in the 160 Docket.

Q. Did Staff express its opinion on whether the Program is easily distinguishable from tariffed programs?

A. Yes. Mr. Haynos states that he does not believe that Westar was "open and transparent" about the Program.[24] Mr. Haynos reviewed testimony in the 1041 Docket and found that ". . . Mr. Ludwig's testimony did not provide sufficient detail of the rebate programs that would cause Staff to evaluate the reasonableness of the program costs to ratepayers."[25]

Q. Has Staff provided an opinion on the language included in the Commission's order issued in the 160 Docket?

A. Yes. In response to data request KGS-1 Staff, Dr. Glass indicates that:

> [t]oday, Staff interprets the language as prohibiting utilities from having fuel switching programs that are subsidized by ratepayers or easily confused with tariff programs[;] however, Staff notes that the Commission did not adopt a position on this issue in the Order to Close Docket in Docket No. 09-GIMX-160-GIV.

Q. Do you agree with this interpretation of the language?

A. I agree with only part of Staff's interpretation. If Staff defines fuel-switching programs as those that are offered ". . . in a manner that does [ ] bias users toward a particular fuel source,"[26] then I agree with Staff's statement as far as it goes. However, Staff does not address that portion of the language concerning

[24] Direct Testimony of Mr. Leo Haynos, Docket No. 19-WSEE-061-COM, page 12, lines 11-14.
[25] Ibid, page 13, lines 2-4.
[26] Order to Close Docket, Docket No. 09-GIMX-160-GIV, page 7, paragraph A.

how non-tariff programs are to be funded. It is important to address whether the non-tariff fuel promoting programs can be funded by ratepayers. I interpret the language as prohibiting ratepayer funding. Additionally, I would suggest that the Commission's ultimate decision in the 160 Docket was based upon the Staff's recommendation that non-tariff fuel promoting programs not be funded by ratepayers. The Commission determined that tariffed utility programs which promote one source of fuel over another will not receive Commission approval because such programs should not be funded by ratepayers. The same can easily be said for utility programs, such as the program that is the subject matter of this complaint case, that are not tariffed and have not been approved by the Commission, i.e., that such promotion programs should not be funded by ratepayers.

IV. KGS OFFERING OF INCENTIVES TO COMPETE FOR LOAD

Q. On page 25 of his testimony, Mr. Wilkus argues that natural gas companies have equal freedom to compete for business (build load) at the point where the developer or customer makes a fuel choice. Do you agree?

A. No. As indicated by Ms. Leet in her direct testimony, a natural gas company cannot offer the same type of incentive because electricity is required for all homes. It is not possible for KGS to compete in the same manner as Westar is through their Program. Even if KGS could offer a similar program, KGS believes that tying an incentive payment to a requirement for the exclusive use of natural gas for all energy requirements in a subdivision is not appropriate; is not in the public interest; and is impermissible under Kansas statutes.

Q. Does Staff provide an opinion concerning KGS offering its own incentive program for the installation of natural gas furnaces?

A. Yes. Dr. Glass states that if KGS were to implement its own customer funded incentive program for the installation of natural furnaces, it would result in a "... transfer of money from ratepayers to developers with almost no change in the housing market and no benefit to either Westar or KGS ratepayers."[27] In Dr. Glass's opinion, such an outcome would be "unjust and unreasonable" and result in rates that are "... unfair, unjustly discriminatory or unduly preferential."[28]

V. <u>COMMISSION APPROVAL OF PROGRAM</u>

Q. Please discuss Mr. Wilkus' testimony concerning whether Westar's Program needs to be included in a tariff and approved by the Commission.

A. Mr. Wilkus states that Kansas law defines a tariff as governing the relationship between the utility and its customers.[29] He further states that the statutes only require that *schedules of rates* must be published and filed with the Commission. Mr. Wilkus contends that the Program may exist without a tariff because the Program:

> ... does not set forth any terms or rates for service to be provided to Westar customers. It is an agreement between Westar and a developer defining the business arrangement

[27] Direct Testimony of Dr. Robert Glass, Docket No. 19-WSEE-061-COM, page 12, lines 4-6.
[28] Ibid page 12.
[29] Direct Testimony of Mr. Larry Wilkus, Docket No. 19-WSEE-061-COM, page 27 lines 16-17.

between Westar and that developer. K.S.A. 66-101c does not require this agreement to be in a tariff.[30]

Q. Does Westar have any tariffs in place which govern a business relationship with a developer?

A. Yes. Westar has a tariff titled "Policy for Residential Subdivisions" which is applicable to ". . . developers, contractors and/or promoters (Developer) of residential housing areas above and beyond the scope of [Westar's] line extension policy."[31] The Policy for Residential Subdivisions tariff defines the business relationship between Westar and developers, contractors and/or promoters in extending service to a new subdivision. It does not address terms or rates for Westar's end-use customers.

Q. Does the Policy for Residential Subdivisions tariff involve the same entities eligible for Westar's Program?

A. Yes. Yet, Westar believed a tariff was necessary to define the business relationship under the Program.

Q. Has Staff expressed an opinion concerning whether the Program should be included in a tariff?

A. Yes. Mr. Haynos also believes that the Program should be governed by a tariff and evaluated by the Commission. Mr. Haynos states that under K.S.A. 66-117, the Program is a practice subject to Commission oversight and Westar is required to file the Program details with the Commission to ensure the practice

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[30] Ibid, page 28 lines 6-10.

[31] Policy for Residential Subdivisions approved in Docket No. 15-WSEE-115-RTS (attached hereto as Rebuttal Exhibit JLB-1).

of providing incentives is "... a just and reasonable use of Westar's monopoly power with respect to developers, the HVAC suppliers and the ratepayers, who ultimately pay for the rebate programs."[32] Mr. Haynos also notes that Westar's line extension policy is included in a tariff.

It appears reasonable to conclude that as long as the cost associated with the Program is included in base rates, the Program should be governed by a tariff and approved by the Commission just as the "Policy for Residential Subdivisions" and line extension policy has been tariffed and approved.

VI. MISCELLANEOUS ISSUES

Q. On page 11 of his testimony, Mr. Wilkus suggests that you did not discuss the testimony of Mr. Ludwig in the 1041 Docket. He states that you merely discussed whether Staff witnesses addressed the Program in their testimony. How do you respond? A. I discussed Mr. Ludwig's testimony filed in the 1041 Docket on page 10, line 6 through page 11, line 12 of my direct testimony. While contained in a section of my testimony related to whether Westar sought approval of the Program, I do discuss, in general, Mr. Ludwig's testimony related to programs offered or to be offered by Westar. In fact, I discussed the same charts included in Exhibit LW-1. I also indicated that there was not a request for approval of the Program or any other program discussed in his testimony.

[32] Direct Testimony of Mr. Leo Haynos, Docket No. 19-WSEE-061-COM, page 8, lines 15-18.

Q. Is Mr. Wilkus' characterization of your testimony concerning Mr. Ludwig's discussions of energy efficiency and demand side management programs in Docket No. 11-WSEE-377-PRE (377 Docket) accurate?

A. No, it is not accurate. Mr. Wilkus suggests that my testimony related to the 377 Docket was that the financial incentives offered were focused on customers (rather than developers) and the need to make them aware of financial resources and tax incentives available for investment in high efficiency equipment available through government programs. He argues that this statement is not factually accurate. However, the statement I made concerning financial incentives was made in evaluation of Mr. Ludwig's testimony in the 1041 Docket and can be found on pages 10 and 11 of my testimony. It was not made in evaluation of Mr. Ludwig's testimony in the 377 Docket.

In relation to the 377 Docket, my direct testimony states, on page 12, lines 9-11, that it is unclear from a statement made by Mr. Ludwig whether the financial incentives are provided to the HVAC professionals, the builder, or are used in the process of educating consumers. The sentence construction used by Mr. Ludwig leaves his meaning unclear.

Q. Mr. Wilkus suggests that in the 377 Docket no party addressed the Program or whether it had been tariffed. Would it have been appropriate to do so in that proceeding?

A. The testimony of Mr. Ludwig in the 377 Docket was provided to comply with a statutory requirement regarding filings made with the Commission for a determination of ratemaking treatment that will be applied to a generation facility or purchased power contract prior to construction of the facility or execution of the contract. When making a request for predetermination of regulatory treatment, the utility must provide a description of its conservation and demand side management efforts. This proceeding was not conducive to a discussion of the appropriateness of programs or tariffing of the programs.

VII. SANCTIONS AND PENALTIES

Q. Does Westar address whether it would be appropriate for the Commission to impose sanction or penalties for violating a Commission order and statute?

A. Yes. Mr. Wilkus suggests that sanctions and penalties are inappropriate because Westar did not violate the Commission's order in the 160 Docket and has not violated any Kansas statutes.[33] He argues that Westar has charged Commission approved rates and reasonably believed that a tariff was not required for the program.

Q. How do you respond to Mr. Wilkus' testimony on this issue?

A. Through my direct testimony as well as in this testimony, KGS has demonstrated that Westar did violate the Commission's order in the 160 Docket. Further, KGS and Staff have indicated that Westar has violated Kansas statutes. Mr. Haynos has stated that the Program is a practice that is required to be reviewed and approved by the Commission under K.S.A. 66-117.[34] Westar did not make an application for approval of the Program. Thus, it is appropriate for the

[33] Direct Testimony of Mr. Larry Wilkus, Docket No. 19-WSEE-061-COM, page 31, lines 10-14.
[34] Direct Testimony of Mr. Leo Haynos, Docket No. 19-WSEE-061-COM page 8, lines 6-9 and page 15, lines 5-10.

Commission to impose sanctions and penalties. Dr. Glass finds the program to be unjust, unreasonable, unduly preferential as discussed in Kansas statutes such as K.S.A. 66-101b, K.S.A. 66-101e, and K.S.A. 66-101f.[35] This conclusion also suggests that it is appropriate for the Commission to impose sanctions and penalties.

Q. Commission Staff has recommended discontinuing the program but has not addressed sanctions and penalties. Why are sanctions and penalties appropriate?

A. While discontinuing the Program is certainly a welcomed outcome, the Program (which has been in place since 2009) has far reaching implications for KGS, its customers and the homebuyers of all-electric homes built through Program incentives and therefore warrants further action by the Commission. As Ms. Leet and Staff have testified, given the cost to extend service to an established subdivision, it is unlikely that natural gas could be extended to these areas in the future. Customers are locked into electric heat options which Staff has demonstrated is more expensive for the customer. Thus, it would be appropriate for the Commission to send a strong signal to discourage future tying arrangements by imposing sanctions and penalties.

Q. Does this conclude your testimony?

A. Yes, it does at the current time.

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[35] Direct Testimony of Dr. Robert Glass, Docket No. 19-WSEE-061-COM, page 4, footnote 3 and page14, lines 6-9.

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THE STATE CORPORATION COMMISSION OF KANSAS

WESTAR ENERGY, INC & KANSAS GAS & ELECTRIC COMPANY, d.b.a. WESTAR ENERGY
(Name of Issuing Utility)

WESTAR RATE AREA
(Territory to which schedule is applicable)

SCHEDULE Policy for Residential Subdivisions

Replacing Schedule Policy for Res. Sheet 1

which was filed April 18, 2012

No supplement or separate understanding shall modify the tariff as shown hereon.

POLICY FOR RESIDENTIAL SUBDIVISIONS

AVAILABLE

Electric service will be extended to new residential subdivisions consisting of average lot sizes of five acres or less at points on the Company's existing distribution facilities.

APPLICABLE

This policy is applicable to developers, contractors, and/or promoters (Developer) of residential housing areas above and beyond the scope of the Company's line extension policy. This policy is not applicable to Mobile Home Courts, multi-dwelling construction of more than four units, and construction of fewer than five residential units.

PURPOSE

This policy will encourage a more orderly development and provide for better coordination between Company and developer of residential subdivisions. This policy is intended to assist developer's request for new service installations and limit the investment in utility plant required by Company prior to eventual residential consumer demand for electricity.

GENERAL REQUIREMENTS

Developer shall apply to Company for the design of the electric distribution for the entire subdivision or portion thereof to be built in a twelve-month period that Developer is contemplating building residential housing units upon. Company shall design the initial distribution system based upon the Developer's plan consisting of all contiguous building sites on both sides of the utility easements within the project area. Company will install, own and maintain the entire distribution system in the new residential subdivision.

Company installation costs shall be limited to the cost of a conventional overhead distribution system adequate to serve the anticipated load in the proposed residential subdivision. Developer shall pay a non-refundable contribution in advance for the entire cost in excess of a conventional overhead distribution system.

Issued ______________
Month Day Year

Effective October 28 2015
Month Day Year

By ______________
Jeffrey L. Martin, Vice President

15-WSEE-115-RTS
Approved
Kansas Corporation Commission
October 28, 2015
/S/ Amy L. Green

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THE STATE CORPORATION COMMISSION OF KANSAS

WESTAR ENERGY, INC & KANSAS GAS & ELECTRIC COMPANY, d.b.a. WESTAR ENERGY
(Name of Issuing Utility)

WESTAR RATE AREA
(Territory to which schedule is applicable)

SCHEDULE Policy for Residential Subdivisions

Replacing Schedule Policy for Res. Sheet 2

which was filed April 18, 2012

No supplement or separate understanding shall modify the tariff as shown hereon.

POLICY FOR RESIDENTIAL SUBDIVISIONS

CALCULATION OF EXCESS COSTS

Company shall be solely responsible for the calculation of the differential between a conventional overhead distribution system which includes distribution lines, poles, and transformers, and the distribution system requested by Developer. Company may use the average cost per lot in calculating the differential between a conventional overhead and conventional underground electric distribution system. Developer shall be solely responsible and shall pay all costs of change orders requested by the Developer or required by city, county or other authority.

DEFINITIONS AND CONDITIONS

1. Developer shall supply all easement and rights-of-way required for the Company's facilities at no cost to the Company, on property owned and controlled by the Developer.

2. Developer shall clearly designate or have clearly designated utility easements suitable for electric facilities, right of ways, lot lines and location of other utility facilities placed in or to be placed in the utility easement. Easements shall be within six inches of final grade prior to installation of facilities.

3. Developer may upon prior approval of Company supply trenching, backfilling, transformer pads, and other items, thereby reducing the amount of special construction payment to Company. All such in-kind work shall be constructed or completed to the Company's construction specifications and in conjunction with Company's construction schedule. Company at its sole discretion shall require Developer's in-kind work to be redone if not constructed to Company's construction specifications.

4. Company will allow a $40,000 allowance toward the conventional overhead distribution system per subdivision or portion thereof for each 12-month period. Developer shall deposit with Company all costs in excess of $40,000. Developer may receive an additional $40,000 allowance in a year as outlined in paragraph 5. The deposit for the conventional overhead electric distribution system in excess of the $40,000 allowance will be refunded without interest to Developer on a per lot basis in the following manner:

Issued ____________________
Month Day Year

Effective October 28 2015
Month Day Year

By [signature]
Jeffrey L. Martin, Vice President

15-WSEE-115-RTS
Approved
Kansas Corporation Commission
October 28, 2015
/S/ Amy L. Green

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THE STATE CORPORATION COMMISSION OF KANSAS

WESTAR ENERGY, INC & KANSAS GAS & ELECTRIC COMPANY, d.b.a. WESTAR ENERGY

(Name of Issuing Utility)

WESTAR RATE AREA

(Territory to which schedule is applicable)

SCHEDULE Policy for Residential Subdivisions

Replacing Schedule Policy for Res. Sheet 3

which was filed April 18, 2012

No supplement or separate understanding shall modify the tariff as shown hereon.

POLICY FOR RESIDENTIAL SUBDIVISIONS

a. The cost of conventional overhead electric distribution system shall be determined for Developer's subdivision.

b. A per lot average of conventional overhead electric distribution system shall be calculated by dividing the cost by number of lots for Developer's subdivision.

c. The number of lots covering Company's investment shall be determined by dividing Company's investment by the per lot average of a conventional overhead distribution system for Developer's subdivision.

d. Developer shall be eligible for a refund on a per lot basis after construction and setting of permanent meters on at least the number of lots sufficient to cover Company's investment. Refunds shall not exceed the Developer's original deposit nor will refunds be made beyond a five year period beginning from the date the deposit is made by Developer and Company installs the distribution system

5. The Company's allowance limit of $40,000 is applicable to one allowance per 12-month period. Company may, at its sole discretion, provide a second allowance provided the Developer meets certain requirements including but not limited to a) requesting the design of the entire subdivision at one time in lieu of design work on each phase, b) notifying the Company during initial request to install electric facilities for a phased installation of said facilities during the year, c) Company's ability to accommodate the installation schedule of the Developer, d) Ninety percent of the lots have permanent meters installed in previous subdivisions phases and e) the total allowances do not exceed the original amount contemplated in the subdivision design.

6. In addition to any deposit required pursuant to paragraph 4 above, Developer shall pay a non-refundable contribution for the entire cost of the work requested or required in excess of a conventional overhead distribution system.

7. Payment of any deposit pursuant to paragraph 4 and any contribution pursuant to paragraph 5 shall be paid by Developer prior to the start of work.

Issued ____________
Month Day Year

Effective October 28 2015
Month Day Year

By [signature]
Jeffrey L. Martin, Vice President

15-WSEE-115-RTS
Approved
Kansas Corporation Commission
October 28, 2015
/S/ Amy L. Green

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THE STATE CORPORATION COMMISSION OF KANSAS

WESTAR ENERGY, INC & KANSAS GAS & ELECTRIC COMPANY, d.b.a. WESTAR ENERGY
(Name of Issuing Utility)

WESTAR RATE AREA
(Territory to which schedule is applicable)

SCHEDULE Policy for Residential Subdivisions

Replacing Schedule Policy for Res. Sheet 4

which was filed April 18, 2012

No supplement or separate understanding shall modify the tariff as shown hereon.

POLICY FOR RESIDENTIAL SUBDIVISIONS

8. Service under this rate schedule is subject to Company's General Terms and Conditions presently on file with the State Corporation Commission of Kansas and any modifications subsequently approved.

9. All provisions of this rate schedule are subject to changes made by order of the regulatory authority having jurisdiction.

Issued ______ Month Day Year

Effective October 28 2015
Month Day Year

By
Jeffrey L. Martin, Vice President

15-WSEE-115-RTS
Approved
Kansas Corporation Commission
October 28, 2015
/S/ Amy L. Green

VERIFICATION

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

Janet L. Buchanan, being duly sworn upon her oath, deposes and states that she is Director, Rates and Regulatory Reporting for Kansas Gas Service, a division of ONE Gas, Inc.; that she has read and is familiar with the foregoing Rebuttal and Responsive Testimony filed herewith; and that the statements made therein are true to the best of her knowledge, information, and belief.

Janet L. Buchanan

Janet L. Buchanan

Subscribed and sworn to before me this 8th day of August 2019.

NOTARY PUBLIC

STATE OF KANSAS NOTARY PUBLIC
STEPHANIE FLEMING
My Appointment Expires
June 5, 2022

My appointment Expires:

06/05/22

CERTIFICATE OF SERVICE

I, Judy Jenkins Hitchye, hereby certify that a copy of the above and foregoing *Rebuttal Testimony for Janet Buchanan* was forwarded this 12th day of August, 2019, addressed to:

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